

3.4 INDIVIDUALS

Comment Letter 1

8/11/2016

Edcgov.us Mail - Comments regarding the Draft EIR for ORMP and General Plan Policy updates



Shawna Purvines <shawna.purvines@edcgov.us>

Comments regarding the Draft EIR for ORMP and General Plan Policy updates

1 message

Lester Lubetkin <lesterlubetkin@gmail.com>
To: shawna.purvines@edcgov.us

Thu, Aug 11, 2016 at 9:18 AM

Attached are my comments to the DEIR, ORMP and General Plan Biological Resources Policy Update. Thank you for considering my comments.

Lester Lubetkin
4902 Dowell Lane
Placerville, CA 95667
lesterlubetkin@gmail.com

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Lester Lubetkin
4902 Dowell Lne
Placerville, CA 95667
lesterlubetkin@gmail.com

El Dorado County Community Development Agency, Long Range Planning
Attn: Shawna L. Purvines
2850 Fairlane Court, Bldg C
Placerville, CA 95667
shawna.purvines@edcgov.us

August 11, 2016

Re: Comments Regarding the Draft Environmental Impact Report for the General Plan Biological Resources Policy Update and Oak Resources Management Plan

Dear Ms. Purvines:

After reviewing the Draft Environmental Impact Report (DEIR) for the General Plan Biological Resources Policy Update (GPBRPU) and Oak Resources Management Plan (ORMP), I would like to offer the following comments. I feel that oak trees and oak woodlands are critical resources for the biological as well as socioeconomic health of our County and feel that the General Plan and Oak Resource Management Plan should ensure that functioning oak woodlands continue throughout those portions of El Dorado County where they now occur, not just on the County margins, leaving a gap along the Highway 50 corridor.

1-1

A. Protection of a Minimum Amount of Oaks and Oak Woodlands - Alternative 2

Several of the letters commenting on the Notice of Preparation (such as the El Dorado Chapter of the California Native Plant Society letter submitted on 8/17/2015) noted the importance of providing for protection of oaks and oak woodlands in the areas most likely to be developed (particularly along the Highway 50 corridor). As currently presented in the General Plan policy updates and Oak Resources Management Plan, simply allowing developers to acquire lands or conservation easements in Priority Conservation Areas (located outside of the area of most likely development as shown in Figure 2, page 28 of the proposed Oak Resource Management Plan, Appendix C of the DEIR) or to pay into an In Lieu fund, does not adequately address the need to protect oaks and oak woodlands in the Highway 50 corridor, where the oak woodlands are in greatest danger of being impacted by future development. In response to the public comments, the DEIR considered an alternative (Alternative 2) which specifies that future development on sites that contain oak woodlands must achieve a minimum oak woodland retention of 30%. I

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feel very strongly that this alternative provides essential protection and future viability of this important ecological habitat type.

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I take exception to the portion of the analysis of effects of Alternative 2 in the DEIR regarding Habitat Loss and Fragmentation (pages 10-20 and 10-21). The analysis identified the potential for increased land disturbance and greater amounts of habitat loss and fragmentation due to (1) retaining small patches of oaks and oak woodlands that “would not function as a cohesive habitat block, and (2) to the extent that meeting the minimum retention standard would reduce development intensities on individual parcels, it would be expected that a greater total number of parcels would be developed to accommodate the projected growth within the County. This could result in greater amounts of habitat loss and fragmentation (across all habitat types, not just oak woodlands) County-wide.” The DEIR goes on to state “Therefore Alternative 2 would result in similar impacts related to habitat loss and fragmentation as the proposed project.” (page 10-21 of the DEIR)

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As described in the DEIR, Chapter 6 - Biological Resources, oaks and oak woodlands provide all or some of the biological and ecological needs of a great variety of plants and animals. The size of blocks needed for different plants and animals varies significantly, and it cannot be assumed that one size fits all. While there is a critical need for large blocks of intact oak woodland for certain animals, smaller blocks can meet many wildlife needs. In addition, for certain insects and avian species, such as those listed in Chapter 6 of the DEIR, oak and oak woodland patches in close proximity (forming a network) can still meet their needs. I feel that describing the impacts from implementing Alternative 2 in relation to habitat loss and fragmentation as similar to the proposed project is incorrect and inconsistent with the data presented in Chapter 6 of the DEIR dealing with Biological Resources. I feel that the data in Chapter 6 shows that the impacts resulting from retaining a minimum of 30% of the oak woodlands within future development sites would be less for many wildlife species that do not depend on large tracts of intact oak woodland habitat.

As described in more detail below, Alternative 2 could be improved if the ORMP and GPBRPU encouraged and incentivized acquisition and protection of oak woodlands in close proximity to existing protected oak woodlands in the vicinity of the Highway 50 corridor, in conjunction with the retention of a minimum of 30% of the oak woodlands within future project.

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B. Encouraging and Incentivizing Retention of Oaks and Oak Woodlands in the Areas Where Development is Expected

At present, the ORMP allows for the purchase of lands or conservation easements or implementation of deed restrictions on lands contiguous with adjacent protected lands (page 26 of the

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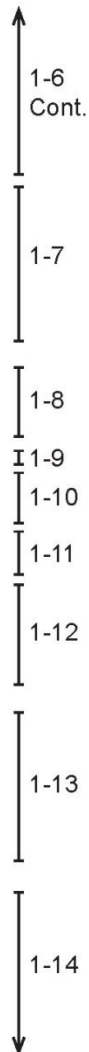
Draft ORMP), but does not focus on looking for opportunities within the areas most likely to be developed. The ORMP also allows for the payment of in-lieu fees for the purchase of lands to be held for the conservation of oaks and oak woodlands. The proposed in-lieu fee program (designed solely on the cost to acquire lands in the Priority Conservation Areas [PACs]) does not reconcile with the higher cost of lands within the Highway 50 corridor and so favors shifting acquisition of protected oak woodlands to the margins of the County. At present, the ORMP does not provide for any incentives to encourage maintaining oak woodlands in the areas most susceptible to development. The ORMP does recognize Important Biological Corridors (IBC) (many of which are found within the corridor most susceptible to future development) and allows for the purchase of these lands or conservation easements, but does not incentivize that potential. Further, the ORMP fails to identify when purchase of lands or conservation easements must occur in proximity to proposed developments due to the location of project related impacts.

There is an opportunity to establish mechanisms to encourage protection of at least a minimum of oak woodlands within the Highway 50 corridor, through incentives, such as allowing for a reduction in the acreage requirement for acquisition of oak woodlands within the Highway 50 corridor, encouraging purchases within IBCs, not just PCAs, adjusting the fees paid for the In Lieu Fund program to account for higher land costs within the Highway 50 corridor (so that oak woodlands within the areas most susceptible to future development can be protected), setting direction or incentives to encourage acquisition of oak woodlands in proximity to previously protected oak woodlands with the Highway 50 corridor (thus allowing for smaller individual parcels forming an ecologically viable network) and setting direction or a requirement to conserve oak woodlands in proximity to proposed developments. By incentivizing the acquisition of oak woodlands adjacent to previously acquired lands, the County could increase the area of retained oak woodland with the Highway 50 corridor, thus reducing fragmentation.

In summary, I feel that through providing direction and incentives, we could encourage establishing smaller individual parcels of protected oak woodlands that are in close proximity to each other within the Highway 50 corridor, thus creating a network that can function ecologically for many of the plant and wildlife species that are dependent on oak woodlands, while acquiring and maintaining larger blocks of intact oak woodlands in the areas further out from the developing corridor.

C. Future Modifications of Priority Conservation Area Determination

The ORMP and GPBRPU establish Priority Conservation Areas (PCA), utilizing various existing available information and data sets. However, the ORMP does not establish a mechanism for assessing the accuracy of the mapping, assessment of the effectiveness of individual PCAs and the functioning of the PCA network. There may be a need in the future to modify the lands iden-



tified as PCAs. This may affect the list of willing sellers of lands classified as PCA. The ORMP should include a means and time schedule for assessing the network of PCAs identified and make modifications as appropriate.

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D. Future Compliance of Deed Restrictions in Protecting Oaks and Oak Woodlands

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. The analysis of effects of implementing the proposed project is based on meeting the terms of these deed restrictions into the future. 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 in order to assure that the deed restriction is being complied with and that the protection of oak woodlands is in effect.

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E. Maintaining a Fund for the Management and Monitoring of the Lands and Conservation Easements to be Acquired as well as for the Management of the Oak Resource Management Program

I applaud the recognition of the need to collect sufficient funds to create an endowment for the ongoing management, monitoring, restoration and protection of any lands or conservation easements acquired under the Oak Resource Management Plan. It is important that the cost of these efforts be assessed on a regular basis and any collections for this endowment be modified in the future to assure that sufficient funds are available. As suggested in the ORMP and GPBRPU, the use of land conservancies or land trusts, or other entities (such as the County Resource Conservation Districts) is a great way to have entities complete this needed work that have the ability to seek other funding sources, such as grants, donations, etc. The collection of funds should also include the future costs associated with managing the program as a whole, including the monitoring of the effectiveness of oak woodland networks, determining whether the PCAs and IBCs are meeting the intent and whether the initial mapping and identification of PCAs and IBCs was accurate and sufficient.

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Conclusion

In conclusion, I strongly urge El Dorado County to maintain a viable network of oaks and oak woodlands throughout the County, including the areas most likely to be developed. I feel that this can best be accomplished through adoption of Alternative 2 (retention of 30% of the oak woodland within sites of future development), incentivizing the conservation of oak woodlands

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within the areas most likely to be developed (in the vicinity of Highway 50) and providing for the collection of the information needed to assess the effectiveness and success of the lands to be conserved. I appreciate the opportunity to comment on the DEIR for the General Plan Biological Resource Policy Update and Oak Resource Management Plan. Please include me on future notifications as the process moves forward. Thank you very much.

Sincerely,

LESTER LUBETKIN
El Dorado County Resident

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Cont.

Response to Comment Letter 1

Lester Lubetkin

August 11, 2016

- 1-1** The comment states that oak trees and oak woodlands are critical resources for the biological and socioeconomic health of El Dorado County (the County) and that the proposed Biological Resources Policy Update and Oak Resources Management Plan (project) should ensure retention of functioning oak woodlands throughout those portions of El Dorado County where they now occur, and should not allow for a gap in oak woodlands along the (U.S.) Highway 50 corridor.

The Oak Resources Management Plan (ORMP; Appendix C of the Draft Environmental Impact Report (EIR)) is designed to ensure functioning oak woodlands in the County; however, it is not designed to retain oak woodlands in all areas of the County. Figure 5-1 in the Draft EIR shows that the majority of oak woodlands surrounding Highway 50 are already characterized as developed. This figure also shows that although development along the Highway 50 corridor is expected to impact various-sized patches of oak woodland habitat, a substantial amount of oak woodland would remain in this area.

As summarized in Response to Comment 4-30 in 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 Priority Conservation Areas (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. Master Response 2 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. The proposed ORMP prioritizes conservation within the PCAs, portions of which are located within four miles of Highway 50, and the County's Important Biological Corridors (IBCs), which cross Highway 50. Additionally, the proposed ORMP allows conservation to occur outside these areas, subject to the site criteria identified in Section 4 (Priority Conservation Areas) of the ORMP. These factors ensure the potential for conservation to occur along the Highway 50 corridor. Further, as discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR, it would be inconsistent with the County's overall goals and objectives identified in the El Dorado County General Plan (General Plan) to substantially constrain development opportunities in the County's Community Regions (which are generally close to Highway 50).

Thus, although oak woodland mitigation would occur primarily in the PCAs, mitigation along Highway 50 is not precluded provided the mitigation requirements outlined in the ORMP are met. The mitigation requirements would ensure sufficient acreage to provide a valuable habitat block, rather than retaining patches of oak woodland within developed areas that would not provide for valuable habitat.

The California Environmental Quality Act (CEQA) requires analysis of the impacts of a project on the physical environment. CEQA does not require consideration of issues related to socioeconomic conditions. Therefore, no response to the project's effect on the County's socioeconomic health is required. However, it is noted that the project reflects the County Board of Supervisors' judgment regarding how best to balance the County's competing interests and goals, as discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR. Further, based on the proposed ORMP sliding scale of mitigation ratios, which incentivizes on-site retention of oak woodlands, and based on the long-term trends of oak woodland coverage throughout the County despite ongoing development, as discussed in Master Response 6 in Chapter 2 (Master Responses) in this Final EIR, it is expected that substantial numbers of trees would be retained within development sites and throughout Community Regions.

- 1-2** The comment references comments received by the County in response to the Notice of Preparation for this EIR and states that allowing developers to acquire lands or conservation easements in Priority Conservation Areas or to pay into an In Lieu fund, does not adequately address the need to protect oaks and oak woodlands in the Highway 50 corridor.

As discussed in Response to Comment 1-1 above in this section (Section 3.4, Individuals), the fundamental principles of resource conservation do not support a requirement to protect oaks and oak woodlands in the Highway 50 corridor. These principles include establishing conservation in areas that are physically removed from development so as to conserve areas that retain the highest habitat value and are not subject to habitat fragmentation. As shown on Figure 5-1 of the Draft EIR, the existing habitat along Highway 50 is already characterized by high levels of development. Figure 5-1 also shows that several areas of existing non-developed oak woodland are not projected to be affected by development under the General Plan through 2035; therefore, some amount of existing oak woodland would remain in the Highway 50 corridor. Further, it would be inconsistent with the County's overall goals and objectives identified in the General Plan to substantially constrain development opportunities in the County's Community Regions (which are generally close to Highway 50).

1-3 The comment discusses Draft EIR Alternative 2, which specifies that future development on sites that contain oak woodlands must achieve a minimum oak woodland retention of 30%. The comment states that this alternative would provide essential protection and future viability of this important ecological habitat type.

As described in Chapter 10 (Alternatives) of the Draft EIR, the Minimum Oak Retention Requirement Alternative could result in a slight reduction in environmental impacts (in particular, a slight benefit to wildlife movement) compared to the proposed project. However, adding a minimum oak resource retention requirement to the ORMP would reduce loss of oak resources only at the individual project level. The comment does not provide evidence that the 30% retention requirement would protect future viability of oak woodland habitat. In fact, the resulting patches of retained oak resources would not function as a cohesive habitat block where those patches are less than 5 acres in size. In comments on the Draft EIR, the California Department of Fish and Wildlife indicates that many species dependent on oak woodland habitat require a minimum of 5 acres to derive long-term habitat value. Refer to Comments 4-24 and 4-25 in Section 3.2 (State and Local Agencies) and Master Response 2 in Chapter 2 (Master Responses) in this Final EIR regarding habitat fragmentation.

Additionally, the retention requirement could actually increase the number of parcels developed because more land would be needed to achieve the level of development projected for the County by 2035. In other words, if the development projections used for the Draft EIR analysis anticipated that one 5-acre parcel would support 30 houses but this must be reduced to 20 houses in order to meet a 30% on-site retention requirement, a different parcel would need to be developed to accommodate the remaining 10 houses. In the end, this would result in similar impacts to those under the proposed project. Further, this requirement would be inconsistent with the County's overall goals and objectives identified in the General Plan to substantially constrain development opportunities in the County's Community Regions (which are generally close to Highway 50).

Overall, the retention requirement would ensure that a greater amount of oak woodland is preserved within development areas but would not increase the total amount of oak woodland preserved within the County. It would also lead to preservation of many patches that are less than 5 acres in size and therefore would offer limited habitat value and function. This could impede implementation of the General Plan, which calls for the majority of development to occur within the County's Community Regions.

1-4 The comment states that oak woodlands provide for the biological and ecological needs of a great variety of plants and animals, and that these plants and animals have varying requirements related to the size of the contiguous habitat area necessary for their support. In particular, the comment suggests that certain insect and avian species would be supported by a network of oak and oak woodland patches close to each other. The comment concludes that impacts resulting from retaining a minimum of 30% of the oak woodlands within future development sites would be less for many wildlife species that do not depend on large tracts of intact oak woodland habitat.

The comment is correct that some species are more sensitive than others to habitat fragmentation and small habitat patch size. However, research on this topic is limited. As discussed in Master Response 2 in Chapter 2 (Master Responses) in this Final EIR, the concept of habitat fragmentation, and most research into its effects, comes from deciduous forested landscapes in the eastern United States that once had a continuous forest canopy. In contrast, oak woodland is naturally patchy, and the classic concept of habitat fragmentation only loosely applies. However, two elements of habitat fragmentation that are relevant to most species are edge effects and connectivity between habitat patches. The comment correctly notes that avian and insect species may find habitat value in patches that lack direct connectivity as long as the patches are close enough to create a network; however, there are still risks associated with smaller patches. For example, reproduction is often poor in small fragments because of predation by edge species of wildlife such as American crows (*Corvus brachyrhynchos*), raccoons (*Procyon lotor*), house cats (*Felis catus*), and skunks (*Mephitis mephitis*). Further, large tracts of woodland can support larger populations of particular species than a network of small patches can support, and large populations are less likely to be extirpated than small populations. Therefore, while there may be some limited benefits to certain species from the 30% minimum on-site retention requirement, there would be greater benefits to those species and other species from conservation of large contiguous habitat blocks. In addition, the proposed project's focus is on retention of large habitat patches so that the conserved habitat functions for all wildlife populations. The habitat value of small patches is limited to a small subset of the species known to occur in the County, whereas the proposed project is intended to conserve habitat for all of the species known to occur within the County. Furthermore, as discussed in Response to Comment 1-3 above in this section (Section 3.4, Individuals), the retention requirement could increase the number of parcels developed, leading to a greater amount of habitat fragmentation (patches less than 5 acres in size) without increasing the total amount of oak woodland preserved within the County.

- 1-5** The comment states that Alternative 2 could be improved by encouraging and incentivizing acquisition and protection of oak woodlands in close proximity to existing protected oak woodlands in the vicinity of the Highway 50 corridor.

Alternative 2 would require retention of 30% of the oak woodland on any parcel proposed for development, regardless of the parcel's location relative to Highway 50 and regardless of the site's location relative to other protected oak woodlands. The comment references existing protected oak woodlands in the vicinity of the Highway 50 corridor. No existing conservation easements near Highway 50 are included in the National Conservation Easement Database and County staff has no knowledge of existing easements protecting oak woodlands in the vicinity of the Highway 50 corridor. As indicated in Figure 5-1 in the Draft EIR (Chapter 5, Land Use Planning), some areas of oak woodlands close to Highway 50 are expected to be retained in 2025 and 2035 because these areas are not planned for development.

- 1-6** The comment states that the ORMP allows purchase of lands or conservation easements or implementation of deed restrictions on lands contiguous with adjacent protected lands, does not focus on looking for opportunities within areas most likely to be developed. The comment also states that in-lieu fees established for the purchase of lands to be held for the conservation of oaks and oak woodlands is based solely on the cost to acquire lands in the PCAs and therefore would favor acquisition of protected oak woodlands in the margins of the County.

The in-lieu fee established in the ORMP does not rely solely on land values in the PCAs. As presented in the El Dorado County Oak Resources In-Lieu Fees Nexus Study (Nexus Study; Appendix B of the ORMP), the oak woodland in-lieu fee is based on an analysis of prices experienced and/or anticipated by land conservation organizations actively conserving oak woodlands within El Dorado County or the central Sierra Nevada foothill region and is aligned with the expertise of conservation organization staff. In addition to property acquisition, the in-lieu fee amount reflects costs associated with initial management and monitoring, long-term management and monitoring, and administration. The factors considered in development of the in-lieu fee are discussed in more detail in Master Response 3 in Chapter 2 (Master Responses) in this Final EIR.

- 1-7** The comment states that the ORMP does not provide for any incentives to encourage maintaining oak woodlands in the areas most susceptible to development. The comment notes that the ORMP recognizes the County's IBCs but does not incentivize conservation in those areas. Finally, the comment states that the ORMP does not

identify when purchase of land or conservation easements must occur close to proposed development due to the location of project related impacts.

As discussed in Master Response 2 in Chapter 2 (Master Responses) and Response to Comment 4-30 in Section 3.2 (State and Local Agencies) in this Final EIR, it is not necessary for mitigation to occur close to the area of impact. 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. This is the approach used by the County under the proposed project. In addition to greater protection of biological values, this approach allows the County to meet the basic goals and objectives identified in the County's General Plan, as discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR.

In the ORMP Section 4.1 (Identification of Priority Conservation Areas) states that “priority should be given to conserving oak woodland habitat within PCAs” and emphasizes conservation of areas adjacent to existing woodlands in the IBCs or already conserved or protected. Further, the proposed project establishes requirements to preserve the wildlife movement function and value of the IBCs and lists the IBCs as a priority area in which conservation should occur when conservation inside the PCAs is not feasible.

- 1-8** The comment states that there is an opportunity to establish mechanisms or incentives to encourage protection of oak woodlands along the Highway 50 corridor, such as allowing reduced mitigation ratios within the corridor.

As discussed in Master Response 2 in Chapter 2 (Master Responses) and Response to Comment 4-30 in Section 3.2 (State and Local Agencies) in this Final EIR, it is not necessary for mitigation to occur close to the area of impact, and preservation in areas where habitat fragmentation is unlikely to occur provides greater habitat value. Also as discussed in Master Response 2, 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. Under the suggested incentive, less oak woodland would be retained in the County overall, which would result in increased habitat fragmentation impacts. It is also noted that Figure 5-1 in the Draft EIR (Chapter 5, Land Use and Planning) indicates that substantial areas of contiguous oak woodland near Highway 50 are expected to be

retained under the 2025 and 2035 development scenarios because these areas are not planned for development, and that these areas are adjacent to already developed lands that continue to support oak woodland habitat. Thus, it is expected that a requirement to increase retention of oak woodland close to Highway 50 would be inconsistent with the County's overall goals and objectives identified in the General Plan that direct development to the County's Community Regions (which are generally near Highway 50).

- 1-9** The comment states that there is an opportunity to encourage oak woodland purchases within IBCs and not just PCAs as a means to increase oak woodland preservation in the Highway 50 corridor.

Proposed Policy 7.4.2.8 and Section 4.3 (Conservation Outside of PCAs) of the ORMP include criteria that conservation within IBCs should be prioritized when conservation does not occur in PCAs. Refer to Response to Comment 1-8 in this section (Section 3.4, Individuals) regarding the factors that limit the value and feasibility of increased oak woodland preservation in the Highway 50 corridor. Also refer to Master Response 2 in Chapter 2 (Master Responses) in this Final EIR, which discusses that 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.

- 1-10** The comment states that one mechanism for encouraging oak woodland protection in the Highway 50 corridor area could be adjusting in-lieu fee amounts to account for higher land costs in this area.

As discussed in Master Response 3 in Chapter 2 (Master Responses) in this Final EIR and Response to Comment 1-6 above in this section (Section 3.4, Individuals), the in-lieu fee amount is based on an analysis of prices experienced and/or anticipated by land conservation organizations actively conserving oak woodlands within El Dorado County or the central Sierra Nevada foothill region. The fee amount is not based on the value of lands only within the PCAs. Although it is likely that the fee amount would not be sufficient to support acquisition of lands that have substantial development potential, the Nexus Study demonstrates that the fee was developed to be adequate for acquisition of lands that are appropriate for habitat conservation, consistent with the mitigation site criteria that would be established under proposed Policy 7.4.2.8 and the proposed ORMP.

- 1-11** The comment states that one mechanism for encouraging oak woodland protection in the Highway 50 corridor area could be setting incentives or directives to encourage

the acquisition of oak woodlands close to previously protected oak woodlands to encourage connectivity.

There are no existing oak woodland conservation easements near Highway 50. As indicated on Figure 5-1 in the Draft EIR (Chapter 5, Land Use and Planning), some areas of oak woodland near Highway 50 are expected to be retained under the 2025 and 2035 development scenarios because these areas are not planned for development. As discussed in Master Response 2 in Chapter 2 (Master Responses) and Response to Comment 4-30 in Section 3.2 (State and Local Agencies) in this Final EIR, it is not necessary for mitigation to occur close to the area of impact. It is preferable to have conservation occur in areas that are not subject to threats of habitat fragmentation and associated edge effects. Further, it would be inconsistent with the County's overall goals and objectives identified in the General Plan to require conservation close to Highway 50 because such a requirement could constrain development opportunities in the County's Community Regions.

The ORMP does not incentivize conservation in any area. Rather it prioritizes conservation within the PCAs, and secondarily within the IBCs. It also allows for conservation of oak woodlands outside of PCAs and identifies criteria to be considered in selecting such conservation areas. These criteria encourage preservation of natural wildlife movement corridors, such as crossings under major roadways (e.g., Highway 50) and across canyons, and require that oak woodland conservation areas be minimum contiguous habitat blocks of 5 acres.

- 1-12** The comment states that incentivizing acquisition of oak woodlands near previously protected oak woodlands would increase the area of retained oak woodland within the Highway 50 corridor, which would reduce habitat fragmentation.

As stated previously, the ORMP prioritizes conservation within the PCAs and IBCs, and allows conservation to occur outside of these areas. In all cases, the ORMP requires that habitat conservation occur in large patches, providing a minimum of 5 acres of contiguous habitat. Additionally, the ORMP places priority for conservation of oak woodland habitat on areas that are adjacent to existing woodlands lying west of the Eldorado National Forest, within the IBC overlay, under a conservation easement, on public lands, in open space lands, in riparian corridors, or in ecological preserves. As discussed previously, it is not necessary for mitigation to occur close to the area of impact, and requiring conservation near Highway 50 would be inconsistent with the County's overall goals and objectives identified in the General Plan that direct development to the County's Community Regions. Refer to Master Response 2 in Chapter 2 (Master Responses) in this Final EIR for additional

discussion of the proposed ORMP mitigation requirements and the contribution of the PCAs to minimizing habitat fragmentation in the County.

- 1-13** This comment summarizes Comments 1-6 through 1-12, stating that direction and incentives could encourage the creation of a network of smaller parcels of protected woodlands along the Highway 50 corridor to function as an ecosystem while simultaneously acquiring and maintaining larger blocks of habitat away from development.

Refer to Master Response 2 in Chapter 2 (Master Responses) in this Final EIR regarding consideration of habitat fragmentation effects under the proposed project. As discussed in Response to Comment 1-4 above in this section (Section 3.4, Individuals), the priority for habitat conservation under the proposed project is to retain large blocks of habitat. Although a network of small patches may provide some benefits to some wildlife, the larger habitat blocks prioritized in the proposed ORMP provide higher habitat value to a larger range of wildlife and flora. The ORMP prioritizes conservation within the PCAs and provides opportunities for conservation to occur anywhere in the County, particularly within the IBCs. Portions of the PCAs and IBCs occur within the Highway 50 corridor.

- 1-14** The comment states that the proposed project establishes PCAs based on existing available information and data, but does not establish a mechanism to assess the accuracy of the mapping or the effectiveness of the individual PCAs or the PCA network. The comment states that the ORMP should include a means and schedule for assessing the network of identified PCAs and making modifications as appropriate.

As discussed in Master Response 2 in Chapter 2 (Master Responses) in this Final EIR, the methods used to map and refine the PCAs are described in Appendix A to the ORMP. The PCAs were identified in prior County planning efforts and have not changed as part of the proposed project. The criteria by which the PCAs were identified included lands with large expanses of intact oak woodland consisting of 500 acres or more, lands where oak woodland habitat would not likely undergo substantial fragmentation, and lands where oak woodland conservation would be consistent with the 2004 General Plan land use designations. Areas specifically excluded from PCAs were lands within Community Regions and Rural Centers and lands designated Low-Density Residential. The only way to increase the number or size of the PCAs would be to change the criteria by which they were identified. Selection of a specific site within the PCA for mitigation of an individual project's impacts would also be subject to the criteria identified in the ORMP – that the site

contain the same type of woodland that would be impacted, and that the site be part of a contiguous block of protected habitat that is at least five acres in size. Thus, additional review of the lands within the PCAs would be conducted as part of the mitigation site selection process.

Additionally, although the PCAs are identified as the most likely or desirable locations for off-site conservation of oak woodlands and would be prioritized, the ORMP provides a mechanism by which areas outside PCAs could be assessed as off-site conservation areas. An oak resources technical report, as described in Section 2.5 (Oak Resources Technical Reports) of the ORMP, for a subject property would analyze the conservation value of proposed non-PCA conservation easement areas. Section 4.3 (Conservation outside of PCAs) of the ORMP lays out the standards by which non-PCA conservation easements would be assessed. With this system in place, it would not be necessary to revise the mapping of PCAs. As noted in Section 8.2 (Status Reports to Board of Supervisors) of Appendix A to the ORMP, reporting to the Board of Supervisors shall be done no less often than every other March and shall address the status of conserved oak woodlands in the County and whether adjustments to the oak resources in-lieu fee are necessary to reflect current acquisition and operating costs. The County will implement adaptive management by (1) revising guidelines for projects as necessary and (2) revising the ORMP and the mitigation fee. If the goals of the ORMP are not being met, then the County will review and revise the ORMP as necessary. These revisions to the ORMP could include updating mapping of PCAs. Refer to Master Response 2 in Chapter 2 (Master Responses) and Response to Comment 4-30 in Section 3.2 (State and Local Agencies) in this Final EIR.

- 1-15** This comment states that although the ORMP allows for deed restrictions in certain situations, there is no specific monitoring requirement or other means of assuring compliance with the deed restriction over time.

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 to oak woodland conservation use in perpetuity and would be recorded with the County Clerk/Recorder prior to issuing a grading or building permit, filing a parcel or final map, or otherwise commencing an individual project. The use of deed restrictions for the purposes of off-site oak woodland conservation do not include a monitoring requirement to

assure compliance. Rather, the deed restrictions would be recorded against the property and would remain in place in perpetuity. If the County received applications for grading or building permits for areas constrained by deed restrictions, the existence of these deed restrictions would be identified by appropriate Development Services Division plancheck staff, and the County would be unable to issue permits that conflicted with the requirements of the deed restriction. Therefore, oak woodland impacts in these areas are not anticipated because land use is restricted to oak woodland conservation uses only. To deter illegal removal of oaks, the ORMP includes penalties and fines for removing oaks without first obtaining an oak tree removal permit. “Fines may be as high as three times the current market value of replacement trees, as well as the cost of replacement, and/or the cost of replacement of up to three times the number of required replacement trees” (ORMP (Appendix C to the Draft EIR), p. 12). For Heritage Trees, this increases to up to nine times the current market value. In addition to these fines, all applications for development of the site in question will be deemed incomplete until “the property owner enters into a settlement agreement with the County or all code enforcement and/or criminal proceedings are complete and all penalties, fines and sentences are paid or fulfilled” (ORMP, p. 13).

- 1-16** This comment supports the component of in-lieu fees to be used for ongoing management and monitoring of conserved oak woodlands and states the importance of regularly assessing these fees. The comment also states that the in-lieu fees should be sufficient to provide for long-term management of the Biological Resources Mitigation Program, including evaluating the effectiveness of PCAs and IBCs.

The ORMP (Appendix C of the Draft EIR, Section 3.3, Fee Adjustments, Accounting, and Reviews) and the Nexus Study (Appendix B of the ORMP) outline a fee adjustment, accounting, and review process that includes provisions for annual inflation adjustments, annual accounting, periodic reviews, and 5-year updates. The intent of this process is to ensure that the in-lieu fees are adequate, to monitor the status of used and unused fees, and to track actual costs in relation to anticipated costs. Section 8.3 of the proposed ORMP states: “The success of the ORMP in meeting goals and objectives of the 2004 General Plan will be measured through the Monitoring and Reporting program. The County will implement adaptive management by: 1) revising guidelines for projects as necessary, and 2) revising the ORMP and the mitigation fee. If the Goals of the ORMP are not being met, then the County will review and revise the ORMP as necessary.” As part of the monitoring and reporting program, the County will monitor the effectiveness of mitigation lands, including those within the PCAs and IBCs.

1-17 This comment urges the County to maintain a viable network of oaks and oak woodlands, including in the areas most likely to be developed. The comment also suggests that the County adopt Alternative 2, incentivize oak woodland conservation in the Highway 50 corridor area, and assess the effectiveness of conservation lands. Further, this comment asks that the commenter be included in future notifications and notes that the commenter appreciates the opportunity to comment.

This comment summarizes previous comments and does not provide additional comments on the environmental effects of the proposed project or provide recommendations regarding mitigation measures or project alternatives. Refer to Responses to Comments 1-1 through 1-16 above in this section (Section 3.4, Individuals) for responses to the points summarized here.

Comment Letter 2

8/11/2016

Edcgovus Mail - General Plan , Alternative 2



Shawna Purvines <shawna.purvines@edcgov.us>

General Plan , Alternative 2

Tim Thomas <trailtrials@gmail.com>
To: shawna.purvines@edcgov.us

Thu, Aug 11, 2016 at 8:39 AM

Attn: Shawna Purvines ,

Now is the time to make a difference! Please recommend protecting oak woodlands from future development and for mitigating current and future impacts. Tell the El Dorado County Board of Supervisors that you recommend **Alternative 2** to the General Plan update because this alternative has less impact than the proposed action and is a better choice for protecting oak woodlands in our County.

2-1

Thank You ,
--- Tim Thomas

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Response to Comment Letter 2

Tim Thomas
August 11, 2016

- 2-1** This comment states that the commenter recommends that the El Dorado County (County) Board of Supervisors choose Alternative 2 because this alternative would have less impact on oak woodlands than the proposed Biological Resources Policy Update and Oak Resources Management Plan (project).

This comment does not address the accuracy or the adequacy of the Draft Environmental Impact Report (EIR). As stated in the Draft EIR in Chapter 10 (Alternatives), the Minimum Oak Retention Requirement Alternative could result in a slight benefit to wildlife movement compared to the proposed project. However, as discussed in detail in Response to Comment 1-3 above in this section (Section 3.4, Individuals), the retention requirement would ensure that a greater amount of oak woodland is preserved within development areas but would not increase the total amount of oak woodland preserved within the County. It would also lead to preservation of many patches that are less than 5 acres in size, which would offer limited habitat value and function, and it could impede implementation of the General Plan, which calls for the majority of development to occur within the County's Community Regions. This recommendation for approval of Alternative 2, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed project.

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Comment Letter 3

8/15/2016 - Edcgov.us Mail - General Plan Biological Resources Policy Update and Oak Resources Management Plan Draft Environmental Impact Report (EIR) - C...



Shawna Purvines <shawna.purvines@edcgov.us>

General Plan Biological Resources Policy Update and Oak Resources Management Plan Draft Environmental Impact Report (EIR) - Comments

Roger Lewis <re.lewis@comcast.net> Fri, Aug 12, 2016 at 9:13 AM
To: shawna.purvines@edcgov.us
Cc: jim davies <j854davies@att.net>, Shirley Parker <sparker07@comcast.net>, Ron Kooyman <ron@thekooymans.com>, bosone@edcgov.us, bostwo@edcgov.us, bosthree@edcgov.us, bosfour@edcgov.us, bosfive@edcgov.us, edc.cob@edcgov.us

Ms. Shawna Purvines
Principal Planner
El Dorado County Community Development Agency
Long Range Planning Division
2850 Fairlane Court,
Placerville, CA 95667

Dear Ms. Purvines,

We have reviewed the subject DEIR and submit herewith our comments. We trust they will be considered and incorporated where possible into the final EIR.

As has been pointed out to the County on several occasions, we are extremely concerned over the inordinate amount of time it has taken to get this far. The continual delays have precluded our project from moving forward and has resulted in substantial financial losses to our company to the point where we are uncertain whether we can last much longer. We now trust that you will adhere to your estimated timeframe of Dec 2016 for adopting the final EIR, ORMP, and implementing ordinances.

3-1

Sincerely,

Roger Lewis
El Dorado Sr. Housing, LLC.
854 Diablo Rd.
Danville, CA 94526

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8/15/2016 Edogov.us Mail - General Plan Biological Resources Policy Update and Oak Resources Management Plan Draft Environmental Impact Report (EIR) - C...

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**Comments on Draft Environmental Impact Report (DEIR) for the
General Plan Biological Resources Policy Update and Oak Resources
Management Plan (ORMP)**

By El Dorado Sr. Housing, LLC

August 12, 2016

Throughout the lead up to and preparation of the Draft Environmental Impact Report and its associated in-lieu fee policy, El Dorado Sr. Housing, LLC has thoroughly supported the County's efforts. We believe we have offered many constructive suggestions on how to evaluate the environmental impacts to the County's oak resources and determine a fair method for establishing in-lieu fees to mitigate impacts due to development. In general our objective was not to minimize the fees or diminish the assessment of impacts, but simply to streamline and expedite the process under the mantra of simpler is better. We have pointed out problems with and/or offered suggestions for

- Quantifying the impacts from development
- Defining the methodology of oak resource measurement
- Creating equitable mitigation ratios
- Accounting for natural regeneration of oak resources

The draft EIR appears to have ignored all of our suggestions except for quantifying the impacts from development. In Section 6 of the draft EIR the impact is quantified.

Table 6-2 of the draft EIR indicates a total of 246,806 acres of oak resources. Table 6-6 indicates that a total of 6,442 acres of oak resources are projected to be converted under general plan buildout by the year 2035. It is pointed out in the lead-up to Table 6-6 that in calculating the total potential oak woodlands conversion it was assumed that all of the oak woodlands on parcels projected to be developed would be impacted by that development. In other words, the oak woodlands conversion acreage assumes that no onsite oak woodlands retention would occur. Therefore, the conversion acreage totals likely overestimate potential impacts.

Using the above projected conversion acreage as a basis results in an average conversion rate of 339 acres/yr for the next 19 years. However, using a reasonable assumed percentage of retention, say just 25%, would result in only about 250 acres/yr conversion.

In our Comments on the Notice of Preparation, August 11, 2015, we suggested the following:
"Determine and include the effects of natural regeneration of resources in any assessment of impact. This obviously will have the effect of mitigating any impacts. In fact it might be revealed that natural regeneration of resources more than offsets impacts from development."

In Chapter 6 of the draft EIR our concern was referenced in a list of concerns posed in response to the NOP of July 17, 2015. The list included the concern: "The degree to which natural regeneration could offset development impacts to oak woodlands." We do not think this concern was adequately addressed in the draft EIR.

3-2

3-3

3-4

Section 1.1.5 of Appendix A of Appendix C (Proposed Oak Resources Management Plan) addresses natural regeneration. It refers to several sources that discuss regeneration. It is noted that several factors have been implicated in *poor* oak regeneration. But it does not present evidence of *zero* regeneration. And that is the crux of our concern.

Natural regeneration of some reasonable percentage should have been accounted for. Assuming 0.2%/yr (equivalent to approximately 500 acres per year), as Commissioner Pratt suggested during the Planning Commission hearing of August 13, 2015, would more than offset any development impacts and would have the effect of regenerating the entirety of the County's existing resources in 500 years. Even a regeneration rate of just 0.1% per year (approximately 250 acres/yr) would balance the development impact and would regenerate the forest in 1000 yrs. But a zero rate is an admission that the entire acreage in El Dorado County, all 246,806 acres of oak resources, will die out in the time it takes for the last tree to succumb, i.e. approximately 500 years. Of course this scenario seems unthinkable, but if true, then all attempts at mitigating developmental impacts of just 6,442 acres will be fruitless.

The only viable scenario is then to consider a reasonable amount of natural regeneration. But since any reasonable amount can be shown to completely offset developmental impacts, the obvious conclusion is that there is no significant impact from development, and that the EIR should not have been necessary.

If a common sense approach to this issue had been pursued from the outset, our company, El Dorado Sr. Housing, would have saved years of wasted time and hundreds of thousands of dollars in unnecessary expenses.

Hopefully, these comments will give the Community Development Agency, the Planning Commission, and the Board of Supervisors good reason to reject proposals for additional study and to deliberate very carefully before accepting any forthcoming objections to the draft EIR and allow the final EIR to quickly become a reality.



3-4
Cont.

Response to Comment Letter 3

Roger Lewis
August 12, 2016

3-1 This comment states that the commenter's comments will follow, as well as expressing concern over the amount of time the Draft Environmental Impact Report (EIR) has taken and stating that the extended timeline has placed financial strain on the commenter's company.

This comment introduces subsequent comments and does not address the accuracy or adequacy of the Draft EIR or the environmental effects of the proposed Biological Resources Policy Update and Oak Resources Management Plan (project); therefore, no response is required. 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.

3-2 This comment states that the commenter fully supports the efforts of the County of El Dorado (County) and has offered constructive suggestions that would make the in-lieu process more streamlined and expedited, including quantifying the impact from development, defining the methodology of oak resource measurement, creating equitable mitigation ratios, and accounting for natural regeneration of oak resources. The comment also states that the commenter feels that the suggestions have been largely ignored except for quantification, which is included in Chapter 6 (Biological Resources) of the Draft EIR.

The methodology of oak resource measurement is defined in the proposed Oak Resources Management Plan (ORMP). Specifically, Section 2.5 (Oak Resources Technical Reports) of the ORMP defines the requirements for preparation of an oak resources technical report, which must include the following:

- Identification, location, and quantification of all oak resources on the property:
 - Oak woodlands shall be mapped and assessed in accordance with the CDFG 2009 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* and subsequent updates, and the *List of Vegetation Alliances and Associations* (CDFG 2010) and subsequent updates;
 - Data collected for individual native oak trees and Heritage Trees shall include: location, species, trunk

diameter (dbh [diameter at breast height]), height, canopy radius, and general health and structural condition (Appendix C of the Draft EIR, p. 17).

The mitigation ratios reflect compensation for temporal loss and a balancing of the County's goals to retain the aesthetic qualities that oak resources provide to the County's communities while ensuring long-term protection of the biological values of oak resources. They are similar to mitigation ratios that exist in current County policy and in resource management programs used in other jurisdictions.

Natural regeneration of oak resources typically occurs within the boundaries of an existing oak woodland, or at the edge of an existing oak woodland. Natural regeneration is not capable of expanding oak woodland habitat by 4,848 acres (the total area of potential impact, as discussed in Master Response 9 in Chapter 2, Master Responses, in this Final EIR) over 19 years (the buildout timeframe for the 2035 development scenario).

3-3 This comment summarizes the oak woodland impact totals and calculation assumptions presented in the Draft EIR and states that Table 6-6 assumes 100% removal of oak woodlands and thus likely overestimates impacts. Using data presented in the Draft EIR, this comment also states that over 19 years, 339 acres of oak woodland could be converted in the County per year and that using a 25% oak retention standard, this conversion rate would equal 250 acres per year.

This comment correctly summarizes the oak woodland impact totals and calculation assumptions as presented in the Draft EIR. The total impact area has been revised as described in Master Response 9 in Chapter 2 (Master Responses) in this Final EIR. Rather than a total impact area of 6,442 acres under the 2035 development scenario and assuming 100% removal of oak woodlands for development under that scenario, a maximum of 4,848 acres of oak woodlands could be removed. This reduces the annual average loss of oak woodlands to 255 acres, or 191 acres if 25% on-site retention is assumed. However, the commenter's calculations of annual oak woodland impacts in the County based on information provided in the Draft EIR are hypothetical and do not address the accuracy or adequacy of the Draft EIR. Although past development patterns in the County indicate that it is reasonable to expect some amount of on-site retention from many development projects within the County, the Draft EIR analysis of the proposed project reflects a conservative assumption that no on-site retention will 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.

3-4 This comment states that the degree to which natural oak regeneration could offset development was not adequately addressed. This comment further states that a natural regeneration rate of 2% would offset development-related impacts and regenerate the entirety of the County's oak woodlands in 500 years, and that a rate of 1% would accomplish the same in a period of 1,000 years. This comment further argues that a 0% regeneration rate would be unthinkable as it would mean that all 246,806 acres of oak woodlands would die out in the next 500 years and thus mitigation would be pointless. This comment also states that when considering any amount of regeneration, development-related impacts are completely offset; therefore, the Draft EIR should not have been necessary. Finally, the comment expresses hope that the comments will persuade the Community Development Agency, the Planning Commission, and the Board of Supervisors to reject proposals for further study.

This comment presents a potential mitigation approach whereby the County would rely solely on natural regeneration of oak woodlands (the successful recruitment of acorn-sprouted seedlings into mature trees over time to replace mature tree mortality) to mitigate impacts to oak woodlands realized from General Plan development. The comment provides hypothetical regeneration rates (e.g., 1%, 2%) to calculate timeframes in which the entirety of the County's oak woodlands could be regenerated. It is unclear from the comment whether the identified natural oak woodland regeneration is assumed to occur within or outside of existing oak woodlands. A policy of relying on natural oak woodland regeneration to occur outside of oak woodlands would be infeasible. Although vegetation community boundaries can shift over time, large-scale conversion of other vegetation communities (e.g., grasslands, chaparral, conifer forest) to oak woodlands in the County could not be reasonably assumed given differences in land ownership, land use, disturbance regimes, and the site characteristics necessary to support and sustain oak trees (e.g., precipitation, soil type, elevation).

A policy of relying solely on natural regeneration within existing oak woodlands to mitigate for development-related impacts would require substantial evidence that such natural regeneration processes would result in an expansion of oak woodland habitat at a rate that is commensurate with development. The County is not aware of any such evidence. Additionally, the suggested approach would be infeasible without a mechanism by which the regenerating oak woodlands would be protected from future development-related impacts (e.g., conservation easements). The County has identified that conservation easements must be contingent on a property owner's willingness to participate in the conservation program. It would be highly speculative to assume that "willing sellers" would coincide with areas where natural regeneration is resulting in expanding oak woodland habitat.

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Comment Letter 4

8/15/2016

Edcgovus Mail - Retention of oak woodlands



Shawna Purvines <shawna.purvines@edcgov.us>

Retention of oak woodlands

Margretta Dahms <riders3@sbcglobal.net>
Reply-To: Margretta Dahms <riders3@sbcglobal.net>
To: "shawna.purvines@edcgov.us" <shawna.purvines@edcgov.us>

Sun, Aug 14, 2016 at 8:46 AM

Dear Ms. Purvines:

This email is to express my support for General Plan, Alternative 2. This alternative requires the retention of 30% of oak woodlands on or near developments, on site.

Oak woodlands are important to preserve the habitat and the natural environment along the Highway 50 corridor and other areas of our county.

Thank you,
Margretta Dahms
Greenwood, California

4-1

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Response to Comment Letter 4

Margretta Dahms

August 14, 2016

- 4-1** This comment expresses support for Alternative 2, which requires the retention of a minimum of 30% of oak woodlands. The comment states that it is important to preserve habitat along the U.S. Highway 50 (Highway 50) corridor and other areas of El Dorado County (the County).

As discussed in Master Response 2 in Chapter 2 (Master Responses) and Response to Comment 4-30 in Section 3.2 (State and Local Agencies) in this Final EIR, as well as Response to Comment 1-1 above in this section (Section 3.4, Individuals), the fundamental principles of resource conservation do not support a requirement to protect oaks and oak woodlands in the Highway 50 corridor. These principles include establishing conservation in areas that are physically removed from development so as to conserve areas that retain the highest habitat value and are not subject to habitat fragmentation and associated edge effects. As shown on Figure 5-1 of the Draft Environmental Impact Report, the existing habitat along Highway 50 is already characterized by high levels of development. Figure 5-1 also shows that several areas of existing non-developed oak woodland are not projected to be affected by development under the General Plan through 2035. Thus, some amount of existing oak woodland would remain in the Highway 50 corridor. Additionally, as discussed in Master Response 2, portions of the County's Priority Conservation Areas and Important Biological Corridors, where conservation would be prioritized under the proposed project, occur within the Highway 50 corridor. Further, it would be inconsistent with the County's overall goals and objectives identified in the El Dorado County General Plan to substantially constrain development opportunities in the County's Community Regions (which are generally close to Highway 50).

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Comment Letter 5

8/15/2016

Edcgovus Mail - Comments on bio-policies



Shawna Purvines <shawna.purvines@edcgov.us>

Comments on bio-policies

1 message

Heidi Napier <heidiandjeff@att.net>
To: shawna.purvines@edcgov.us

Sun, Aug 14, 2016 at 9:45 PM

Shawna:

Attached are my comments about the bio policies.

5-1

Heidi Napier
3176 El Tejon Rd
Cameron Park 95682



This email has been checked for viruses by Avast antivirus software.
www.avast.com

Bio policy DEIR.docx
14K

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Bio policy DEIR

Policy 7.1.2.5 How are you going to prevent erosion of roadside ditches if you spray to kill weeds. The weeds help prevent erosion. Providing good drainage beside a road means there will be water that will carry soil away with it. 5-2

Policy 7.3.1.1 and Policy 7.3.2.1 How are you going to prevent erosion, silting and flooding? The only way to do this is to stop all rain from falling. It is normal for stream and river banks and beds to erode. It is normal for soil to muddy the waters of streams and lakes when it rains. 5-3

OBJECTIVE 7.4.2: IDENTIFY AND PROTECT RESOURCES

Identification and protection, where feasible, of critical fish and wildlife habitat including deer winter, summer, and fawning ranges; deer migration routes; stream and river riparian habitat; lake shore habitat; fish spawning areas; wetlands; wildlife corridors; and diverse wildlife habitat. 5-4

The local deer don't need any protection. There are too many of them, and they adapt very well to human developments, as evidenced by their occupation of neighborhoods in Cameron Park and El Dorado Hills, probably the two most densely populated parts of El Dorado County.

Page 146, paragraph B. Wildlife "undercrossings" are a stupid waste of money. How do the deer know that they must travel east or west on Hwy 50 to get to the undercrossng? Has anyone actually counted the number of deer using the undercrossing? It looks to me like deer continue to be slaughtered by cars on many of our roads, and the 2 lane roads are the worst because they are easier and less scary to cross than a freeway. 5-5

Comments about the Oak resources ordinance.

How can paying a mitigation fee make up for killing a 200+ year old tree? What happens to these mitigation fees? 5-6

Our native oaks grow very slowly. A 20 year old Blue Oak (*Quercus douglasii*) is 12-15 feet tall and about 4-5 inches diameter at 4 feet. A 15 year old Valley Oak (*Quercus lobata*) is a little larger. This growth rate would be under ideal conditions. The replanting project along Silva Valley Rd in EDH doesn't look very successful, and whoever planted the trees didn't give them much help to avoid being eaten. Was this project an effort by a developer to mitigate destroying older trees? 5-7

There are more ways to kill an oak tree than just cutting it down. Have you noticed the old Valley Oak on Merrychase near the Arco station in Cameron Park at the Cambridge exit from Hwy 50? It is dying because half of the root zone is paved over by Merrychase and the other 5-8

half is paved over by the Arco station. Did Arco pay a mitigation fee to kill this tree? How much? Look at the residential development now being graded on Malcom Dixon Rd in EDH. The grading is piling many feet of soil over the root zone of some of the old Blue Oaks on the property, and this will kill them slowly. There are many examples of dead and dying oaks in CP and EDH that have been damaged by trenching, paving and/or overwatering.

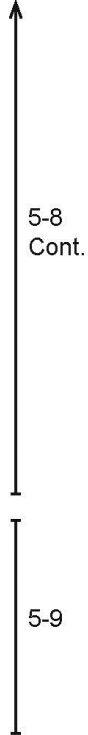
Our native oaks can be slowly killed by:

1. Paving over the root zone
2. Trenching through the root zone
3. Changing the grade over the root zone.
4. Planting grass or other plants that need lots of water over the root zone; this causes Phytophthora root rot.

Do developers pay a mitigation fee for the above activities, or do they only pay if they cut down a tree?

If you would like to learn more about native oaks, I would be happy to teach you. I have been teaching a public class for Master Gardeners for 7 years, and I had the help of an oak arborist putting the class together. The class takes about 2 hours, and I cover identification of the oaks found in El Dorado County, their care, how to landscape around them and diseases.

There is also an excellent book, Oaks in the Urban Landscape, Costello, Hagan and Jones. UC ANR publication 3518



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Response to Comment Letter 5

Heidi Napier
August 14, 2016

5-1 This comment identifies the attached comment letter.

This comment does not address the accuracy or adequacy of the Draft Environmental Impact Report (EIR); thus, no response is required.

5-2 This comment questions General Plan Policy 7.1.2.5, stating that the removal of vegetation (including weeds) and the creation of good drainage along roads will increase erosion.

The proposed Biological Resources Policy Update and Oak Resources Management Plan (project) would not make any changes to General Plan Policy 7.1.2.5; therefore, effects associated with implementation of that policy are not within the scope of the Draft EIR.

5-3 This comment questions the ability of Policies 7.3.1.1 and 7.3.2.1 to prevent erosion, silting, and flooding, and states that stream and river banks and beds erode as part of the normal actions of streams and rivers.

The proposed project would not make any changes to General Plan Policies 7.3.1.1 and 7.3.2.1; therefore, effects associated with implementation of those policies are not within the scope of the Draft EIR.

5-4 This comment stresses that local deer do not need any protection.

Refer to Response to Comment 5-2 in Section 3.3 (Organizations) in this Final EIR regarding the opportunity for public comment on the proposed project. Also refer to Response to Comment 5-5 below in this section (Section 3.4, Individuals) regarding undercrossings designed to allow deer movement. Additionally, on January 26, 2015, the Board of Supervisors directed staff to amend (proposed) General Plan Policy 7.4.2.8 regarding wildlife movement studies (Legistar File No. 12-1203). Proposed policy amendments, among others, included a requirement for wildlife movement studies to evaluate project-specific impacts on public safety and wildlife for projects that include new roads of four or more lanes or the widening of roads to four or more lanes, when warranted by existing wildlife movement patterns. This decision was based on the fact that wildlife studies have shown that roads that cut through or along

wildlife corridors experience higher-than-average rates of animal mortality and increased safety risk to motorists.

- 5-5** This comment states that wildlife undercrossings that could potentially be installed in accordance with proposed Policy 7.4.2.8(B) are not used by wildlife populations, and questions how deer would locate the crossings. The comment also questions whether counts have been done on use of existing undercrossings, and states that two-lane roads are the source of greatest road-crossing mortality because they appear to be easier to cross.

This comment states that wildlife do not use undercrossings; however, available research (e.g., Federal Highway Administration 2011, *Wildlife Crossing Structure Handbook: Design and Evaluation in North America*) suggests that properly designed undercrossings can be effective in reducing wildlife mortality and minimizing habitat fragmentation associated with roadways. Deer are used as a design species when constructing undercrossings because they are the largest species expected to use such a feature. The undercrossings would be intended to provide movement corridors for a range of wildlife species, and may also serve as crossing locations for pedestrians, as noted in the proposed policy. Research on undercrossing design provides examples of successful implementation, including design of fencing near the undercrossing location to guide wildlife to the entry points. Furthermore, a site-specific study would be required for each project and would determine whether or not undercrossings would be effective, and if so, where they would be most effective. Specifically, Policy 7.4.2.8(B) states, “The analysis of wildlife movement impacts will take into account the conditions of the project site and surrounding property to determine whether wildlife undercrossings are warranted and, if so, the type, size, and locations that would best mitigate a project’s impacts on wildlife movement and associated public safety” (Appendix B (Proposed General Plan Policies) of the Draft EIR, p. 147)

It is true that the greatest number of wildlife strikes occur on two-lane roadways; however, there are several reasons for this. First, two-lane roads cover many more miles within the County than do multi-lane roadways, and these are typically the roads located in the most remote and undeveloped areas, where wildlife abundance is greater. In addition, one of the reasons why more wildlife are not struck on multi-lane roadways is because there are often substantial barriers to entry that reduce the number of species able to cross. This lack of access and ability to cross the multi-lane roadway contributes strongly to habitat fragmentation, which is what the wildlife undercrossings would be designed to address. Proposed Policy 7.4.2.8(B) recognizes that installing undercrossings under existing roadways can be expensive, which is why it is written to apply only when new roads are being constructed or when

existing roadways are being widened. By incorporating design and construction of undercrossings at these times, the costs can be minimized. 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.

5-6 This comment questions how payment of a mitigation fee compensates for removal of a 200-year-old tree and questions how mitigation fees collected would be used.

Refer to Master Response 3 in Chapter 2 (Master Responses) in this Final EIR for more details regarding the County's in-lieu fee program. As described in the ORMP, the County shall deposit all oak tree in-lieu fees into its Oak Woodland Conservation Fund and shall use collected per-inch mitigation fees for native oak tree planting projects or may use such funds to acquire oak woodland conservation easements, with documentation that the number of inches in diameter meets the amount for which mitigation fees have been paid. Although there is a substantial temporal loss of tree canopy and size when a Heritage Tree is replaced by saplings or acorns, the mitigation ratios require large numbers of replacement trees to be planted. For example, for the removal of the smallest size of Heritage Tree, 36 inches diameter at breast height, replacement plantings would consist of 108 15-gallon oaks, 162 5-gallon oaks, 216 1-gallon/TreePot 4 oaks, or 324 acorns. This is the minimum that must survive at the end of the required 7-year monitoring and maintenance period.

Section 2.3 (Individual Native Oak Tree and Heritage Tree Permits and Mitigation) of the ORMP describes permits and mitigation for Heritage Tree impacts. Fees are not the only form of mitigation for Heritage Trees. Options for individual native oak tree and Heritage Tree impact mitigation requirements include the following:

1. Replacement planting on-site within an area subject to a deed restriction or conservation easement;
2. Replacement planting off-site within an area subject to a conservation easement or acquisition in fee title by a land conservation organization;
3. In-lieu fee payment; or
4. A combination of numbers 1 through 3 above (Appendix C of the Draft EIR, p. 13).

Additionally, the ORMP states that an oak resources technical report (with particular requirements) shall accompany any tree removal permit application submitted to the County. The County may impose such reasonable conditions of approval as are necessary to protect the health of existing oak trees, the public, and the surrounding

property. Oak tree removal permit review will occur concurrently with the environmental review process for discretionary projects or concurrently with other permit review and processing for ministerial projects (e.g., building permits). Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more information on oak mitigation monitoring. Also refer to Response to Comment 5-2 in Section 3.3 (Organizations) in this Final EIR regarding the opportunity for public comment on the proposed project.

5-7 This comment states that native oaks grow slowly and that previous replanting projects have not been successful in the past.

The comment references oak planting along Silva Valley Parkway in El Dorado Hills, but does not identify the specific location of this planting. Impacts to blue oak woodland were identified as part of the Silva Valley Parkway Interchange Project, located at Silva Valley Parkway and Highway 50, where replanting was one of several options for project mitigation (El Dorado County 2011, Table 1, p. xxiii). Under the proposed ORMP, when oak woodland impacts are identified, mitigation may include planting of individual oak trees (limited to no more than 50% of the overall mitigation) and conservation of off-site oak woodland habitat. When impacts would occur to individual oak trees (those outside of oak woodland habitat), replanting could be used for 100% of the required mitigation.

The ORMP includes several measures to assist in the success of replanting, including preparation of an oak resources technical report. The oak resources technical report is required to be prepared by a Qualified Professional and must provide detail regarding the quantity, location, planting density, replacement tree size(s), and acorn/seedling source, consistent with the replacement planting guidelines included in the ORMP. The replacement planting guidelines require that maintenance and monitoring of planted oak trees be conducted for 7 years, and requires replacement of trees that do not survive. The proposed ORMP also requires that monitoring reports be submitted to the County at least annually during the 7-year maintenance and monitoring period and that documentation of replacement planting success shall be provided to the County at the end of the 7-year monitoring and maintenance period (in a final monitoring report). Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more information on oak mitigation monitoring. Also refer to Response to Comment 5-2 in Section 3.3 (Organizations) in this Final EIR regarding the opportunity for public comment on the proposed project.

- 5-8** This comment states that there are other threats to oak trees related to development that do not involve directly removing them.

The comment is correct in stating that indirect impacts can damage oaks. Section 5.0 (Application of the ORMP to Development Review Process) of the ORMP details how the plan would apply to development projects and protect against such disturbances. The ORMP defines impacts to individual native oak trees as “the physical destruction, displacement or removal of a tree or portions of a tree caused by poisoning, cutting, burning, relocation for transplanting, bulldozing or other mechanical, chemical, or physical means” (Appendix C of the Draft EIR, p. 29). This definition would account for root disturbance occurring in a tree’s dripline. 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” (Appendix C of the Draft EIR, p. 29). The extent of potential damage to retained trees in oak woodlands would be evaluated by a Qualified Professional on a site-specific basis and summarized in an oak resources technical report. As identified in the ORMP, an oak resources technical report shall include measures identifying how specific trees and woodlands (or retained portions thereof) shall be protected during development and related work.

Impacts and the appropriate mitigation ratio would then be calculated by identifying all construction or disturbance areas, including roads, driveways, and access roads; graded areas; and other disturbances, including septic system leach fields, utilities, and defensible space. Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more information on oak mitigation monitoring. Also refer to Response to Comment 5-2 in Section 3.3 (Organizations) in this Final EIR regarding the opportunity for public comment on the proposed project.

- 5-9** This comment offers further information related to oaks in an urban area.

The commenter’s offer is acknowledged. The publication referenced in the comment, *Oaks in the Urban Landscape*, is published by the University of California Division of Agriculture and Natural Resources. A reference to the University of California Division of Agriculture and Natural Resources publication, including a website link, is provided in Appendix F (Resources) of the ORMP (Draft EIR, Appendix C). This comment does not address the accuracy or adequacy of the Draft EIR; therefore, no response is required.

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Comment Letter 6

8/15/2016

Edcgov.us Mail - Public comment on Bio Resources DEIR, 12-1203



Shawna Purvines <shawna.purvines@edcgov.us>

Public comment on Bio Resources DEIR, 12-1203

Ellen Van Dyke <vandyke.5@sbcglobal.net> Sun, Aug 14, 2016 at 7:26 AM
To: Brian Veerkamp <bosthree@edcgov.us>, Ron Mikulaco <bosone@edcgov.us>, Shiva Frentzen <bostwo@edcgov.us>, Sue Novasel <bosfive@edcgov.us>, Michael Ranalli <bosfour@edcgov.us>, Jim Mitrinin <edc.cob@edcgov.us>
Cc: Char Tim <charlene.tim@edcgov.us>, Brian Shinault <brian.shinault@edcgov.us>, Gary Miller <gary.miller@edcgov.us>, Jeff Hansen <jeff.hansen@edcgov.us>, James Williams <james.williams@edcgov.us>, Rich Stewart <rich.stewart@edcgov.us>, Shawna Purvines <shawna.purvines@edcgov.us>

Please find two documents attached for public comment on the DEIR for the Biological Policy Update, comment period closing tomorrow, 8/15/16.

6-1

Thank you – Ellen



2 attachments

DEIR comments_Van Dyke_12-1203_Bio Res Pol update_8.15.16 a..pdf
588K

Public comment_BOS 6.22.15_bio policy update .pdf
694K

<https://mail.google.com/mail/u/0/?ui=2&ik=150a3325ea&view=pt&cat=Bio%20Policy%20Update%20BIO%20EIR%20Public-Agency%20Comments%20...> 1/1

RE: Biological Resources Policy Update DEIR, file no. 12-1203, public comment period ending 8/15/16

Dear Supervisors:

Please consider the following comments on the Draft EIR and include them in the record for the above project:

- 1. **Retention:** Keeping Oak woodland retention requirements was a primary concern expressed by the public in the Notice of Preparation (NOP) for this Draft EIR (DEIR), yet retention has been one of the most unstable aspects of the project description. In the scoping hearings retention was dismissed, with staff falsely claiming 100% removal has always been allowed (2/23/15); then existing retention standards were briefly acknowledged in a staff slide presentation (3/30/15), followed by it being added as an alternative to be analyzed in the DEIR (6/22/15); then the alternative was deleted via consent calendar (7/14/15), confirmed in the NOP (7/17/15) with no change noted in the revised NOP (11/23/15), and finally it just randomly reappeared in the DEIR (7/29/16 release date) with no basis for the retention values that were proposed. This is NOT a stable project description, nor is it consistent with the intent of CEQA to further public understanding and discourse prior to making policy decisions.

6-2

Regarding retention standards:

- a. The DEIR concludes that minimum retention standards are 'infeasible' without providing any evidence to support this claim (DEIR pg 6-65; pdf pg 139/270). This is contrary to the fact that under existing Option A retention standards, oak woodland conversion in the time frame between 2002 and 2015 has been minimal per the DEIR reported FRAP data (DEIR pg 6-60; pdf p134/270). Please reconcile and provide substantiating info, or revise this conclusion.
- b. General Plan policy 7.4.5.2 allowed for exceptions to retention requirements if reasonable use of the property would otherwise be denied. Please provide substantiating evidence as to why it would be infeasible to continue this policy as mitigation for any detrimental impacts that might be considered 'a taking' under Option A retention standards.
- c. It is not clear why an alternative requiring 30% retention was analyzed rather than the variable standards that exist under Option A. Where did this percentage come from?
- d. The General Plan goal of maintaining higher intensity uses inside the Community Regions has not been shown to be incompatible with a minimum retention standard, as is being falsely asserted in the DEIR (pg 5-16; p64/270). The 30% open space required in proposed developments has been utilized to maintain existing oak canopy and habitat connectivity in the past such as in the approved Wilson Estates development (11/4/14), and various Serrano maps.
- e. The DEIR says limiting agricultural exemptions would help reduce their negative impacts, but incorrectly asserts that would be a conflict with General Plan policies. Applying exemptions only to the area above and beyond the 30% retention requirement would retain the commitment to agricultural enhancement while protecting our other resources. There is no conflict in that regard. But to show preference to one element of the General Plan (Agricultural) over another (Open Space & Conservation) is in itself a conflict with regard to CEQA. Please substantiate how limiting exceptions would cause conflict.
- f. DEIR Visual Resources section '9.4 Mitigations Measures' falsely claims there are no feasible mitigations for the significant impact this project will have on the visual character or quality of the area (DEIR p9-18; pdf p212/270). That is contrary to the analysis under both Alternatives 1 and 2, which state that mitigation in the form of oak woodland retention would result in reduced impacts to visual resources (DEIR pgs 10-19 and 10-22). DEIR claims that significant impacts are comparable to the 2004 General Plan analysis are incorrect since many of those policies are being changed or deleted under this update.

6-3

6-4

6-5

6-6

6-7

6-8

- 2. **Cattle grazing** is known to prohibit regeneration of oak woodland, as confirmed in the Dudek memo (attachment 14B, p 13/236). This conflicts with DEIR assertions that grazing within conservation easements does not contribute to the significant impact of agricultural exemptions. The DEIR also asserts mitigations to be infeasible (DEIR p 6-60; pdf p134/270) and provides no supporting evidence. Possible mitigation options:
 - a. protect saplings from grazing activities.
 - b. disallow cattle grazing as a use in dedicated conservation easements.

6-9

6-10

E. Van Dyke public comment - Page 1 of 4 - submitted 8/14/16

- c. require protection of woodland area per established retention standards if grazing is to be a use on land designated as conservation easement or as project mitigation. ↑ 6-10
| Cont.

- 3. **Project Description:** Per the project description, this update is "*clarifying and refining the intent and scope*" of the General Plan's biological policies (DEIR p3-2;pdf pg26/270). This downplays the extent of the project, and violates CEQA's intent to inform the public and its decision makers. The policy revisions are drastic changes rather than mere clarifications, and again, they were not reviewed against the increased development potential of the TGPA/ZOU. Some examples: | 6-11
| 6-12
 - a. preservation of habitat is being revised to voluntary rather than required | 6-13
 - b. area of development potential is greatly increased | 6-14
 - c. exemptions are broadened without mitigations to offset them | 6-15
 - d. policies are moved from the General Plan into an ordinance that is more easily revised with minimal public exposure or awareness.

- 4. **The 'No Project Alternative'** is erroneously said to result in similar levels of development as the project, and result in similar habitat conversion as that described in the 2004 General Plan EIR (DEIR 10-8; pdf p220/270). Neither is true, and in fact evidence in the record shows otherwise: | 6-16
 - a. more exemptions are being allowed under the project, so more area can be developed (DEIR Table 10-1 page 10-10; pdf p222/270) | 6-17
 - b. tree/woodland retention is to be made voluntary, also allowing greater area to be developed (DEIR Table 10-1 page 10-10; pdf p222/270) | 6-18
 - c. the policy 7.3.3.4 revision to decrease riparian setbacks allows an increased area for development | 6-19
 - d. decreased open space requirements in the 2015 Targeted General Plan Amendment (TGPA) update allow for greater area of development | 6-20
 - e. the DEIR uses a lower and incorrect growth rate for the impact analysis (see item 5 below). | 6-21
 - f. The efficacy of the existing General Plan policies is due to their lack of implementation, NOT the content of the policies themselves (DEIR Table 10-1 pg 10-12; pdf p224/270), i.e. extensive work was completed on the soon-to-be-discarded INRMP without completing the final implementation. Analysis of the No Project Alternative has not taken this into account. | 6-22

The County could reduce impacts of development by implementing the *existing* Gen Plan policies, via the 'No Project Alternative'. The DEIR falsely concludes that option to be 'infeasible' (DEIR pg 10-19; pdf 231/270) claiming it does not meet the project objectives. But per the project description, the existing policies are the basis of the project, and are merely being refined and clarified. From the DEIR Project Description page 3-2: | 6-23

On September 24, 2012, the BOS directed County staff to retain consultants to assist the County in the process of considering amendments to General Plan Policies 7.4.2.8, 7.4.2.9, 7.4.4.4, 7.4.4.5, 7.4.5.1, and 7.4.5.2 and their related Implementation Measures, and to prepare an Environmental Impact Report (EIR). As stated in the staff report to the BOS, the effort was undertaken with the goals of "clarify[ing] and refine[ing] the intent and scope of all of those policies, ensur[ing] the consistency of all the related biological policies, consider[ing] changes in state law, and finally harmoniz[ing] the General Plan Policies."

The bifurcation of this project's EIR from the TGPA's EIR is already the subject of current litigation. The analysis of increased development potential under the TGPA/ZOU *depended* on the biological resource policies of the 2004 Gen Plan. These changes proposed are not mere clarifications, and will validate that lawsuit. | 6-24

5. **Growth issues:**

a. The DEIR falsely claims "this EIR relies on the same growth and development projections used for the TGPA-ZOU" (DEIR pg 6-44; pdf p118/270). This DEIR actually uses .9 percent (DEIR pg 5-4; pdf p53/270) while the TGPA used 1.03 percent (TGPA DEIR p 3.10-17; pdf p337/1212). The lower growth projection of .9 would reflect lesser impacts throughout the DEIR, presenting an inaccurate and deflated analysis of the impacts.

6-25

b. A project indirectly induces growth by reducing or removing barriers to growth. This project absolutely will induce growth, contrary to the conclusion of DEIR Section 11.4, Growth Inducement (DEIR pg 11-4; pdf p241/270). The proposed Dixon Ranch project on Green Valley Rd is just one of many proposed General Plan amendment development projects being phased to allow additional removal of oak canopy in order to increase density/population once these policies are approved.

6-26

From the Dixon Ranch Development Agreement (DA, pdf pg 3/17, file no. 14-1617, attachment 6C):

"..the second phase (which includes 194 new residential units ("Phase 2")) cannot proceed until such time as the County has adopted policies, as provided in the County's General Plan, allowing for the utilization of offsite mitigation or the payment of impact fees, or otherwise amends its oak tree conservation policies to allow for offsite mitigation techniques and removal of oak tree canopy beyond 10%.." [emphasis added]

The DEIR must be revised to address growth inducement as a significant impact.

6. **Bifurcation from the TGPA/ZOU:**

a. The Zoning Ordinance Update in Dec. 2015, new ordinance section 130.30.030G, established setbacks that were a reduction from existing Gen Plan policy 7.3.3.4 (DEIR pg 6-42; pdf p116/270) without evaluating the impact of that change. This was pointed out in the NOP comments (Van Dyke, 6/22/15 item 4.a). This project's DEIR now assumes the reduced setback to be in place and provides no actual impact analysis. This is an issue of bifurcation and piece mealting of the CEQA process. These policies are vulnerable to litigation if the reduced setbacks are never analyzed, particularly since the ordinance now applies to ministerial projects that will not receive any further discretionary review.

6-27

b. The 2004 General Plan anticipated development intensification throughout the County of sufficient level to degrade community character. Policies 7.4.4.4, 7.4.4.5, 7.4.5.2, 7.4.2.8, and CO-P were a few of the policies added to mitigate those impacts. The 2015 amendments under the TGPA further added uses intensifying the impacts of the 2004 Gen Plan (DEIR pg 5-13, pdf pg 61/270), but the TGPA/ZOU's EIR impact analysis assumed those protective biological resource policies would remain in place and did not analyze the changes proposed here.

6-28

This project reduces biological protections, and erroneously claims under impact LU-2 that 'it's ok' because the findings were previously, and still remain, 'significant and unavoidable'. This is NOT permissible under CEQA, and a) validates the litigation on the TGPA project because these policies were assumed to be intact, and b) makes this project vulnerable to litigation due to bifurcation.

6-29

7. **Mapping:** Existing policy 7.4.2.8 required mapping of IBC corridors to be updated every three years in order to see where development may have compromised them. This has not been done, yet rather than update the mapping, the requirement is being deleted. This was a significant mitigation requirement of the 2004 General Plan, yet no analysis of the impact of neglecting the requirement, or deleting it, is apparent. Please direct me to where this has been discussed in the DEIR.

6-30

E. Van Dyke public comment - Page 3 of 4 - submitted 8/14/16

8. **NOP comments:** A number of questions raised in my NOP comments (Van Dyke, 6/22/15) were not addressed in the DEIR and are still relevant. That letter is attached here for reference and ease of response.

6-31

In reviewing the DEIR, it appears this update would be unnecessary if the 2004 General Plan policies were actually implemented as required. The No Project Alternative is most definitely 'feasible', and the best choice for resource protection *and* to keep development moving rather than tie it up in litigation related to the General Plan.

6-32

I understand the Center for Sierra Nevada Conservation (CSNC) has another alternative to recommend for consideration. I would urge you to include it in a recirculation of the Draft EIR, at which time some of the bifurcation issues relative to the TGPA/ZOU can also be addressed.

6-33

Thank you for the opportunity to comment.

Ellen Van Dyke, E. Green Springs Rd, Rescue

cc:
shawna.purvines@edcgov.us
Planning Commissioners Stewart, Miller, Hansen, Williams, Shinault

Public Comment for BOS meeting 6/22/15, File no 12-1203- draft Biological Policies

Dear Supervisors:

The biological policies being drafted are intended to be the basis of an EIR. Do not waste time and resources analyzing policies the public does not support. *I urge you to reject any elimination of the Option A oak tree retention standards and do not allow 100% tree removal on a project site.* If a project requires such clear cutting of oaks, it should probably be proposed for a different site.

6-34
6-35

Additionally,

1. At the 5/18 meeting, in response to the question "*what other jurisdictions endorse 100% removal?*", Dudek consultant Scott Eckardt said that no other counties had retention requirements. In reality,

6-36

A. No jurisdiction actually condones 100% removal.

- All jurisdictions prefer preservation and discourage complete annihilation. Some jurisdictions have voluntary retention with strict mitigation (Folsom, Sac County), others have not yet adopted protective ordinances and depend on CEQA review for retention (Tuolumne), others have retention guidelines and depend on CEQA review for projects that exceed the standards (Placer).

B. 100% removal was never the intention of the 2004 General Plan policies.

- **Policy 7.4.5.2** (Existing): "*It shall be the policy of the County to preserve native oaks wherever feasible, through the review of all proposed development activities where such trees are present on either public or private property, while at the same time recognizing individual rights to develop private property in a reasonable manner. To ensure that oak tree loss is reduced to reasonable acceptable levels, the County shall develop and implement an Oak Tree Preservation Ordinance. ..*"

6-37

Where avoidance is not possible and mitigation is necessary, mitigating policies should be developed. Option B was a mitigating policy to ensure reasonable use of the property - not to allow 100% canopy removal when an incompatible project is proposed.

C. In the 2005 court ruling that lifted the writ of mandate, the Judge noted that the County had eliminated the replacement option in lieu of retention. From pg 5 of the ruling:

"The new, revised canopy protection measure keeps the retention percentages that were adopted in 1996, eliminates replacement as an option in lieu of retention, and requires a replacement of any canopy not required to be retained under the policy."

6-38

Retention standards were to be met, and tree removal was to be mitigated.

2. Mitigation fees were collected through 2012. What is the County's record for the funds collected, and easements recorded to date? How is the monitoring being done? If the County did not have the resources for monitoring planting mitigations in the past, what is going to be different going forward?

6-39

- 3. The proposed Heritage Tree designation of 36" appears to have been randomly selected; why not 18", or 24"? 6-40
 - A. Where are the explanations of what those inches mean in terms of years of growth? How old is a 20" dbh (diameter at breast height) Blue Oak? 6-41
 - B. Are Supervisors aware that the El Dorado Hills CSD currently has tree protection standards defining Heritage Oaks as 20" dbh, rather than 36"? 6-42
 - C. What have other counties designated as 'heritage' worthy diameters? Please confirm the standard is 24" in both Placer and Tuolumne counties, and 19" in neighboring Folsom. 6-43
 - D. Trees are quite photogenic. Has staff provided pictures to help guide the Supervisors' decision? 6-44

- 4. As noted in the TGPA/ZOU public comments, separating the biological policies out of that project and deferring them to this project (a separate EIR) is confusing and leaves a lot of room for error. 6-45
 - A. Because of this bifurcating of the CEQA analysis, policy changes are falling through the cracks. For example, policy 7.3.3.4 revisions are not indicated as 'changes' in the TGPA, but the 50'/100' setbacks to streams are indeed reduced to 25'/50' under the ZOU. Will that change be considered as already "done" when this EIR moves forward? It appears that since this change was deferred from the TGPA, but it is not delineated as a change here, the impact analysis will never be done. 6-45

Similar jurisdictions such as Placer County have 50'/100' riparian setbacks. Why are we reducing ours and when does the change get analyzed? 6-46
 - B. When the biological policies were separated out of the TGPA/ZOU, were the relevant public comments forwarded to this project file, and/or were the commenters notified that their comments would need to be resubmitted here? 6-47
 - C. Will these draft biological policies be analyzed relative to the 2004 General Plan, or relative to the as-yet-to-be-completed TGPA/ZOU with its increased development potential? 6-48

- Comments on the 6/22/15 Dudek memo:** 6-49

This 236 page document just came available for public review Thursday, and the BOS meeting is Monday morning. There simply is not adequate time to review it and get input back to the Supervisors in time for them to read it before the meeting. A few comments follow, but I am requesting a continuance to allow the working public (myself included) adequate time to read and reply.

- 5. The page 10 explanation of why they do not recommend an update of the IBC Corridors is an exercise in circular logic. On the contrary, this is the perfect time. The existing mapping is over 10 years old. Policy 7.4.2.8 requires mapping of Habitat inventory to be updated every three years. The County's progress in habitat conservation would help guide the upcoming policy decisions. 6-49

- 6. Pages 9-10 give an unrealistic view of minimal management and monitoring the conservation easements might require. The 'self-monitoring' suggested should be out of the question. Previous disregard of real costs is what got EDC into trouble with the Option B in-lieu fees before, and downplaying the monitoring requirements will not result in an accurate estimate of necessary fees. 6-50

7. Page 13 discusses cattle grazing in conservation easements, and portrays General Plan Objective 7.4.4 incorrectly. Objective 7.4.4 strives to preserve oak woodland to improve grazing areas; it does NOT say grazing is good for oak woodland. Research clearly indicates grazing inhibits regeneration of oak seedlings. Any policies allowing conservation easements to be utilized as grazing land should include the appropriate protections for regeneration of seedlings, and then the two uses may be compatible. This would affect the monitoring & management costs and associated in-lieu fee.

6-51

8. Page 14 discusses the issue of allowing 100% oak woodland removal from a project site, and says "the Board gave direction" to proceed with it. FYI: This is NOT what the general public wants.

6-52

Supervisors were also told that the retention standards in Policy 7.4.4.4 do not apply if an in-lieu fee option is used. This is a liberal interpretation of Policy 7.4.4.4, that was not similarly interpreted by the Judge when lifting the Writ of Mandate.

Policy 7.4.4.4 [excerpt]: "...the County shall require one of two mitigation options: (1) the project applicant shall adhere to the tree canopy retention and [on-site] replacement standards described below; or (2) the project applicant shall contribute to the County's Integrated Natural Resources Management Plan (INRMP) conservation fund described in Policy 7.4.2.8."

and from the Judge's interpretation in the 2005 Return to Writ document: "The new revised canopy protection measure keeps the retention percentages .. eliminates replacement in lieu of retention .."

6-53

CASE NUMBER: 96CS01290 DEPARTMENT: 11
CASE TITLE: EL DORADO COUNTY TAXPAYERS, ET AL. VS. EL DORADO COUNTY, ET AL.
PROCEEDINGS: MOTION FOR REVIEW OF COUNTY'S RETURN TO WRIT OF MANDATE-RULING

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

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

9. Pages 14-15 discuss Heritage Trees being defined as 36" dbh, concluding that "Lowering the 36-inch threshold for the Heritage Tree definition in EDC would increase the number of trees required to mitigate at a 3:1 ratio potentially resulting in greater tree replanting or in-lieu fee mitigation payments." NOT stated is the fact that it could also result in fewer Heritage Trees being removed. No consideration is given to changing this definition, showing a severe disregard of our natural resources and an embarrassingly blatant gift to the development community.

6-54

10. Page 15 has a statement that "Acorn planting is an accepted and often preferable practice", but I was unable to find a single jurisdiction that allows this as mitigation planting. Are there any?

6-55

11. In the May hearing, both County staff and Dudek's representative stated that Community Regions and Rural Centers were not to be excluded from the conservation areas. But page 19 of the 'Revised ORMP' (pdf page 190/236) states that Community Regions are specifically excluded from Priority Conservation Areas. This kind of misrepresentation makes me mistrust the 220 pages of the document I will not have time to read and comment on today.

6-56

4.0 Priority Conservation Areas

4.1 Identification of Priority Conservation Areas

Figure 2 identifies the areas in which acquisition of land or conservation easements from willing sellers shall be prioritized using the Oak Woodland Conservation Fund generated by the payment of the in-lieu fees described above. These areas were identified using the FRAP classification of oak woodland habitat in the county. After those areas were mapped, the areas were narrowed down to large expanses consisting of 500 acres or more. Those large expanses were further narrowed to lands where oak woodland habitat would not likely undergo substantial fragmentation and oak woodland conservation would be consistent with the 2004 General Plan land use designations. Areas specifically excluded were lands within Community Regions and Rural Centers and lands designated Low Density Residential. These resulting areas are classified as Priority Conservation Areas (PCAs).

6-56

EIR's are too expensive to be careless in their initiation. We should be taking the time now to get the policy as close to 'right' as possible. Please continue this item and do not shortchange this phase of the project.

6-57

Sincerely,
Ellen Van Dyke, Rescue

A few minor 'back up' items for reference follow

City of Folsom ordinances, section 12.16 excerpt regarding Heritage tree designation:

"Heritage tree" means a native oak tree over 19 inches in diameter at breast height or a multitrunked native oak tree having an aggregate diameter of 38 inches or more at breast height.

From the EDH-CSD Oak Tree Preservation policy, defining Heritage tree:

(hh) **Heritage Tree:** A tree, as defined above, twenty (20) inches or more in diameter measured four and one half feet above the ground, or a multi-trunk tree having an aggregate diameter of thirty (30) inches or more measured four and one-half feet above the ground.

From Placer County Tree Preservation Ordinance:

12.20.040 Permit procedure.

A. When Required. No person shall cut down, move, remove, kill, or materially damage any live tree six inches dbh or over, or attach any appurtenance to a tree, without first having obtained a tree cutting permit from the permit-issuing authority, unless such tree is located on lands devoted to the growing and harvesting of timber for commercial purposes for which permits have been granted permitting timber harvesting. Such permit shall be unnecessary for the removal of trees proposed to be removed as approved in connection with the approval by the agency of a tentative map under the subdivision ordinance, except where such subdivision involves a land use conversion, or for the removal of trees as permitted under a permit issued pursuant to the grading ordinance, provided, however, that the standards contained in this article shall also be applicable to the approval of a tentative and final subdivision map and to the issuance of a grading permit.

Placer County, ordinance 12.16 excerpt regarding riparian setbacks:

"Riparian zone" means any area within fifty (50) feet from the centerline of a seasonal creek or stream, any area one hundred (100) feet from the centerline of a year round creek, stream, or river, and any area within one hundred (100) feet from the shoreline of a pond, lake or reservoir. At a minimum all streams, creeks, ponds, lakes, and reservoirs as shown on 7.5 minute USGS maps are included in this definition. (A riparian zone established in specific community or general plan may supersede this definition.) (Note: All trees regardless of size within riparian areas within the tree preservation zones and as a part of any discretionary project county-wide are subject to this article.)

Response to Comment Letter 6

Ellen Van Dyke
August 14, 2016

- 6-1** This comment introduces the commenter and states that the comment letter is attached.

This comment does not address the accuracy or adequacy of the Draft Environmental Impact Report (EIR); therefore, no response is required.

- 6-2** This comment asserts that the project description has been “unstable” with respect to minimum retention requirements for oak woodland. The comment cites numerous documents and presentations in which retention was addressed. The comment states that the unstable project description is inconsistent with the intent of the California Environmental Quality Act (CEQA) to further public understanding and discourse prior to making policy decisions.

The project description is the proposed El Dorado County (County) General Plan biological resources policies updates and the proposed Oak Resources Management Plan (ORMP). The minimum retention standards are considered in Alternative 2, which requires a 30% minimum retention; CEQA does not require that the alternatives be defined at any point prior to release of the Draft EIR.

During the February 23, 2016, Board of Supervisors (Board) meeting, Dudek and County staff discussed the requirements of the current policies; the policy that is relevant to retention standards is Policy 7.4.4.4. County staff stated that the standards are difficult to interpret. Further, County staff noted that under Option B, Policy 7.4.4.4 and the County’s prior 2008 Oak Woodland Management Plan (OWMP) do not require any amount of retention. Specifically, Policy 7.4.4.4 as adopted in the 2004 General Plan states that projects that would impact oak woodland canopy may mitigate such impacts under one of two options: “(1) the project applicant shall adhere to the tree canopy retention and replacement standards described below; or (2) the project applicant shall contribute to the County’s Integrated Natural Resources Management Plan (INRMP) conservation fund described in Policy 7.4.2.8” (Draft EIR, p. 6-37).

During the March 30, 2015 Board of Supervisors meeting, Dudek staff discussed retention standards in the context of creating a north/south habitat connection but indicated that modeling efforts have shown that retention standards in and of themselves would not create that connection. In other words, with respect to habitat connectivity and wildlife movement, a minimum retention standard would not be

effective. During the June 22, 2015 Board of Supervisors meeting, Supervisor Frentzen expressed the desire to see an alternative with a minimal retention standard; the Board of Supervisors agreed and directed staff accordingly. During the July 14, 2015 Board of Supervisors meeting and as discussed during the June 22, 2015 Board of Supervisors meeting, the Board confirmed that minimum retention standards would be analyzed as an alternative. However, the Board of Supervisors also indicated that it would not be necessary to consider such an alternative at an equal level of detail as the proposed Biological Resources Policy Update and Oak Resources Management Plan (project). This is consistent with the requirements of CEQA and the CEQA Guidelines, specifically CEQA Guidelines Section 15126.6(d), which states that the alternatives analysis must “include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project” (14 CCR 15126.6(d)).

Both versions of the Notice of Preparation (NOP) generally discussed the requirement for the EIR to evaluate project alternatives but did not identify specific alternatives that would be included in the EIR. This is consistent with CEQA and the CEQA Guidelines, neither of which require that project alternatives be identified in the NOP.

6-3 This comment states that the Draft EIR concludes that the minimum retention standards are infeasible (referencing p. 6-65 of the Draft EIR) without providing evidence to support it. The comment also states that minimum retention standards have been in place under the existing Option A requirements (of Policy 7.4.4.4), and the amount of oak woodland habitat conversion in the County between 2002 and 2015 has been minimal.

The Draft EIR does not state that minimum retention standards are infeasible. Rather, on page 6-65, the Draft EIR discusses a potential mitigation measure that would entail reducing the allowable density/intensity of development, and concludes that this measure would be infeasible because it would result in conflicts with the basic objectives and goals of the General Plan. However, page 6-68 of the Draft EIR does state, “A minimum retention standard is evaluated as a project alternative in Chapter 10, while the other potential mitigation measures are considered infeasible, as discussed previously.” Furthermore, on page 10-23 of Chapter 10 (Alternatives) of the Draft EIR, it states, “This [minimum retention] alternative is considered potentially feasible as it accomplishes most of the basic project objectives. However, the alternative may be considered to frustrate implementation of the General Plan in that it would be likely to result in greater amounts of development outside the County’s identified Community Regions than is anticipated under the existing General Plan.” In evaluating this alternative, the Draft EIR concludes that the minimum retention standards may hinder development within the County’s identified

Community Regions and redirect it into more rural and higher-elevation areas, which may result in unexamined environmental impacts as well as creating an inconsistency within the General Plan itself.

In addition, it is noted that during the years when Option A was in effect, and where applicable development activities were required to demonstrate consistency with the Interim Interpretive Guidelines for El Dorado County General Plan Policy 7.4.4.4 (Option A) (Interim Interpretive Guidelines), initial consultations with Development Services Division staff (e.g., at the public counter and at scheduled pre-application meetings) indicated that a significant number of potential applicants for both ministerial and discretionary projects chose not to move forward with new development projects due to issues or concerns directly related to meeting the on-site oak canopy retention and replacement requirements of Option A. Although the actual number of potential applicants electing not to proceed with development is not known, and cannot be known with certainty, because detailed results of such informal consultations are not typically documented, the experiences of County staff indicate that minimum retention standards do influence the feasibility of development projects.

- 6-4** This comment requests substantial evidence as to why it would be infeasible to continue the current policy when Policy 7.4.5.2 allowed for an exemption if the requirement restricted reasonable use.

Current Policy 7.4.5.2 does not provide exceptions to oak canopy retention requirements, as stated in this comment. Policy 7.4.5.2 addresses loss of individual oak trees, not loss of oak woodland or oak woodland canopy. Although the policy includes a general statement that the County will recognize “individual rights to develop private property in a reasonable manner,” the policy does not specify a particular exception for reasonable use of property. Rather, it lists four specific exemptions to the requirement for obtaining a tree removal permit. The ORMP incorporates and expands upon Policy 7.4.5.2. Furthermore, the ORMP specifically outlines the requirements and expectations of its nine exemptions. Essentially, the ORMP is more detailed, requires more information from applicants, has higher penalties for illegal removals, makes a larger distinction between individual oaks and Heritage Trees, and incorporates oak woodland mitigation requirements as opposed to just individual tree mitigation requirements.

- 6-5** This comment asks where the 30% retention comes from and why it was used instead of the variable standards that exist under Option A.

The variable retention standards currently identified in General Plan Policy 7.4.4.4 Option A are evaluated as part of the No Project Alternative in the Draft EIR. This alternative considered continued implementation of all of the current General Plan policies, including the Interim Interpretive Guidelines.

It was determined that a minimum retention standard alternative should also be evaluated as part of complying with CEQA's requirement to evaluate a reasonable range of alternatives and in consideration of public comments regarding oak woodland retention. Specifically, 30% was identified because it was considered to be a percentage that would be capable of reducing impacts (i.e., retaining patches of oak woodland that might be large enough to retain biological value) while still achieving the basic project objectives of defining the County's strategy for oak resource management and conservation. Further, it was judged to be meaningfully different from the proposed project and the No Project Alternative, which is important in meeting the requirement of the CEQA Guidelines that "the range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making." Currently, under Policy 7.4.4.4 Option A, the minimum oak canopy retention requirement is 60%; 30% is therefore a midpoint between the minimum required under the No Project Alternative and policies that require no retention.

- 6-6** This comment states that the goal of maintaining higher-intensity uses inside the Community Regions has not been shown to be incompatible with a minimum retention standard and offers Wilson Estates' compatibility with the 30% open space requirement as a counterexample.

Section 130.28.050 of the Zoning Ordinance states that, on Planned Development (PD) Combining Zones, it is required to retain 30% on-site open space. However, this requirement is only for PD combining zones and carries various exemptions, including, but not limited to, Residential planned developments consisting of five or fewer lots or units and projects within Community Regions or Rural Centers on existing sites 3 acres or less in size. Additionally, this open space requirement may include land developed or set aside for recreational purposes, agricultural resources, and natural or man-made water features; it is not required to remain a natural or untouched area. Because the 30% open space requirement is limited to certain PD developments and does not prohibit any use of the land, it is not comparable to a 30% oak woodland retention requirement.

- 6-7** This comment states that limiting agricultural exemptions would not conflict with General Plan policies if the exemptions were applied only to anything in excess of a

30% retention requirement. The comment states that by favoring one element of the General Plan over the other (Agricultural over Open Space and Conservation), the Draft EIR conflicts with CEQA.

The comment suggests that agricultural activities should be exempted from oak woodland mitigation requirements only after a 30% oak woodland retention requirement has been met. For clarity, it is noted that the suggested 30% retention requirement that would apply to all development projects is not part of the proposed project; rather, it was evaluated as a project alternative. Thus, the comment is suggesting a mitigation measure that could be applied to the proposed project to reduce the project's significant environmental effects. However, imposing a mandatory 30% oak woodland retention requirement only on agricultural activities would burden such activities with an on-site retention requirement that other development projects would not face because the proposed project does not establish any minimum retention requirement. Further, this mitigation measure could limit lands that are available for long-term agricultural use, particularly for owners of small parcels that have substantial oak woodland coverage.

The reasons the County has elected to continue the use of the agricultural exemption with clarifications as discussed in detail in Master Response 5 in Chapter 2 (Master Responses) in this Final EIR. These reasons include consistency with the General Plan, the low level of impact expected to occur under the agricultural exemption, and the fact that exemptions for agricultural activities are consistent with state law.

Consistency with the General Plan is further discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR. In summary, as part of establishing the County's comprehensive strategy for land use development, the County has identified protection of the rural quality of life, including the key role of agricultural and other natural resource activity, as a primary goal of the General Plan. Specifically, on page 4, the General Plan notes that the viability of the agriculture and timber industries "is critical to the maintenance of the County's customs, culture, and economic stability." The General Plan includes several goals, objectives, and policies that seek to support long-term conservation and use of existing and potential agricultural lands (General Plan Goal 8.1) and to encourage the expansion of agricultural activities and production (General Plan Policy 8.1.1.1).

Further, there is no substantial evidence in the record that current or forecasted agricultural activities will result in large-scale permanent oak woodland conversion. As noted on page 6-60 of the Draft EIR, a relatively minimal loss of oak woodlands occurred between 2002 and 2015, while the existing agricultural activities exemption

has been in place under current General Plan policy. This indicates that agricultural and other activities have not resulted in large-scale, permanent oak woodland conversion. The proposed agricultural activities exemption does not include uses requiring a Conditional Use Permit within agricultural zones. While the agricultural exemption could be applied to as many as 132,281 acres of oak woodland, it is not expected that impacts would occur at this scale. The Draft EIR concludes that the impact is significant and unavoidable because at the programmatic level of analysis, it is not possible to predict the specific locations where expansion of agricultural activities would adversely affect oak woodlands. For additional discussion of the scope of programmatic impact analysis for this EIR, refer to Master Response 8 in Chapter 2 (Master Responses) in this Final EIR.

- 6-8** This comment states that the Draft EIR is incorrect in stating that there are no feasible mitigation measures to reduce visual resource impacts because the analysis of Alternatives 1 and 2 states that oak retention standards would reduce visual impacts. In addition, the Draft EIR states that the impacts are similar to the 2004 General Plan but the comment states that this is incorrect due to the fact that the Draft EIR removes policies from the General Plan.

Although there are components of Alternatives 1 and 2 that could reduce impacts, as discussed in Chapter 10 (Alternatives) of the Draft EIR, both Alternatives 1 and 2 would result in significant and unavoidable visual impacts. It is true that each alternative would result in reduced impacts compared to the proposed project; however, the impacts would not be substantially lessened and would remain significant and unavoidable. The Draft EIR concludes that the impacts of Alternative 1 would be significant and unavoidable due to the conversion of rural residential density to suburban residential development. Although the No Project Alternative “would slightly reduce the potential for degradation of visual character by requiring more on-site retention of oak canopy,” it “would not reduce this impact to a less-than-significant level” (Draft EIR, Chapter 10, Alternatives, p. 10-19). Alternative 2 would result in similar visual impacts as the proposed project. The Minimum Oak Woodland Retention Requirement Alternative (Alternative 2) would have a reduced impact on the visual character of the County because it would ensure that greater amounts of oak woodlands are maintained as future development projects are implemented; however, “the impact would remain significant and unavoidable, consistent with the prior analysis of the impacts associated with General Plan buildout. Further, as development intensity on individual lots is reduced to accommodate the minimum required oak woodland retention, this alternative may increase developmental pressure in rural areas and thus lead to a

greater loss of community character in those areas” (Draft EIR, Chapter 10, Alternatives, p. 10-22).

- 6-9** The comment states that cattle grazing prohibits oak regeneration and states that the Dudek memo labeled as Attachment 14B (see Appendix E to the Draft EIR) confirms this. The comment also states that this conflicts with assertions in the Draft EIR that cattle grazing within conservation easements would not contribute to a significant impact.

The comment’s characterization of the statement in the Dudek memo to the Board of Supervisors dated June 2015 and labeled as Attachment 14B is inaccurate. The memo states, “Current research notes potential positive effects of grazing in controlling competing nonnative grasses and forbs and its potential negative effects of seedling trampling and soil compaction. Additionally, the timing and intensity of grazing are primary contributors to its effect on oak woodland regeneration.”

There is no conclusive evidence that cattle grazing is inherently incompatible with oak woodland conservation. In fact, several studies have shown that cattle grazing can have some beneficial effects for oak woodlands, in addition to the potential for adverse effects. Further, there are many conservation easements across the state that encompass oak woodlands on which cattle grazing occurs and has traditionally occurred. A study prepared to evaluate whether livestock grazing is a compatible use with conservation easements, specifically for blue oak woodlands, found that “commercial livestock grazing practices had mixed affects [sic] on some of the conservation values of blue oak woodlands. Livestock grazing reduced oak seedling density, but it remains unknown if reduced densities will affect the long-term reproduction and health of the woodlands. Grazing also reduced the cover of invasive medusahead grass; yet native species richness and cover were not improved by livestock grazing” (Reiner and Craig 2011). Another study of oak woodlands for which conservation easements that allowed continued grazing have been established shows that the compatibility of grazing with oak woodland conservation is highly dependent on the operational characteristics of the grazing—meaning the grazing intensity, grazing season of use, livestock class/type, and frequency of use (UC ANR 2011). This study indicates that cattle “are predominantly grass eaters. They will graze broad leaf plants and woody plants particularly during summer and fall months when the dried grass may not provide an adequate level of nutrition” (UC ANR 2011, p. 25). Further, this study reached the following conclusions regarding the possible effects of livestock grazing on oak regeneration:

Livestock may browse oak seedlings, as well as consume acorns. However, livestock exclusion alone may not lead to improved oak regeneration because many other factors may inhibit oak regeneration, such as exotic annual plant growth, rodent damage, and suppression of wildland fire. In addition, the effects of grazing on exotic plant competition and rodent populations should be considered. For example, oak seedlings may have a difficult time getting established in thick undergrowth including annual grass thatch or thistles. Thatch accumulation also favors some rodents like vole, which have been known to girdle oak saplings.

- **Grazing intensity:** Heavy grazing, especially over many years, can indirectly affect oak recruitment by increasing soil compaction and reducing organic matter, both of which can make it more difficult for oak roots to penetrate downward and obtain moisture. Light and conservative grazing may reduce the exotic annual grasses that compete with young oak seedlings for moisture and nutrients.
- **Season-of-use:** Grazing during the early part of the growing season is most effective for reducing exotic annual grass cover. Grazing during the dry dormant season may result in livestock eating small oak seedlings.
- **Livestock class:** Sheep and goats tend to browse seedlings year-round. Cattle are assumed to have a potential positive impact during the winter season, when exotic annual grasses are growing actively (UC ANR 2011, p. 46).

This comment also inaccurately characterizes the Draft EIR analysis of cattle grazing impacts. On page 6-60, the Draft EIR notes that not all agricultural activities would result in oak woodlands conversion or individual oak tree removal, and specifies “grazing activities that retain woodlands and trees” as an example of this. However, the Draft EIR then concludes that the potential impact associated with the agricultural exemption would be significant and unavoidable. There is no statement in the Draft EIR that cattle grazing would inherently not contribute to this significant impact. As shown in Draft EIR Table 6-13, there is a total of 13,329 acres of oak woodland within parcels zoned Agricultural Grazing. Grazing is also allowed in all other agricultural zone districts. Thus, the Draft EIR properly concludes that the agricultural exemption, which includes potential cattle grazing, would contribute to a significant and unavoidable loss of oak woodland in the County as implementation of the General Plan occurs.

The analysis of the agricultural exemption does not address whether continuing to allow grazing to occur in areas subject to conservation easements would contribute to the project's significant impact. In Section 4.2 (Management of PCAs), the ORMP states that "agricultural use (i.e., grazing) shall be allowed in conserved oak woodlands as long as the activity occurred at the time the conservation easement is established, the spatial extent of the agricultural use is not expanded on conserved lands, and the agricultural use does not involve active tree harvest or removal (e.g., fuelwood operations, land clearing for crop planting, etc.)" (Draft EIR, Appendix C, p. 24). This is consistent with the General Plan Objective 7.4.4, which includes domestic livestock grazing as one of the beneficial uses for which forest, oak woodland, and tree resources shall be conserved. Additionally, as shown in Table 3.4 of the El Dorado County Oak Resources In-Lieu Fees Nexus Study (Nexus Study; Appendix B of the ORMP), activities related to management and monitoring of cattle-grazing activities are frequently included in both initial and long-term maintenance and monitoring of conservation easements. The values shown in Tables 3.4, 3.8, and 3.9 of the Nexus Study were used to develop the maintenance and monitoring costs that are proposed to be included in the County's in-lieu fee for oak woodlands mitigation, which is shown in Table 3.10 of the Nexus Study. Thus, the operational costs included in the proposed in-lieu fee reflect costs incurred by active land conservation organizations for cattle grazing management activities. Therefore, because the ORMP limits grazing within conservation easements to areas within the identified Priority Conservation Areas (PCAs) and where grazing is an existing use that will not be expanded, and because the maintenance and monitoring costs included in the in-lieu fee include assumptions for costs associated with monitoring and management of grazing activity, it is expected that allowing for cattle grazing to continue in current locations would not adversely affect the existing habitat value of the oak woodlands.

- 6-10** This comment provides a list of possible mitigation options that would resolve the conflict between grazing and conservation: protect saplings from grazing activities, disallow cattle grazing as a use in dedicated conservation easements, and require protection of woodland area per established retention standards if grazing is to be a use on land designated as conservation easement or as project mitigation.

As stated in Response to Comment 6-9 above in this section (Section 3.4, Individuals), there is no inherent conflict between cattle grazing and oak woodland conservation. Further, because the ORMP limits grazing within conservation easements to areas within the identified PCAs and where grazing is an existing use that will not be expanded, and because the maintenance and monitoring costs included in the in-lieu fee include assumptions for costs associated with monitoring and management of grazing

activity, it is expected that allowing for cattle grazing to continue in current locations would not adversely affect the existing habitat value of oak woodlands. Thus, implementation of the mitigation measures suggested in this comment is not warranted because allowing cattle grazing to occur within lands that are under a conservation easement would not result in a significant impact to oak woodlands.

- 6-11** This comment quotes the project description as characterizing the project as “clarifying and refining the intent and scope” of the General Plan and states that this description downplays the extent of the project and thus violates CEQA’s intent to inform the public and decision makers.

This comment expresses the commenter’s point of view that the Draft EIR downplayed the gravity of the proposed project. Chapter 3 (Project Description) of the Draft EIR, presents the culmination of direction provided by the Board of Supervisors over the course of 10 public workshops regarding the proposed biological resources policies revisions and ORMP. The County has sought to keep the public informed and involved as the County’s decision makers have received information and analysis, received public comment, and deliberated on the policy options before them. A single sentence in the Project Description chapter of the Draft EIR does not expunge the extensive public information and involvement that has occurred with the project to date and does not outweigh the extensive description and analysis presented in the Draft EIR. Section 3.4 (Project Description) of the Draft EIR contains a description of the proposed biological resources policies, a table summarizing the proposed changes to each policy, and a description of the proposed ORMP. This section also refers the reader to Appendix B for the full text of the proposed General Plan biological resources policies and Appendix C for the full text of the proposed ORMP.

- 6-12** This comment states that the fact that preservation of habitat is being revised to voluntary rather than required is drastic and has not been reviewed against the increased development potential of the Targeted General Plan Amendment and Zoning Ordinance Update (TGPA-ZOU).

The Board of Supervisors determined that the proposed mitigation standards, which incentivize but do not require retention, would best meet the County’s overall general plan and land use goals and objectives. Refer to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the Board of Supervisors’ responsibilities and considerations in setting General Plan policy. The impacts of the proposed project are evaluated in the Draft EIR relative to existing physical conditions, rather than relative to the existing General Plan policies. The analysis properly considered the effects of implementation of the General Plan under

the proposed policies and the ORMP. As described in Chapter 4 (Methodology and Assumptions) of the Draft EIR, the development projections used for the 2025 and 2035 scenarios evaluated in the Draft EIR reflect the amount of development anticipated to occur in the County based on residential population and employment projections for the County. They do not reflect 100% buildout of all lands within the County that are designated for possible development. Forecasting a level of development that provides for 100% buildout of the General Plan would be speculative and would not be reasonably foreseeable because the population and employment projections for the County do not support that level of development. As stated in Chapter 4 (Methodology and Assumptions) of the Draft EIR, “The development projections used for this EIR analysis reflect both historic and recent development patterns in the County as well as the changes to those patterns anticipated as a result of the General Plan and zoning changes adopted under the TGPA-ZOU. Those changes primarily increased the number of locations where development of different types would be allowed within the County and increased the potential for higher intensity development to occur” (Draft EIR, Chapter 4, Methodology and Assumptions, p. 4-3). Therefore, the analysis has considered development within the County under the changes adopted with the TGPA-ZOU project. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

6-13 This comment states that the proposed project would greatly increase the area of development potential in the County, and that this impact has not been evaluated.

The proposed project would not alter the land use or zoning designations of any property, and would not alter the allowable land uses or density and/or intensity of land use development projects. Thus, the project would not alter land use development locations, types of land uses throughout the County, or the growth and development projections for the County.

The Draft EIR analysis focuses on the potential reasonably foreseeable impacts of future development that could occur as a result of implementation of the General Plan in the context of the proposed policies and the ORMP. As discussed in Chapter 4 (Methodology and Assumptions) of the Draft EIR, and in Response to Comment 6-12 above in this section (Section 3.4, Individuals) in this Final EIR, this EIR relies on the same growth and development projections used for the TGPA-ZOU.

6-14 This comment states that the exemptions are broadened without mitigation to offset them, and that this is a drastic change that has not been reviewed against the increased development potential of the TGPA-ZOU.

As discussed previously in Response to Comment 6-12 in this section (3.4, Individuals), the proposed project, including the proposed exemptions, are not evaluated in comparison to existing General Plan policies. Rather, as CEQA requires, the proposed project is evaluated relative to existing physical conditions. Thus, the degree to which the proposed exemptions may or may not represent a change from existing policy is not relevant to the impact analysis. The analysis properly considered the effects of implementation of the General Plan under the proposed policies and the ORMP based on the development projections for the County and fully quantified the potential effect of each individual exemption.

Additionally, the County does not agree that the proposed exemptions represent a drastic change from existing policy. The changes to exemptions proposed in the ORMP consist mostly of updates to existing exemptions, and many are tied to existing regulations.

The proposed exemptions linked to state regulations include those for fire safety and the requirements for maintaining defensible space around habitable structures in state responsibility areas (California Public Resources Code, Section 4291), public utility exemptions to allow compliance with state-level vegetation clearance requirements for transmission lines (CPUC General Order 95), and exemptions for agricultural cultivation (Kuehl Bill). Similarly, the Kuehl Bill addresses exemptions for affordable housing; however, these apply only to urbanized areas.

Appendix E of the Draft EIR provides the rationale and history behind the proposed exemption changes. Decision Point 5 (Draft EIR, Appendix E, p. 95), describes how exemptions in current Policies 7.4.4.4 and 7.4.5.2 are inconsistent and need to be revised. Current Policy 7.4.4.4 requires mitigation for projects that result in soil disturbance on parcels that (1) are over an acre and have at least 1% total canopy cover or (2) are less than an acre and have at least 10% canopy cover by woodland habitats. Current Policy 7.4.5.2 provides tree removal permit exemptions for removal of trees less than 36 inches in trunk diameter (1) on lands in Williamson Act Contracts, Farmland Security Zone Programs, Timber Production Zones, Agricultural Districts, designated Agricultural Land (AL), and actions pursuant to a Fire Safe plan; (2) on all single-family residential lots of 1 acre or less that cannot be further subdivided; (3) when a native oak tree is cut down on the owner's property for the owner's personal use; and (4) when written approval has been received from the

County Planning Department. The proposed ORMP clarifies those exemptions and makes them consistent. Refer to Master Responses 5 and 6 in Chapter 2 (Master Responses) in this Final EIR for more discussion of agricultural and personal use exemptions, including proposed limitations on the use of these exemptions.

The ORMP also incorporates the exemptions included in the 2008 OWMP. These exemptions include impacts associated with agricultural cultivation, defensible space/fire prevention, affordable housing, and public road/public utility projects. The public road exemption includes those for County road projects, which are projects intended to address road widening and realignments necessary to increase capacity, protect public health, and improve safe movement of people and goods in existing public rights-of-way. The ORMP does include new exemptions for oak resource impacts, including tree removal associated with an approved Timber Harvesting Plan; impacts incurred during emergency firefighting operations or response to natural disasters; and for removal of dead, dying, and diseased trees, when documented in writing by a Certified Arborist or Registered Professional Forester. The Board of Supervisors also considered additional exemptions, e.g., for public buildings, schools, and parks, but decided against those additions. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

6-15 This comment states that the fact that policies are moved from the General Plan into an ordinance that is more easily revised with minimal public exposure or awareness is a drastic change and has not been reviewed against the increased development potential of the TGPA-ZOU.

This EIR meets the requirement of CEQA to evaluate the physical environmental effects of the project as proposed. CEQA does not require that the County speculate about possible future actions such as future revisions to the General Plan or any of the County's ordinances. The County has provided multiple opportunities for public input and involvement in development of the proposed ORMP and other ordinances, demonstrating a commitment to open and transparent planning and governing processes. There is no reason to believe that should revisions to the ORMP be warranted in the future, the County would not provide similar opportunities for public input and involvement. Further, any discretionary action by the County, such as amending an ordinance, would be subject to CEQA's requirements for environmental review. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

6-16 This comment states that the Draft EIR is incorrect in stating that the No Project Alternative would result in similar habitat conversion as the 2004 General Plan EIR and similar levels of development as the project.

The No Project Alternative considers the environmental impacts of General Plan implementation under the existing policies. The development projections, as discussed in Chapter 4 (Methodology and Assumptions) of the Draft EIR, do not change with changes in policy, because they are based on economic data indicating the residential population and employment growth anticipated in the County. As described in Chapter 10 (Alternatives) of the Draft EIR, the No Project Alternative assumes that future development occurs under the requirements of the existing 2004 General Plan policies, including the Interim Interpretive Guidelines. As stated on page 10-8 of the Draft EIR, although development under the No Project Alternative might occur in different locations than development under the proposed project, the overall amount of development is expected to be substantially the same. Therefore, “both the proposed project and the No Project Alternative would result in similar levels of development and resultant habitat conversion as described in the 2004 General Plan EIR and the TGPA-ZOU EIR.” A key difference between the No Project Alternative and the proposed project is that under the No Project Alternative the oak canopy retention standards of current Policy 7.4.4.4 Option A must be met, whereas under the proposed project, off-site conservation is permitted and there is no minimum on-site oak woodland retention. As stated on page 10-14 of the Draft EIR, under the No Project Alternative the patches of oak canopy retained on individual project sites are not likely to function as a cohesive habitat block, and results could include the following:

The habitat value of the individual retained areas would be expected to be reduced compared to the existing physical conditions. Further, to the extent that retaining oak canopy on site would reduce development intensities on individual parcels, it would be expected that a greater total number of parcels would be developed to accommodate the projected growth within the County. This could result in greater amounts of habitat loss and fragmentation (across all habitat types, not just oak woodlands) County-wide. Thus the No Project Alternative could reduce impacts related to habitat loss at the project-level scale but would not reduce impacts related to habitat loss and fragmentation County-wide (Draft EIR, Chapter 10, Alternatives, p. 10-14).

For additional discussion of the habitat value of retained patches, refer to Response to Comment 1-4 in this section (Section 3.4, Individuals).

- 6-17** This comment states that more exemptions are allowed under the project and therefore more area can be developed, and refers to Draft EIR Table 10-1).

Refer to Response to Comment 6-14 above in this section (Section 3.4, Individuals) regarding the proposed exemptions and how they compare with the No Project Alternative. The proposed project does not include any specific development activities or changes in the amount or planned locations of future development and related growth. The proposed project would not alter the land use or zoning designations of any property, or alter the allowable land uses or density and/or intensity of land use development projects. The effect of the exemptions presented in the proposed ORMP is fully evaluated in the Draft EIR. These exemptions would have no effect on the development projections used for the Draft EIR analysis. As discussed in Chapter 4 (Methodology and Assumptions) of the Draft EIR, the projections are based on economic data indicating the residential population and employment growth anticipated in the County.

- 6-18** This comment states that by making tree/woodland retention voluntary, the proposed project would allow more area to be developed; the comment includes a reference to Draft EIR Table 10-1.

As noted previously in Response to Comment 6-17 in this section (3.4, Individuals), the development projections relied upon in the Draft EIR are based on economic data indicating the residential population and employment growth anticipated in the County. Making on-site woodland retention voluntary could alter the locations in which development occurs but would not alter the factors that inform the residential and employment growth projections for the County. In fact, the analysis of the No Project Alternative demonstrates that the mandatory on-site retention standard could lead to an expansion of the areas in which development occurs, because parcels would be developed with less density to accommodate on-site retention, which would require a greater total number of parcels to be developed to attain the population and employment growth projected for the County. Further, the proposed biological resources policies still call for mitigation of impacts to oak trees and oak woodlands, which would include establishment of conservation easements and/or deed restrictions on site and off site. The Board of Supervisors determined that the proposed mitigation standards, which incentivize but do not require retention, would best meet the County's overall General Plan and land use goals and objectives. Refer to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the Board of Supervisors' role in setting General Plan policy.

- 6-19** This comment states that revisions to Policy 7.3.3.4 that would decrease setback requirements for riparian areas will increase the area available to be developed.

The proposed project does not include any revisions to Policy 7.3.3.4; therefore, analysis of changes to riparian setbacks is not required for this project or as part of the No Project Alternative analysis. The County's prior TGPA-ZOU project included the changes to this policy noted in this comment. Any perceived or real lack of analysis of project components in the TGPA-ZOU EIR would not invalidate this EIR for the proposed project. As discussed in Response to Comment 6-16 in this section (3.4, Individuals), the Draft EIR for the proposed project evaluates the project and project alternatives in the context of the development projections discussed in Chapter 4 (Methodology and Assumptions) of the Draft EIR. These projections do not change with changes in policy, because they are based on economic data indicating the residential population and employment growth anticipated in the County. For the purposes of the programmatic analysis presented in the Draft EIR, it was assumed that all of the natural habitat on a development site would be disturbed. This ensures that the impacts quantified in the Draft EIR represent a conservative estimate and impacts are not undercounted. It is not within the scope of the programmatic analysis to incorporate site-specific information that may alter development patterns. Refer to Master Response 8 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the scope of programmatic impact analysis for this EIR. Also refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 6-20** This comment states that the decreased open space requirements in the 2015 TGPA Update allow for a greater area of development.

The proposed project does not include any revisions to open space requirements; therefore, analysis of changes to such requirements is not necessary for the proposed project or as part of the No Project Alternative analysis. Changes to open space requirements were adopted under the County's separate TGPA-ZOU project. Any perceived or real lack of analysis of project components in the TGPA-ZOU EIR would not invalidate this EIR. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR. As discussed in Response to Comment 6-16 in this section (3.4, Individuals), the Draft EIR for the proposed project evaluates the project and project alternatives in the context of the development projections discussed in Chapter 4 (Methodology and Assumptions) of the Draft EIR. These projections do not change with changes in policy, such as reductions in open space

requirements, because they are based on economic data indicating the residential population and employment growth anticipated in the County.

- 6-21** This comment states that the Draft EIR uses a lower and incorrect growth rate for the impact analysis and refers to Item 5 in the comment letter, which corresponds to Comment 6-25 below in this section (Section 3.4, Individuals).

As stated in Chapter 4 (Methodology and Assumptions) of the Draft EIR, the growth projections used in the EIR assume the same 1.03% growth rate used in the TGPA-ZOU EIR. Specifically, on page 4-3, the Draft EIR states “The projected residential annual growth rate of 1.03% was based on the County’s data regarding issuance of building permits.” Chapter 4 acknowledges that a slower growth rate of 0.9% was observed between 2014 and 2015, but relies upon projections that reflect the assumed 1.03% growth rate. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 6-22** This comment states that the analysis of the No Project Alternative has not taken into account that the failure of the existing General Plan policies is not due to the policies themselves but rather the lack of implementation; as an example, the comment cites the fact that the INRMP was never fully implemented.

As described in Chapter 10 (Alternatives) of the Draft EIR, the No Project Alternative considers the environmental impacts of General Plan implementation under the existing policies. This is consistent with CEQA’s requirements that the No Project Alternative consider the scenario in which the proposed project does not proceed. CEQA Guidelines Section 15126.6(e)3(A) provides that “When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the “no project” alternative will be the continuation of the existing plan, policy or operation into the future.” Thus, the No Project Alternative in the Draft EIR properly assumes that the existing policies and programs that have been adopted by the County would remain in effect. Although the existing General Plan calls for preparation and implementation of the INRMP, the County has not yet adopted any component of the INRMP. Although considerable effort has been invested in developing the INRMP, as summarized in Dudek’s May 1, 2014, memo to the Board of Supervisors (provided in Appendix E in the Draft EIR), the County has encountered substantial barriers to successfully developing and implementing the INRMP. In order to implement INRMP Phase I, the County convened the Plant and Wildlife Technical Advisory Committee (PAWTAC), the INRMP Stakeholders Advisory Committee (ISAC), and planning staff. The OWMP was intended to constitute the oak portion of the INRMP.

Because the OWMP was prepared in advance of the INRMP, the in-lieu fee established in the OWMP for impacts to oak woodlands was intended to be consistent with a future conservation fund to be established under the INRMP. The OWMP was subsequently challenged because oak advocates asserted that the Board's interpretation resulted in impacts not previously addressed in the General Plan EIR. As a result of the lawsuit, Option A of current Policy 7.4.4.4 (the OWMP) is the only available option to mitigate impacts to oak woodlands in the County, under the Interim Interpretive Guidelines. In 2008, after the Board of Supervisors adopted the INRMP Initial Inventory and Mapping, the Board accepted, but did not formally adopt, the Indicator Species Report and Wildlife Movement and Corridor Report. The Board found that it could not adopt these reports due to the high levels of disagreement between the advisory committees and among the public regarding their findings. The ISAC and PAWTAC then presented an INRMP Options Report to the Board and requested the Board's direction regarding goals and objectives for implementing Phase II of the INRMP (development of a habitat protection strategy and associated CEQA documentation). Many of the unresolved issues that have hindered the County's development of the INRMP are listed on pages 16 and 17 of the May 1, 2014, Dudek memo (see Appendix E of the Draft EIR). Upon consideration of the extensive efforts made by the County, PAWTAC and ISAC, and expert consultants to develop the INRMP, as well as the remaining issues to be resolved, the Board decided in September 2012 to amend the General Plan policies regarding the INRMP and oak resources to develop a more effective and feasible program to manage the County's biological resources.

Given this history and the lack of meaningful progress in developing the INRMP, the County is not currently pursuing implementation of any portion of the INRMP. Thus, the County's adoption of an INRMP is not reasonably foreseeable. Further, because the General Plan does not clearly define what the INRMP would include or require, assuming one to be in place as part of the No Project Alternative would require the County and EIR preparer to speculate as to the content and obligations of the INRMP. Therefore, the Draft EIR defines the No Project Alternative as consisting only of the existing policies and the adopted Interim Interpretive Guidelines.

- 6-23** This comment states that the Draft EIR concludes that the No Project Alternative is infeasible because it does not meet the project objectives; however, the project description states that the existing policies are the basis of the project. Therefore, the comment states, the County could reduce impacts of development by implementing the existing General Plan policies. This comment also quotes the Draft EIR Project Description (Chapter 3, Project Description, p. 3-2).

The objectives of the proposed project are to resolve inconsistencies and flaws within the current regulatory framework and develop self-implementing policies. The primary challenges that the County has encountered in attempting to implement the current Policy 7.4.4.4 were outlined by the County's Development Services Director in a memo to the Board of Supervisors dated September 20, 2012. In this memo, the Development Services Director notes that the existing General Plan policies:

“...have been controversial and difficult to apply uniformly due to different interpretations of the language by various groups. The protection of swaths of oaks has been particularly troubling. (Current) Policy 7.4.4.4 addresses the methods of mitigating for development that occurs on parcels where groups of oaks exist. The policy is open to interpretation over its intent; was it intended to protect the oaks, or the “oak habitat”, including the area around the oaks.”

In this memo, one of the options suggested to the Board of Supervisors for addressing these concerns was Option 1: Continue to apply the retention policies in current Policy 7.4.4.4 Option A, with no further effort to implement Option B. The Development Services Director's memo to the Board outlines why this option would not meet the objectives identified for the proposed project:

“This option precludes many projects, particularly commercial and industrial projects, that would otherwise help the County meet other important economic and land use goals. There are significant challenges associated with this option. A great deal of staff time is consumed explaining and implementing 7.4.4.4 Option A. Without Option B mitigation fee program, Policy 7.4.4.4 is difficult to implement consistently and fairly. This option would create difficulties in the development of many land properties. This option is not the most environmentally sensitive approach in the long term, since it treats all oaks as equal, and allows additional fragmentation to occur everywhere in the County.”

The Option 1 discussed in the Development Services Director's memo is very similar to the No Project Alternative evaluated in the Draft EIR. As shown in the Draft EIR, this alternative would not be environmentally superior to the proposed project because it would not avoid any of the project's significant environmental effects. As stated on page 10-24 of the Draft EIR, the No Project Alternative “would reduce impacts in two resource areas (those impacts would remain significant and unavoidable) and would increase impacts in two other resource areas.”

Additionally, County staff have observed that a significant number of potential applicants for both ministerial and discretionary projects have chosen not to move forward with new development projects due to issues or concerns directly related to meeting the on-site oak canopy retention and replacement requirements of Option A. This is based on the number of applicants who had initial consultations with Development Services Division staff (e.g. at the public counter and at scheduled pre-application meetings) but determined not to proceed with their projects, citing their inability to meet the Option A requirements. Although it is not possible to determine an actual number of potential applicants electing not to proceed with development because detailed results of such informal consultations are not typically documented, the experiences of County staff support the conclusion that the No Project Alternative is not feasible.

Refer to Response to Comment 6-22 above in this section (Section 3.4, Individuals) regarding the feasibility of implementing the INRMP.

- 6-24** This comment states that the bifurcation of this project's EIR from the TGPA-ZOU EIR is already the subject of current litigation and the analysis of increased development potential under the TGPA-ZOU depended on the biological resource policies of the 2004 General Plan. This comment also states that the changes proposed are more than clarifications and will validate that lawsuit.

As discussed in Responses to Comments 6-12 and 6-16 above in this section (3.4, Individuals), the Draft EIR for the proposed project evaluates all alternatives in the context of the development projections discussed in Chapter 4 (Methodology and Assumptions) of the Draft EIR. These projections do not change with changes in policy, such as the differences between the biological policies of the 2004 General Plan compared with the proposed General Plan biological resources policies and the ORMP, because they are based on economic data indicating the residential population and employment growth anticipated in the County. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 6-25** This comment outlines the inconsistency of growth and development projections used; the TGPA-ZOU uses 1.03%, whereas the Draft EIR uses 0.9%, even though the Draft EIR states that it relies on the same projections used for the TGPA-ZOU. This comment also states that the lower projection deflates the impacts.

As discussed in Response to Comment 6-21 above in this section (Section 3.4, Individuals), the Draft EIR for the proposed project uses the same 1.03% growth rate

as used in the TGPA-ZOU EIR. Chapter 4 (Methodology and Assumptions) of the Draft EIR acknowledges that the actual growth rate between 2014 and 2015 was 0.9%, but relies on the development projections developed using the 1.03% growth rate. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 6-26** This comment states that, contrary to the conclusion in Section 11.4 (Growth Inducement) of the Draft EIR, the project would induce growth by reducing or removing barriers to growth. The comment further quotes from the Dixon Ranch Development Agreement as an example of development that relies on the County adopting the proposed project.

Although there are individual development projects that cannot proceed under the existing General Plan, particularly the oak canopy retention standards in current Policy 7.4.4.4, the proposed project would not alter the development projections for the County and thus would not induce growth. It would alter the locations and designs of development, but would not result in a greater amount of growth County-wide.

- 6-27** This comment states that the TGPA-ZOU project established setbacks under new Zoning Ordinance Section 130.30.030G that were a reduction from the setbacks required under existing General Plan Policy 7.3.3.4 without evaluating the impact of that change, and that the Draft EIR for the proposed project assumed the reduced setback and also fails to evaluate impacts from this change.

The change in setback requirements is not proposed as a component of the proposed project; therefore, it is not necessary or appropriate to evaluate that change in this EIR. Any perceived or real lack of analysis of project components in the TGPA-ZOU EIR would not invalidate this EIR. This EIR evaluates the physical environmental impacts of the proposed project based on the growth and development assumptions developed for the County, which are not affected by stream setback regulations. As discussed in Master Response 8 in Chapter 2 (Master Responses) in this Final EIR, the Draft EIR provides a programmatic analysis of the proposed project and appropriately does not address site-specific conditions such as streams and stream setbacks. The programmatic analysis presented in the Draft EIR assumes that all of the natural habitat on a development site would be disturbed and does not attempt to account for on-site retention that may occur as a result of other requirements, such as setbacks, avoidance of steep slopes, or provision of open space. This ensures that the impacts quantified in the Draft EIR represent a conservative estimate and impacts are not undercounted. Where the required setbacks are not sufficient to

protect all wetlands and habitat, the proposed project identifies mitigation requirements (generally off-site conservation and including off-site habitat creation or restoration in the case of impacts to wetlands) to compensate for the on-site habitat loss. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 6-28** This comment states that the 2004 General Plan anticipated development intensification throughout the County of sufficient level to degrade community character and the General Plan EIR identified Policies 7.4.4.4, 7.4.4.5, 7.4.5.2, 7.4.2.8, and Implementation Measure CO-P as mitigating factors. The comment also states that the TGPA-ZOU changes will further intensify the impacts of the 2004 General Plan, and the TGPA-ZOU EIR impact analysis assumed that the existing biological resources policies would remain in place.

The Draft EIR evaluates the physical environmental impacts of the proposed project based on the growth and development assumptions developed for the County and in the context of the proposed biological resources policies and the ORMP. The analysis in the Draft EIR of the changes in community character associated with implementation of the General Plan under the proposed project reflect the level of development intensification anticipated under the two projected development scenarios (2025 and 2035). Refer to Impact LU-2 in Chapter 5 (Land Use and Planning) and Impacts VIS-1 and VIS-2 in Chapter 9 (Visual Resources) of the Draft EIR for a more detailed discussion on the project's impact on community character.

In summary, Impact LU-2 analyzes whether the proposed project would substantially alter or degrade the existing land use character of the County, and Impact VIS-2 analyzes whether the proposed project would substantially degrade the existing visual character or quality of the area or region. The analysis finds that conversion of oak woodland to developed uses would alter land use character in a given community by decreasing the prevalence of natural habitat and resources and increasing the presence of built environment and ornamental landscaping elements. These impacts would be significant and unavoidable, as was also determined in the 2004 General Plan EIR and the TGPA-ZOU EIR. Under Impact VIS-1, the Draft EIR determined that the proposed project would result in a less than significant impact related to degradation of the quality of scenic vistas and scenic resources, consistent with the 2004 General Plan EIR finding. The TGPA-ZOU EIR concluded that this impact would be significant and unavoidable. The analysis considered whether loss of oak resources and other natural habitat types would be visible from key viewpoints in the County. The list of key viewpoints, provided in Table 9-1 of the Draft EIR, is similar to that

used in the visual impact analysis prepared for the TGPA-ZOU EIR and the 2004 General Plan EIR. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 6-29** This comment states that the EIR finds Impact LU-2 (significant and unavoidable) “okay” because this impact was also found to be significant and unavoidable previously. This comment also states that this is not permissible, that it validates the TGPA-ZOU litigation, and that it makes this proposed project vulnerable to litigation due to bifurcation.

The impact discussion for Impact LU-2 thoroughly evaluates potential impacts from the proposed project, and finds those impacts to be significant and unavoidable. The Draft EIR analyzes the changes in community character associated with implementation of the General Plan under the proposed project based on the development anticipated under the two projected development scenarios (2025 and 2035). The programmatic analysis presented in the Draft EIR assumes that all of the natural habitat on a development site would be disturbed and does not attempt to account for on-site retention that may occur as a result of other requirements, such as setbacks, avoidance of steep slopes, or provision of open space. This ensures that the impacts quantified in the Draft EIR represent a conservative estimate and impacts are not undercounted.

The Draft EIR’s discussion of Impact LU-2 also summarizes the findings for this impact under the 2004 General Plan EIR and the TGPA-ZOU EIR; however, the text does not state that the impact of the proposed project is permissible simply because it is the same level of significance as previously evaluated. The EIR is an informational document prepared to provide the public and decision makers with an understanding of the environmental effects of discretionary actions under consideration. It does not provide a recommendation for approval or denial of the project.

Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of this EIR to the County’s EIRs for the 2004 General Plan and the 2016 TGPA-ZOU. Also refer to Chapter 4 (Methodology and Assumptions) of the Draft EIR for an explanation of the approach used in this EIR and the relationship between this EIR analysis and those of the 2004 General Plan EIR and the TGPA-ZOU EIR. Consistent with the 2004 General Plan EIR and the TGPA-ZOU EIR, this EIR evaluates impacts from implementation of the proposed project under both a short-term (2025) and a long-term (2035) scenario, using the same development projections developed by the County as part of the TGPA-ZOU process.

Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 6-30** This comment states that a significant mitigation requirement of the 2004 General Plan was a mapping of Important Biological Corridors (IBCs) every 3 years; however, the comment asserts, this requirement was never completed and is now being deleted without any apparent analysis as to the impact of ignoring this mitigation measure.

The comment is correct that the 2004 General Plan included an implementation measure requiring the County to review and update the IBC Overlay land use designation, consistent with Policy 7.4.2.9. Additionally, General Plan Policy 7.4.2.8 anticipated development of an INRMP, which did include a habitat inventory update every three years. A resource inventory and various assessment reports prepared by consultants and the advisory committees were accepted by the County Board of Supervisors as part of the INRMP Phase I process, but the County never initiated the INRMP Phase II process. 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. Also, 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.

As discussed in Response to Comment 6-12 above in this section (Section 3.4, Individuals), the proposed project, including the proposed requirements related to IBCs, is not evaluated in comparison to existing General Plan policies. Rather, as CEQA requires, the proposed project is evaluated relative to existing physical conditions. Thus, the impact of deleting a particular requirement that is contained in current policy is not relevant to the impact analysis. The analysis properly considered the effects of implementation of the General Plan under the proposed biological resources policies and the ORMP based on the development projections for the County. With respect to IBCs, the proposed policies require that future projects within these corridors be designed such that there is "no net loss" of wildlife movement and value. Therefore, there would not be a potential for development to compromise the IBCs, as suggested in this comment.

- 6-31** This comment states that questions in the commenter’s NOP comment letter were not addressed and that the letter has been attached (see Comments 6-34 to 6-57).

The NOP comments were used to ensure that all potential physical environmental effects were thoroughly evaluated in the Draft EIR. A direct response to individual NOP comments is not a required component of a Draft EIR. However, because the comments have been resubmitted as comments on the Draft EIR, individual responses to each are provided in Responses to Comments 6-34 through 6-57 below in this section (Section 3.4, Individuals).

- 6-32** This comment states that the No Project Alternative is the best alternative and would be feasible if the policies were implemented as required.

This comment expresses support for the No Project Alternative. Refer to Response to Comment 6-23 in this section (Section 3.4, Individuals) regarding the feasibility of the No Project Alternative. 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 Board of Supervisors in their deliberations on the proposed project.

- 6-33** This comment expresses support for the Center for Sierra Nevada Conservation alternative and for recirculation of the Draft EIR in which issues of bifurcation are addressed.

The Center for Sierra Nevada Conservation submitted a comment letter on the Draft EIR describing a suggested project alternative. Responses to all of the Center for Sierra Nevada Conservation comments are provided as Responses to Comments 4-1 through 4-49 in Section 3.3 (Organizations) in this Final EIR. 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 Board of Supervisors in their deliberations on the proposed project.

Public Comment for BOS Meeting 6/22/15, File No. 12-1203—Draft Biological Policies

- 6-34** This comment states that the biological policies to be drafted and used as the basis of the EIR are not supported by the public.

This comment does not address the accuracy or adequacy of the Draft EIR; therefore, no response is required. The Board of Supervisors received public comments at each of the 10 public meetings between July 2014 and September 2015. A variety of public and agency comments were received throughout this process, expressing various concerns and opinions. Refer to Master Response 1 in Chapter 2 (Master Responses)

in this Final EIR for a discussion of the Board of Supervisors' authority to establish policy that balances the County's competing interests and goals. 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.

- 6-35** This comment urges the Board of Supervisors to reject any elimination of the Option A oak tree retention standards.

The Board of Supervisors received this comment in June 2015 and considered it along with other comments on the issues. The Board of Supervisors determined that the proposed mitigation standards, which incentivize but do not require retention, would better meet the County's overall General Plan and land use goals and objectives. Refer to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the Board of Supervisors' role in setting General Plan policy.

- 6-36** This comment states that no jurisdiction actually condones 100% removal and that all jurisdictions prefer preservation and discourage complete annihilation.

Although it is correct that most jurisdictions encourage preservation, the County is not aware of any that prohibit 100% removal in all cases. In fact, research of more than 13 California counties near El Dorado County or in a similar Sierra Nevada foothill location revealed none that have minimum retention requirements. Further research revealed only one California county (Kern County) that has a minimum retention standard; however, Kern County allows exceptions to this retention standard.

- 6-37** This comment states that 100% oak tree/canopy removal was never the intention of the 2004 General Plan policies and where avoidance is not possible and mitigation is necessary, mitigating policies should be developed; Option B was a mitigating policy to ensure reasonable use of the property, not to allow 100% canopy removal when an incompatible project is proposed.

The comment is correct in stating that 100% oak tree/canopy removal was never the intention of the 2004 General Plan policies. Staff never stated that this was the intention but rather, with the inclusion of Option B, development projects would have greater flexibility to remove oak trees/oak canopy, as needed, by paying an in-lieu fee for oak trees/canopy removed. Policy 7.4.4.4 states, "the County shall require one of two mitigation options: (1) the project applicant shall adhere to the tree canopy retention and replacement standards described below; or (2) the project applicant shall contribute to the County's Integrated Natural Resources Management Plan (INRMP) conservation fund described in Policy 7.4.2.8." Because there is no

minimum retention standard under Option B, 100% oak tree/canopy removal is permissible under the current policy text.

Further, the 2004 General Plan EIR assumed 100% removal of oak canopy from all high-intensity and medium-intensity land uses, which in that EIR were defined to include almost all residential, commercial, mixed-use, office, and industrial land uses. Thus, although the General Plan sought to encourage retention, the General Plan EIR assumptions recognized that there were no mechanisms to guarantee retention and that the patches of habitat retained within a project site would be of limited habitat value. The proposed project includes a sliding scale of mitigation that requires meaningfully higher mitigation ratios as the amount of on-site habitat retention decreases. In this way, the proposed ORMP incentivizes on-site retention while ensuring substantial mitigation for impacts to habitat.

- 6-38** This comment states that the 2005 court ruling noted that the County has eliminated the replacement option in lieu of retention and asserts that the Court made it clear that retention standards were to be met and tree removal was to be mitigated.

The 1999 Writ of Mandate directed that the County should have (1) readopted the original policy language regarding canopy retention, (2) made a finding that was supported by substantial evidence that the policy change would not result in environmental impacts that had not been previously disclosed, or (3) undertaken a new CEQA analysis. The 2005 Superior Court ruling that lifted the Writ of Mandate found that the petitioner's claims that the County had not adequately evaluated policy changes in the 2004 General Plan were not relevant. This is because the County had undertaken a new and thorough CEQA analysis of the 2004 General Plan; therefore, the County had adequately complied with CEQA in adopting the 2004 General Plan. The Superior Court did not reach a finding that the retention percentages must be included in any future General Plan; rather, it found that the County had adequately evaluated the General Plan policies under CEQA. Although the comment is correct that the Superior Court ruling commented that the revised General Plan retained the retention percentages of the 1996 General Plan and omitted the replacement option, this was not central to the Court's finding that the County had satisfied its obligations under CEQA.

- 6-39** This comment questions the location of the mitigation funds collected through 2012, asks whether the County kept records of funds collected and easement recorded, and asks how monitoring is currently done.

The OWMP and its Implementing Ordinance, adopted in May 2008, provided a mechanism to mitigate development impacts on oak canopy through payment of an in-lieu fee (General Plan Policy 7.4.4.4, Option B). This fee would be used for acquisition and conservation of oak woodland areas in perpetuity. However, as a result of a lawsuit, the OWMP and its Implementing Ordinance were rescinded in 2012, with no new fees collected after September 4, 2012. From 2009 to 2011, mitigation monitoring reports that tracked fee collection and usage were submitted to the Board of Supervisors on an annual basis (Legistar Files No. 09-1103, 10-1167, and 11-1040, respectively). Due to ongoing litigation, no new oak woodland mitigation fees were collected, nor annual fee reports filed, between 2012 and 2014. Fee balances and account activity of the Oak Woodlands Conservation Special Revenue Fund, including revenues and expenditures, continued to be monitored during that approximate three-year period. On February 23, 2016, staff presented a report to the Board of Supervisors containing both an annual fee report for previous fiscal year 2014/2015, as well as the five-year findings required for compliance with California Government Code Section 66006 [Mitigation Fee Act] (Legistar File No. 15-1467).

- 6-40** This comment questions why the measurement of 36 inches was chosen for Heritage Trees.

The 36-inch threshold for defining Heritage Oak Trees in the Draft ORMP was derived from General Plan Policy 7.4.5.2, which afforded greater protection to oaks measuring 36 inches and greater, as discussed in the Dudek February 17, 2015, memo included in Appendix E to the Draft EIR.

- 6-41** This comment questions what 36 inches means in terms of years of growth.

A 36-inch oak tree is approximately 50 to 100 years old, as discussed by California Department of Fish and Wildlife staff during the February 23, 2015, Board of Supervisors meeting.

- 6-42** This comment reminds the Board of Supervisors that El Dorado Hills Community Services District currently has tree protection standards defining Heritage Oaks as 20 inches diameter at breast height, rather than 36 inches.

Every agency can determine its own measures for protection, independent of other jurisdictions. 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 Board of Supervisors in their deliberations on the proposed project.

- 6-43** This comment asks for confirmation that standards for Heritage Trees are 24 inches in both Placer and Tuolumne Counties and 19 inches in the neighboring City of Folsom, and wonders what other Heritage Tree standards are.

As stated in the Dudek June 16, 2016, memo (included in Appendix E to the Draft EIR), various trunk diameter thresholds for Heritage Trees include 19 inches in Sacramento County, 24 inches in Placer and Tuolumne Counties, 36 inches in Los Angeles County, and 48 inches in San Mateo County. In the neighboring City of Folsom, Heritage Trees are defined as native oak trees over 19 inches in trunk diameter. In addition, some counties provide no specific definition other than designation of specific trees by the Board of Supervisors (e.g., Nevada and Sonoma Counties), and some counties provide no definition for Heritage Trees (e.g., Calaveras, Amador, and Butte Counties).

As stated in the Dudek February 17, 2015 memo (included in Appendix E to the Draft EIR), “current policy language (Policy 7.4.5.2) requires a tree removal permit for trees with a trunk diameter of at least 6 inches (or 10-inch aggregate for multi-stem trees) and provides exemptions if trees measure less than 36 inches in trunk diameter. While not specifically defined, the identified 36-inch threshold under existing policies affords greater protection to large trees.” Thus, the proposed definition of Heritage Trees as those that are 36 inches dbh or greater is based on current General Plan policy.

- 6-44** This comment questions whether the Board of Supervisors has been provided with photos of trees to help guide their decisions.

No photographs were provided to the Board of Supervisors. 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 Board of Supervisors in their deliberations on the proposed project.

- 6-45** This comment states that separating the biological policies out of the County’s TGPA-ZOU project and deferring them to this project is confusing and leaves a lot of room for error. In addition, the comment states that Policy 7.3.3.4 revisions regarding stream setbacks are not indicated as “changes” in the TGPA and are accepted as complete by the EIR, but no analysis was ever completed. According to the comment, it appears that because this change was deferred from the TGPA but is not delineated as a change here, the impact analysis will never be done.

Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR. It would have been a valid approach for the County

to evaluate the TGPA and the Biological Resources Policy Update in the same project. However, the Board of Supervisors has chosen to consider revisions to biological resources policies separately from the TGPA to give each biological resources policy its full attention. No changes to Policy 7.3.3.4 (riparian setbacks) are being proposed as part of this Project, and therefore, no response is necessary. Refer to Responses to Comments 6-19 and 6-27 above in this section (Section 3.4, Individuals), which explain that the Draft EIR independently evaluates the physical environmental impacts of the proposed project based on the growth and development assumptions developed for the County, which are not affected by stream setback regulations, consistent with the programmatic level of analysis in the EIR.

- 6-46** This comment states that Placer County requires 50-foot and 100-foot riparian setbacks and inquires why El Dorado County is reducing its setbacks and when this change would be analyzed.

Every county can determine its own setbacks, independent of other jurisdictions. Refer to Responses to Comments 6-19 and 6-27 above in this section (Section 3.4 Individuals), which explain that the Draft EIR evaluates the physical environmental impacts of the proposed project based on the growth and development assumptions developed for the County, which are not affected by stream setback regulations, consistent with the programmatic level of analysis in the EIR. Also refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 6-47** This comment questions whether the public comments on the TGPA-ZOU project that are related to biological resources policies were forwarded to this project file and/or whether the commenters were notified that their comments would need to be resubmitted.

Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR. Although written comments and meeting transcripts associated with the TGPA-ZOU project are not included in the administrative record for the proposed project, the County undertook extensive public outreach and involvement for the current project to solicit public comments and input, including 10 public workshops to discuss issues and decision points regarding the biological resources policy revisions and ORMP content and 2 public workshops to receive comments on the NOP and the Draft EIR.

6-48 This comment questions whether the EIR would be analyzed in relation to the 2004 General Plan or to the yet-to-be-completed TGPA-ZOU, with its increased development potential.

As required under CEQA, the Draft EIR evaluates the effects of the proposed project compared to the physical environmental conditions at the time the NOP was circulated for public review. CEQA prohibits comparing the impacts of one plan to the impacts of another plan. However, the Draft EIR includes analysis of the No Project Alternative, which considers the impacts that would occur if implementation of the General Plan occurs under the existing General Plan, which is the 2004 General Plan as modified by the TGPA-ZOU. As discussed in Responses to Comments 6-12 and 6-16 above in this section (Section 3.4, Individuals), the Draft EIR for the proposed project evaluates all alternatives in the context of the development projections discussed in Chapter 4 (Methodology and Assumptions) of the Draft EIR. These projections reflect the amount of development anticipated to occur in the County based on residential population and employment projections for the County. They do not reflect 100% buildout of all lands within the County that are designated for possible development. As stated in Chapter 4 of the Draft EIR:

The development projections used for this EIR analysis reflect both historic and recent development patterns in the County as well as the changes to those patterns anticipated as a result of the General Plan and zoning changes adopted under the TGPA-ZOU. Those changes primarily increased the number of locations where development of different types would be allowed within the County and increased the potential for higher intensity development to occur.

Therefore, the analysis has considered development within the County under the changes adopted with the TGPA-ZOU project. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

Comments on the 6/22/15 Dudek Memo

6-49 This comment states that the commenter did not have enough time to properly review the document between its availability on Thursday and the Board of Supervisors meeting on Monday. It also states that the page 10 explanation of why an update of the IBCs is not recommended uses circular logic and that it is the perfect time to update the IBC maps because the current ones are more than 10 years old.

The comments were submitted in response to a memo prepared by Dudek for the Board of Supervisors. This memo was prepared as part of the County’s process to develop the proposed project, well in advance of the CEQA process for the project. There is no required review period for such memos. As described in Chapter 3 (Project Description) of the Draft EIR, opportunities for public comment on the proposed policy changes occurred in 2014 and 2015, when 10 public meetings were held to address revisions to the biological resource policies. The County Board of Supervisors received this comment in June 2015 and considered it along with other comments on the issues.

The Dudek memo dated June 22, 2015, provides background on the IBCs, noting that the current IBC overlay includes 64,600 acres that link the PCAs with other natural vegetation communities and/or areas having Natural Resource, Open Space, and/or Agricultural base land use designations. Further, the Dudek memo states that the current IBCs are generally consistent with two studies that have addressed landscape-level habitat connectivity in the project region: the California Essential Habitat Connectivity Project (Spencer et al. 2010) and the California Missing Linkages study (Penrod et al. 2001).

The Dudek memo further states that an update of the IBCs is not recommended because the proposed project would incorporate a requirement for there to be no net loss of wildlife movement within the identified IBCs, and each future discretionary project would be required to evaluate and mitigate impacts to wildlife movement at the project level. The Draft EIR evaluates impacts to wildlife movement and habitat fragmentation based on the project as proposed, including reliance on the established IBCs.

- 6-50** This comment states that pages 9 and 10 of the June 22, 2015, Dudek memo gives an unrealistic view of minimal management and monitoring the conservation easements might require, and that the “self-monitoring” suggested should be out of the question. The comment suggests that the assumption that self-monitoring would occur would serve to decrease the costs included in the in-lieu fee program.

The County Board of Supervisors received this comment in June 2015 and considered it along with other comments on the issues. As described in the proposed ORMP and under proposed Policy 7.4.2.8, conservation easements would be granted in perpetuity to the County or a land conservation group approved by the County. Management and monitoring of those easements would be the responsibility of the County or the conservation group holding the easement. For conservation lands set aside via a deed restriction rather than a conservation easement, it is not anticipated that active management and monitoring would occur but rather that the land and the protected

resources would not be disturbed. To ensure that future disturbance of lands encumbered by a deed restriction does not occur, the County would not issue building, grading, or other permits for such lands. The proposed project does not include any requirements for self-monitoring, as suggested in this comment.

The proposed in-lieu fee includes costs for initial and long-term maintenance and monitoring of the conservation lands.

- 6-51** This comment states that page 13 of the Dudek memo discusses cattle grazing in conservation easements, and portrays General Plan Objective 7.4.4 incorrectly.

Page 13 of the June 22, 2015, Dudek memo accurately quotes General Plan Objective 7.4.4 language. The memo then continues to state that current research notes potential positive effects of grazing in controlling competing nonnative grasses and forbs and its potential negative effects of seedling trampling and soil compaction. Additionally, the timing and intensity of grazing are primary contributors to the effect of grazing on oak woodland regeneration. The Draft ORMP allows grazing in conservation easements if grazing occurred prior to establishment of the easement. Refer to Response to Comment 6-9 above in this section (Section 3.4, Individuals) for additional discussion of the compatibility of cattle grazing with conservation easements.

- 6-52** This comment states that the public does not want allowance of 100% oak woodland removal from a project site.

The ORMP would allow for 100% removal of oaks and oak woodlands, with mitigation. As discussed in Response to Comment 6-37 above in this section (Section 3.4, Individuals) regarding the ability of developers to remove 100% of the oak woodland from a project site, the 2004 General Plan allowed 100% removal of oak woodland under Policy 7.4.4.4 Option B. Under the proposed project, the sliding scale for mitigation requires meaningfully higher mitigation ratios as the amount of on-site habitat retention decreases. In this way, the proposed ORMP incentivizes on-site retention while ensuring substantial mitigation for impacts to habitat. As discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR, the Board of Supervisors must balance competing interests and goals in establishing General Plan policy, and the Board determined that the proposed project provides the best approach to limiting oak woodland impacts while allowing for the level of development projected for the County and ensuring that such development is consistent with the overarching goals and objectives of the General Plan.

- 6-53** This comment states that the Board of Supervisors was also told that the retention standards in current Policy 7.4.4.4 do not apply if an in-lieu fee option is used. This is

a liberal interpretation of Policy 7.4.4.4, which was not similarly interpreted by the judge when lifting the Writ of Mandate.

Policy 7.4.4.4 clearly states that “one of two mitigation options” should be required: either meeting the retention requirements or paying the in-lieu fee. As discussed in Response to Comment 6-38 above in this section (Section 3.4, Individuals), in the 2005 ruling that discharged the Writ of Mandate, the Superior Court did not reach a finding that the retention percentages must be included in any future General Plan. The crux of that ruling was that the County had adequately evaluated the General Plan policies as required under CEQA. As shown in the excerpted text from the 2005 ruling, the judge noted that the County “has gone well beyond the direction of the 1999 writ” by requiring both retention and replacement; however, this does not indicate any requirement to continue these policies in any future update of the General Plan.

- 6-54** This comment states that the Dudek memo should have noted that lowering the Heritage Tree threshold could result in fewer Heritage Trees being removed. The comment states that no consideration was given to lowering the Heritage Tree size, which shows a severe disregard of natural resources.

The 36-inch threshold for defining Heritage oak trees in the Draft ORMP was derived from current General Plan Policy 7.4.5.2, which afforded greater protection to oaks measuring 36 inches and greater. The comment is correct that using a smaller size to define Heritage Trees may encourage developers to seek to retain more trees. However, the Board of Supervisors received this comment in June 2015, considered it along with other comments on the issues, and determined that keeping the definition of Heritage Trees at 36 inches, consistent with Policy 7.4.5.2, would best meet the County’s goals of balancing resource protection with economic development. The proposed ORMP requires inch-for-inch mitigation for all trees that are smaller than 36 inches; thus, the loss of a 24-inch tree would require mitigation by planting 24 15-gallon trees, or 36 5-gallon trees, or 48 1-gallon/TreePot4 trees, or 72 acorns. These mitigation ratios are sufficient to ensure that the habitat value of the 24-inch tree is replaced over time as the replacement trees grow, and is exceeded in the future when the replacement trees have matured.

- 6-55** This comment restates that page 15 of the Dudek memo states, “Acorn planting is an accepted and often preferable practice,” but questions whether any single jurisdiction allows the practice as mitigation planting.

Jurisdictions that allow acorn planting or have approved oak woodland mitigation plans that include acorn planting include, but are not limited to, Sacramento County (whose General Plan Conservation Element also calls for amending the Tree Preservation Ordinance to allow for acorn planting), Nevada County, Placer County, Santa Barbara County, and Sonoma County.

- 6-56** This comment states that in the May hearing, it was stated that Community Regions and Rural Centers were not to be excluded from the conservation areas; however, the comment notes that page 19 of the Revised ORMP states that Community Regions are specifically excluded from PCAs.

The proposed ORMP and proposed Policy 7.4.2.8 both allow mitigation to occur anywhere within the County. However, because the focus of conservation is on retaining large areas of contiguous habitat, rather than small isolated patches, both the proposed ORMP and Policy 7.4.2.8 prioritize conservation within the PCAs and IBCs. Community Regions were excluded from the PCAs at the time that the PCAs were identified because Community Regions are areas where substantial habitat fragmentation is expected to occur, which would lessen the biological value of conservation efforts within the regions.

- 6-57** This comment states that the commenter hopes that the EIR is initiated and reviewed correctly.

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 Board of Supervisors in their deliberations on the proposed project.

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Comment Letter 7

8/16/2016 Edcgov.us Mail - Comments on the Draft EIR for General Plan Biological Resource Policy Update and Oak Resource Management Plan



Shawna Purvines <shawna.purvines@edcgov.us>

Comments on the Draft EIR for General Plan Biological Resource Policy Update and Oak Resource Management Plan

1 message

Alice Cantelow <alicecantelow@gmail.com>
To: shawna.purvines@edcgov.us

Mon, Aug 15, 2016 at 3:47 PM

Dear Ms. Purvines;

Attached are my comments and suggestions regarding the DEIR for the General Plan update and Oak Resource Management Plan. I urge you to recommend selection of Alternative 2, rather than the proposed project. Thank you for your consideration.

Alice L. Cantelow
4902 Dowell Lane
Placerville, CA, 95667
alicecantelow@gmail.com

7-1

ALC Comments to DEIR.pdf
77K

<https://mail.google.com/mail/u/0/?ui=2&ik=150a3325ea&view=pt&cat=Bio%20Policy%20Update%2FBIO%20EIR%2FPublic-Agency%20Comments%20...> 1/1

El Dorado County Community Development Agency,
Long Range Planning
Attn: Shawna L. Purvines
2850 Fairlane Court, Bldg C
Placerville, CA 95667
shawna.purvines@edcgov.us

August 15, 2016

Comments Regarding the General Plan Biological Resources Policy Update, Oak Resource Management Plan and Draft Environmental Impact Report

Dear Ms. Purvines:

Please change the alternative you are proposing to select in the Draft Environmental Impact Report for the General Plan Biological Resources Policy Update and Oak Resource Management Plan! Alternative 2, which requires at least 30% of the oaks on a given site to be retained, would be vastly preferred. **Please, please, propose Alternative 2 instead!**

7-2

It may seem like mitigation fees are a win-win, but this is not what recent research shows. This relatively new practice of offsetting biodiversity destruction at one location with compensatory environmental gains elsewhere has been found by researchers to actually exacerbate environmental harm. It has also been found that political and economic motivations regularly outweigh or undermine environmental protections. In other words, its almost always a one way street- the environment- our environment- the one that supports our clean air, clean water, and joy of living- takes a back seat to monetary considerations, because people think that environmental destruction is fine since they are paying a fee- that they've somehow done the "right thing". (Ives,

7-3

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C.D. and S.A. Bekessy, 2015, “The Ethics of Offsetting Nature”:
Frontiers in Ecology and the Environment, [scientific journal of the
Ecological Society of America], V. 13, No. 10; pp. 568-573)

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7-3
Cont.

Moreover, the argument that 30% preservation of oaks on a site
would not lead to “cohesive habitat blocks” (page 10-20 of the
DEIR) and is therefore no different than complete removal is not
supported by science. In reality, islands of native habitat can be
absolutely crucial in connecting fragmented habitats together.
(Bringing Nature Home: How You Can Sustain Wildlife With
Native Plants, by Dr. Doug Tallamy, 2009) Tallamy, professor
and chair of the Department of Entomology and Wildlife Ecology,
University of Delaware, is considered a renowned expert in the
science of plant-insect interactions (www.nwf.org)

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7-4

This is not a mistake that can be rectified a few years down the
road. Do you know how long it takes oaks to grow? Do you know
how long it will take to replace these magnificent mature trees?
Centuries! Not decades, centuries. And do you know that blue
oaks in particular, though widespread as adults, are facing
regeneration failure throughout the state? (www.ucanr.edu)

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7-6

It only takes 15 minutes to cut a tree down- a tree that was
supporting as many as 500 species of butterflies and moths
(National Wildlife Federation- www.nwf.org) and over 300
species of vertebrates (www.ucanr.edu) Don’t let these ancients be
treated as simple commodities, thinking that fees to be used in
more remote areas of the county, where oaks are not facing
development pressure anyway, would somehow help.

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7-7

The General Plan Update project, as proposed, is a very short
sighted approach. Both people living here and tourists coming to
visit care about how the Highway 50 corridor looks. They like the
fact that El Dorado County is rural. They like seeing wildlife,
local native plants, and knowing that both are thriving. These are

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intangible, but have very real value. Even economic value. Don't let oak woodlands be decimated by providing that every oak on a property can be removed!

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7-8
Cont.

But don't just take the value and worth of oaks from me. Consider the following comments from **UC Agricultural and Natural Resources Pub. 21601e, dated 2009:**

“For many residents and nonresidents alike, golden-brown hills dotted with gnarled oak trees epitomize the California landscape, and native oaks symbolize values we hold dear- strength, beauty, adaptability, and longevity.” There is a “deep and endearing value of oaks”....

“The value of oaks goes well beyond their stature and beauty and how people view them. Oaks and oak woodlands are home to a rich and diverse assortment of wildlife....and the food and shelter provided [by oaks] are essential to their survival. Oaks are also critical in protecting watersheds and ensuring the quality of water resources...Oak trees anchor the soil, preventing erosion and sedimentation.”

7-9

“But not all is well with California's oaks and oak woodlands. In addition to adverse impacts from firewood harvesting, agricultural conversions, intensive grazing, and residential and commercial development, there has been concern for a number of years that several oak species are not regenerating well in portions of the state. These species grow primarily in the foothills of the Sierra, Coastal, and Transverse mountains.”- in other words, in El Dorado County.

Please don't sell the county's rural soul and environmental health down the river. Please. Recommend that the Board of Supervisors select Alternative 2 instead, which still gives more than enough

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latitude for a landowner to develop his/her property. You are responsible for the future of the county. Please do the right thing and select Alternative 2.

Thank you for considering my comments and suggestions.

Alice L. Cantelow
El Dorado County Resident
4902 Dowell Lane
Placerville, CA 95667

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Response to Comment Letter 7

Alice L. Cantelow
August 15, 2016

7-1 This comment introduces the commenter’s letter and suggestions regarding the Draft EIR. The commenter also urges the County of El Dorado (County) to select Alternative 2.

This comment does not address the accuracy or adequacy of the Draft Environmental Impact Report (EIR); thus, no response is required. This suggestion, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed project.

7-2 This comment urges the County to select Alternative 2.

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

7-3 This comment states that off-site mitigation has been found by researchers to actually exacerbate environmental harm.

The mitigation updates incorporated into the proposed Biological Resources Policy Update and Oak Resources Management Plan (project) have been created based on the best available science and data. Refer to Response to Comment 1-4 above in this section (Section 3.4, Individuals) for more information on the effectiveness of off-site mitigation. Also refer to Master Response 2 in Chapter 2 (Master Responses) in this Final EIR regarding Priority Conservation Areas and fragmentation.

7-4 This comment states that the argument presented in Chapter 10 (Alternatives) of the Draft EIR (p. 10-20) that states that 30% preservation of oaks would not lead to cohesive habitat blocks and is therefore the same as complete removal is false and is not supported by science. The comment further provides a reference in support of the statement that islands of native habitat are crucial in connecting fragmented habitat blocks.

As discussed in Response to Comment 1-4 above in this section (Section 3.4, Individuals), the proposed project’s focus is on retention of large habitat patches so that the conserved habitat functions for all wildlife populations. The habitat value of

small patches is limited to a small subset of the species known to occur in the County, whereas the proposed project is intended to conserve habitat for all of the species known to occur within the County. Refer to Response to Comment 4-30 in Section 3.2 (State and Local Agencies), and Master Response 2 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the effectiveness of the conservation strategy included in the proposed project.

- 7-5** This comment states that the project is not a mistake that can be rectified in the future because oaks take such a long time to mature.

Refer to Response to Comment 5-7 above in this section (Section 3.4, Individuals) for information on measures incorporated into the Oak Resources Management Plan (ORMP) to retain and replant oaks. Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more information on oak mitigation monitoring. Also refer to Response to Comment 5-2 in Section 3.3 (Organizations) in this Final EIR regarding the opportunity for public comment on the proposed project.

- 7-6** This comment states that blue oaks (*Quercus douglasii*) in particular are facing regeneration failure throughout the state.

Refer to Response to Comment 5-7 above in this section (Section 3.4, Individuals) for information on measures incorporated into the ORMP to retain and replant oaks. Also refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more information on oak mitigation monitoring. This comment does not address the accuracy or adequacy of the Draft EIR; therefore, no further response is required. 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.

- 7-7** This comment states that trees are more than just commodities and that they support as many as 500 species of butterflies and moths.

This comment does not address the accuracy or adequacy of the Draft EIR; therefore, no response is required. The conservation directed in the ORMP is intended to mitigate effects of oak woodland removal on all species that depend on or use this habitat. 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.

- 7-8** This comment states that locals and tourists value the rural aesthetics of the U.S. Highway 50 corridor, and that oak woodlands should not be allowed to be decimated by allowing every oak on a property to be removed.

As described in Chapter 9 (Visual Resources) of the Draft EIR, the proposed project would result in less than significant impacts related to the degradation of the quality of scenic vistas and scenic resources. However, it would result in a significant and unavoidable impact related to degradation of the existing visual character or quality of the area or region. There is no feasible mitigation that would substantially reduce or avoid this impact. 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.

- 7-9** This comment quotes a University of California Agricultural and Natural Resources publication about the benefits of oaks, and how several oak species are not regenerating in portions of the state, including the Sierra foothills.

The University of California Agricultural and Natural Resources publication quoted in this comment is entitled: Regenerating Rangeland Oaks in California (McCreary 2009). This document was used extensively in development of the Draft ORMP, informing many of the replacement planting recommendations. Appendix A of the Draft ORMP (Appendix C of the Draft EIR) discusses the issues identified in the comment; including wildlife habitat value (Section 2.1, Wildlife), watershed and water quality (Section 2.4, Health and Function of Local Watersheds), and soil erosion (Section 2.5, Soil and Water Retention). The text from the Regenerating Rangeland Oaks in California document quoted in this comment regarding potential impacts to oak woodlands refers to statewide trends affecting oak woodlands and are not specific to impacts occurring within El Dorado County.

Firewood harvesting is not an exempt activity included in the Draft ORMP and would be subject to permit approval by the County, as presented in Section 2.2.1 (Oak Woodland Removal Permits) and Section 2.3.1 (Oak Tree Removal Permits) of the Draft ORMP. Requirements for replanting and best management practices would be determined during the County's review of firewood harvesting permit applications. A discussion regarding impacts to oak woodlands associated with agricultural conversions is presented in Master Response 5 in Chapter 2 (Master Responses) in this Final EIR. A discussion regarding impacts to oak woodlands associated with grazing is presented in Response to Comment 6-9 above in this section (Section 3.4, Individuals). Finally, residential and commercial development is not exempt from the oak resources mitigation requirements outlined in the Draft ORMP, as analyzed and discussed in Chapter 6 (Biological Resources) of the Draft EIR.

The Regenerating Rangeland Oaks in California document is correctly quoted by the commenter, noting that several oak species are not regenerating well in portions of

the state, including El Dorado County. This document also states that, due to concerns about natural regeneration, “there has been a concerted effort to develop successful techniques for the artificial regeneration of the rangeland oak species” (McCreary 2009). These techniques are the subject of the publication and have been integrated into the replacement planting recommendations included in the Draft ORMP.

7-10 This comment asks the County to select Alternative 2.

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

Comment Letter 8

8/16/2016

Edcgov.us Mail - Comments on Bio Resources/ORMP dEIR



Shawna Purvines <shawna.purvines@edcgov.us>

Comments on Bio Resources/ORMP dEIR

1 message

Cheryl <Cheryl.FMR@comcast.net>

Mon, Aug 15, 2016 at 3:47 PM

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

Hi Shawna--

I've attached my comments on the Bio Resources/ORMP draft EIR.

I will also drop a hard copy by the County this afternoon. The envelope will include the comments plus a disk (and a copy disk) that contain references for the comment document.

Please acknowledge receipt of the comments and the readability of the disks.

Thank you--

Cheryl Langley

8-1

Bio_ORMP_Comments_August_15_2016.pdf
13761K

<https://mail.google.com/mail/u/0/?ui=2&ik=150a3325ea&view=pt&cat=Bio%20Policy%20Update%2FBIO%20EIR%2FPublic-Agency%20Comments%20...> 1/1

Cheryl Langley
5010 Mother Lode Drive
Shingle Springs, CA 95682

Shawna Purvines
EDC Community Development Agency
Long Range Planning
2850 Fairlane Court, Bldg. C
Placerville, CA 95667

August 15, 2016

Ms. Purvines:

Thank you for the opportunity to comment on the draft Environmental Impact Report (dEIR) for the Biological Resources Policy Update (BRPU) and Oak Resources Management Plan (ORMP); I have the following comments.

Comment 1: "Option A" Project Alternative vs. Project Alternative 2: 30% Retention

Alternative 2 of the dEIR, "Minimum Oak Woodland Retention Requirement," is a misconstrued version of the public request for an equal-weight (co-equal) analysis of an Option A project alternative. Instead, what the consultant has provided is an alternative which requires 30% oak woodland retention on every project site. This is a more ridged project alternative than Option A. Where did this retention proposal come from? To my knowledge, the 30% retention value was not debated in the public forum; apparently this figure was developed without public or Board of Supervisor vetting, without any known source or basis.

8-2

An equal-weight (co-equal) Option A project alternatives analysis would provide the BOS with the information necessary to make an informed decision and possibly approve a project alternative that could effectively reduce significant impact to oak resources. Without such an analysis, it is doubtful this project alternative will be evaluated to the extent necessary to make such a determination. And, importantly, the BOS—in their July 22, 2015 meeting—*agreed* it was important to evaluate oak retention standards. But without an equal-weight analysis, a meaningful project alternative will not be prepared. Thus—by default—retention of Option A has been roundly rejected before a complete analysis has been conducted. In effect, it has been predetermined that the County is "not going there." This is contrary to the purpose and spirit of California Environmental Quality Act (CEQA) analysis. And it sends message to the public that "*your participation in the process is not welcome.*"

8-3

This asset—oak woodland—is worth protecting. And, retention of *Option A requirements in no way impedes development*—but it *does* serve to make certain a project has been assessed to determine if there is a way *the developer can meet project objectives while at the same time retain the maximum number of oaks possible on-site*. If it is *demonstrated* a project cannot meet fruition under Option A oak retention standards, Option B "kicks in," and other on- or off-site options for oak mitigation become available.

8-4

An Option A project alternative makes sense, especially in light of CEQA guidelines that state EIRs must describe alternatives "*...which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project...*"(14 CCR 1526.6[a]). (In fact, there is probably no other alternative—other than the **No Project** alternative—that could reduce the project's significant impacts more than an alternative that includes Option A; it is a viable project alternative that deserves co-equal analysis.)

8-5

Please include in the final EIR:

- Prepare an equal-weight (co-equal) analysis of an Option A project alternative.
- A discussion of how the decision was made to use a 30% retention rate as the basis for project Alternative 2 (i.e., research papers, ordinances from other California counties, public input, etc.)
- Discuss why Option A was not used as a basis for a project alternative.

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I 8-7

I 8-8

Comment 2: BRPU/ORMP Analysis is Based on a Flawed General Plan Update/EIR

As presented in the excerpt below, this project is based in part on analysis and conclusions reached under the Targeted General Plan Amendment/Zoning Ordinance Update (TGPA/ZOU) project:

This chapter defines the baseline and cumulative conditions against which the environmental effects of the General Plan Biological Resources Policy Update, Oak Resources Management Plan, and Oak Resources Conservation Ordinance project (proposed project) are evaluated. Consistent with the El Dorado County Targeted General Plan Amendment and Zoning Ordinance Update (TGPA-ZOU) Environmental Impact Report adopted by the County BOS on December 15, 2015, the analysis considers impacts from General Plan implementation at 2025 and at 2035.

8-9

Source: dEIR, page 4-1 (41/270)

However, the validity of the TGPA/ZOU project/EIR is currently being litigated. If litigation shows that the TGPA/ZOU project and its EIR are not valid/viable—or portions of it are invalidated—it will likewise invalidate this project/EIR. The County would do well to withhold completion of BRPU/ORMP analysis until the TGPA/ZOU matter is “settled,” as the outcome of legal action is likely to impact this project. That is, a judgement against one will inevitably negate the other.

As stated many times by the public during both BRPU/ORMP workshops and TGPA/ZOU hearings—the BRPU/ORMP and TGPA/ZOU analyses should never have been separated; the two projects are inextricably linked, and analysis should have taken place simultaneously.

8-10

Requested Action:

- Please withhold development of the final EIR until TGPA/ZOU litigation has concluded.
- Following litigation, provide in the final EIR a complete analysis of the impact on oak woodlands.

Comment 3: Measure E

Regarding Measure E, the dEIR states “...the potential effects of this new regulatory condition are not reflected in the analysis of General Plan buildout...”¹ Measure E has been certified; its impact *must* be evaluated in this EIR.

8-11

Requested Action:

- Please withhold development of the final EIR until Measure E implementation has been established.
- After Measure E implementation parameters have been established, provide in the final EIR a complete analysis of the project’s impact on oaks/oak woodlands/wildlife habitat.

Comment 4: 2004 General Plan vs TGPA/ZOU Impacts

The statement made in the dEIR that the impact to oaks/oak woodlands under the TGPA/ZOU is equivalent to the impact under the 2004 General Plan is false. It appears this statement is made based on the conclusion that under both under the 2004 General Plan and the TGPA/ZOU impacts to oaks/oak woodland are “significant and unavoidable.” But this conclusory statement masks the degree of impact imposed by each version of the General Plan. There is a matter of degree to be evaluated here, too. For instance, this is discussed in the following excerpt:

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¹ dEIR, page 4-2 (42/270)

development projections used for this EIR analysis reflect both historic and recent development patterns in the County as well as the changes to those patterns anticipated as a result of the General Plan and zoning changes adopted under the TGPA-ZOU. Those changes primarily increased the number of locations where development of different types would be allowed within the County and increased the potential for higher intensity development to occur.

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Cont.

Source: dEIR, page 4-3 (43/270)

Thus, the TGPA/ZOU increases the “number of locations” and “potential for higher intensity development,” over development projected under the 2004 General Plan. To say the impact is not greater because both EIRs conclude the impact is “significant and unavoidable” masks the fact that the TGPA/ZOU will impact oaks/oak woodlands to a greater degree than the 2004 General Plan.²

It appears the only area where it is acknowledged that the TGPA/ZOU will have a greater impact than buildout under the 2004 General Plan is in the area of scenic views/vistas. But this is downplayed by stating that because the viewer would be travelling at a high rate of speed along Highway 50, “...the duration of the view is very limited”: (This is akin to saying the view of a decayed urban area is “not so bad” as long as your exposure to the view is brief.)

In determining the level of significance of visual impacts related to loss of oak woodlands within the Marble Valley scenic view, it was necessary to consider factors such as the level of viewer exposure and level of expected visual change that would be seen by a given viewer group. The scenic view of Marble Valley that could potentially be affected by the loss of oak woodlands associated with future development would be from westbound Highway 50. Although the conversion of oak woodland to developed uses in this area could result in a change to the scenic view, the change would not be expected to be substantial considering the level of viewer exposure and expected visual change. Because this scenic view is experienced by motorists traveling at high rates of speed along westbound Highway 50, the duration of the view is very limited. Although the rate of oak woodland loss is unknown, future development

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Source: dEIR, page 9-14 (208/270)

(NOTE: I believe the direction of travel should read “eastbound,” not “westbound”—or perhaps it should include both directions.)

The added impact of the TGPA/ZOU, coupled with the elimination of 2004 General Plan mitigation measures (such as the Integrated Natural Resources Management Plan (INRMP) and the Plant and Wildlife Technical Advisory Committee (PAWTAC), when coupled with this proposed BRPU/ORMP (which enables 100% oak removal on any given development site) spells serious decline for oaks/oak woodlands/wildlife habitat in the County. It eliminates important evaluations and mitigation oversight.

8-14

The ORMP will have a serious impact on oaks, most specifically on mature oak woodlands. Allowing 100% removal of oaks/oak woodland via payment of an in-lieu fee ensures that even if replacement plantings are successful, oak woodlands—especially blue oak (*Quercus douglasii*) woodlands—will not reach an equivalent level of maturity, or attain a comparable wildlife habitat value, for a period in excess of a century.

8-15

² Policies adopted under the TGPA/ZOU that will inevitably impact a greater amount of oak/oak woodland acreage are described under Comment 6: Development Densities in Community Regions & Rural Regions, but also include the provision that allows development on slopes ≥ 30%. In addition, it was concluded in the dEIR that the 2004 General Plan would have a “less than significant” impact on scenic views/vistas, while the TGPA/ZOU conclusion was that the TGPA/ZOU would have a “significant and unavoidable” impact on scenic vistas, even with mitigation implementation (dEIR, pages 9-12 & 9-13 [206 & 207 of 270]).

Please include in the final EIR:

- The impact and value of the reintroduction of the INRMP process and the PAWTAC. If either is deemed an inappropriate addition, discuss why the reintroduction is not feasible.

8-16

Comment 5: Development Potential under the Project

While the dEIR, page 4-1 states the proposed project “...would not directly cause or lead to land development...” it is clear it will facilitate development in areas historically constrained by more stringent oak retention standards (Option A, coupled with the absence of Option B). This proposed project will facilitate, and maximize, development as it allows 100% removal of oak resources on any given parcel. Thus, implementation of the proposed policies will lead to development on lands with previously protected tree cover, by a project of any size and density, in any location approved by the Planning Commission/Board of Supervisors (including those currently zoned low density, if granted a General Plan amendment/zoning modification).

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The point is, while this dEIR states it is “conservative” in that it projects 100% removal while it “anticipates” lesser removal on development sites, it does not—in fact *cannot*—take into account all projects that will inevitably come forward and request—and be granted—General Plan amendments/zoning modifications. Therefore, the projected loss of **147,146 acres**³ of woodland is likely, especially so because the majority of high-density development in the county is anticipated to occur at or below the 4,000 foot elevation—the very portion of the County occupied by oak woodlands. And, the highest density developments on the horizon are on land currently zoned lower density, and evaluated as such under this dEIR (by basing impact on 2004 General Plan/TGPA/ZOU development projections). This impact on oak woodlands is exacerbated by the fact that nearly **139,000 acres**⁴ could be removed without mitigation because many project types (agriculture, road projects, etc.) are exempt from ORMP mitigation requirements.

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The proposed policy will allow development on thousands of acres of oak woodlands important to wildlife—woodlands that may previously have been wholly or partially retained under the 2004 General Plan due to oak Option A retention standards. Retention is important: mature oak woodlands need to be protected—but this proposed project offers **no** protection for mature woodland. It is contrary to good planning, and contrary to what the majority of County residents value most (as revealed in a recent County resident survey).

8-19

Comment 6: Development Densities in Community Regions & Rural Regions

Often stated in the dEIR is the concept that project alternatives that limit impact to oaks/oak woodlands in Community Regions would inevitably result in a shift in development to the County’s more “rural regions.”^{5,6,7,8,9,10,11} The problem with this concept is multiple:

- It assumes there is a definite, established amount of growth that must occur within the County that must be accommodated;
- It assumes high density development is a given—that lesser density development in Community Regions (designed to accommodate oaks/oak woodland) cannot accommodate the “necessary” amount of growth;

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³ dEIR, page 11-10 (246/270)
⁴ dEIR, page 11-11 (247/270)
⁵ dEIR, page 10-5 (217/270)
⁶ dEIR, page 10-7 (219/270)
⁷ dEIR, page 10-8 (220/270)
⁸ dEIR, page 10-9 (221/270)
⁹ dEIR, page 10-20 (232/270)
¹⁰ dEIR, page 10-22 (234/270)
¹¹ dEIR, page 10-23 (235/270)

- It ignores the fact that the Planning Commission/Board of Supervisors can shape and ultimately has the authority to limit/prohibit development proposed in “rural regions” of the County;
- It ignores/contradicts the policies/goals/objectives in the TGPA/ZOU that in fact promote growth and development in the rural areas of the County.

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For instance:

• **The project includes Zoning Ordinance provisions for Agricultural Homestays (Section 17.040.170), Health Resort and Retreat Centers (Section 17.040.170), Agricultural and Timber Resource Lodging (Section 17.040.170) and Ranch Marketing (Section 17.040.260).** These uses would be limited to lands where the primary use is agricultural (including forestry). Some uses would be allowable by right; others would require approval of an administrative permit or CUP; others would not be allowed, depending on the use and the zoning district. **The project would also provide for farm and food supply stores (Section 17.040.070) and Public Utility Service, Intensive uses (Section 17.21.020) to be located in selected agricultural zoning districts upon approval of a CUP.**

• **The project would provide opportunities for expanded uses on TPZ-zoned land (e.g., Hunting And Fishing Club, Picnic Area, Hiking Trail Allowed By Right; Campground, Ski Area, Health Resort and Retreat Center allowable by CUP). The project would also allow limited residential uses under a CUP if it can be demonstrated that such uses will be compatible with the growing and harvesting of timber (Section 17.40.350). The project would also provide for Industrial, General and Public Utility Service Facilities, Intensive in the FR and TPZ zones (Section 17.21.020) upon approval of a CUP.**

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Source: TGPA/ZOU Final EIR, page 3.2-11

The TGPA/ZOU will also allow for “Agricultural and Timber Resource Lodging, of indeterminate size, allowed by right in proposed AG zone...” and additional activities to include ranch marketing, and ranch marketing events.¹²

The TGPA/ZOU also eliminated the prohibition on commercial and industrial land use in rural regions, and eliminated the requirement that industrial lands in rural regions have more limited industrial uses.¹³ The TGPA/ZOU also allows high-intensity recreational facilities in rural regions (which may include hotel/motel, large amusement complexes, golf courses, ski areas, outdoor entertainment, off-highway vehicle recreation areas, and campgrounds).¹⁴

Industrial in FR and TPZ may include:

Industrial, General use would be allowed in FR and TPZ with a CUP. The ZOU glossary characterizes Industrial, General uses as “[m]anufacturing, processing, assembling, or fabricating from raw materials to include any use involving an incinerator, blast furnace, or similar industrial process and any industrial process conducted wholly or partially indoors.” Examples cited in the proposed ZOU include **lumber mills, batch plants, truss manufacturing, co-generation plants, food, and byproducts processing plants, and fabric mills.**

Source: Final EIR, TGPA/ZOU, page 3.2-19

¹² TGPA/ZOU final EIR, page 3.2-15.

¹³ General Plan Policy 2.2.1.2; TGPA/ZOU final EIR, page ES 2

¹⁴ Zoning Ordinance Section 17.25.010 and 17.25.020; TGPA/ZOU final EIR, page 3.4-24 & 25

This was done, presumably, to improve the “jobs/housing ratio” in rural areas:

In addition, the County assumes more new jobs in the rural areas. A major assumption of the County’s General Plan is that agriculture and timber industries will remain economically viable during time horizon of the Plan. The viability of these industries is critical to the maintenance of the County’s customs, culture, and economic stability. Therefore, the County anticipates there will be a need to accommodate a more balanced jobs/housing ratio in the rural areas to support this economic base.

Source: Letter from D. Defanti to M. McKeever (SACOG) dated March 10, 2013.

Because the TGPA/ZOU policies open rural areas up for residential, commercial, industrial and recreational development on a scale not previously allowed, this negates the notion that rural areas will be “preserved,” and high-density development in Community Regions is a necessity. Thus, while it is stated in the dEIR under “Alternatives Considered but Rejected” that a “No Net Loss of Oak Woodlands Alternative” would not be viable because...

This would drive more development into the County’s rural areas, particularly those at higher elevations where oaks are less common. This would increase development intensity and habitat loss in those areas and require residents to drive further to reach the commercial and employment opportunities in the community regions, thus increasing air pollution and GHG emissions. Further, this would be incompatible with the General Plan’s goals for arranging land uses by intensity, with higher-intensity, more urban and suburban uses in the Community Regions of El Dorado Hills and Cameron Park, which allows for the more rural communities to support lower-intensity land uses and retain their rural character. Specifically, this alternative would conflict with General Plan policies that encourage concentration of high-intensity uses in Community Regions and Rural Centers to preserve the remaining Rural Regions as open space and natural resource areas (including agriculture and timber).

Source: Page 10-5 (217/270)

...it becomes clear that this is a false assumption. Furthermore, unless the “open space” referred to in the final sentence of the excerpt above is protected via conservation easement, deed restriction, or some other mechanism, there is no real commitment to the preservation of that open space. So the questions become: Why isn’t oak retention considered a viable path? Is it possible to adjust development in Community Regions and other areas slated for high-density development to accommodate oak woodland and wildlife habitat?

Please include in the final EIR:

- An analysis of reduced development densities in the Community Regions to accommodate Option A retention standards.
- A re-evaluation of project alternatives such as the “No Net Loss” alternative based on the knowledge that rural areas will be developed to a degree not revealed in the dEIR.

Comment 7: Historic vs. Projected Rate of Woodland Loss

The dEIR presents a County-wide oak woodland coverage reduction of 0.8% for a 13-year period (2002-2015)¹⁵ and concludes, “...the change in oak woodland coverage in the county indicates that large-scale oak woodland conversion is not occurring,” and “[t]his relatively minimal loss of oak woodlands over time indicates that

¹⁵ dEIR, page 6-60 (134/270)

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*agricultural and other activities have not resulted in large-scale, permanent oak woodland conversion*¹⁶ [emphasis added].

The problem here is that this conclusion assumes this reduction rate is a viable indicator, and is likely to apply under this proposed project as the County moves forward. The problem with this is that Option A—which requires oak retention—has been in effect, and has limited oak removal during this period. It is reasonable to assume oak/oak woodland loss would have been greater if Option A were not in effect—if 100% oak removal had been allowed. In addition—significantly—this time period includes the “Great Recession,” the most substantial economic downturn since the Great Depression. The recession clearly impacted development in the County.

These “oversights” negate this estimate of oak/oak woodland loss as a relevant impact indicator—and justification—for policies that impact oak woodland. That is, historic loss cannot be applied to a future devoid of Option A oak retention requirements, and economic recession.

Please include in the final EIR:

- A realistic projection of County-wide oak woodland conversion.

Comment 8: Agriculture & Oak Woodland Protection

The impact of agricultural operations on oaks/oak woodlands will be significant, and unmitigated. The dEIR states, “*The Agricultural Activities Exemption could allow for up to 132, 281 acres of impact that are exempt from mitigation requirements.*”¹⁷

With the expansion of activities allowed in agricultural zones by the TGPA/ZOU (entertainment venues, ag worker housing, etc.) it is important to evaluate oak retention/mitigation for agricultural operations as a possible path to oak retention, and retention of “rural character” in rural regions. Ag operations will be moving to a new level under the TGPA/ZOU—they will no longer simply be a family orchard or vineyard; they now include entertainment venues, health resorts and retreat centers, visitor serving uses, ranch marketing, etc.

Still necessary under the TGPA/ZOU is the requirement that agricultural operations meet Best Management Practices (BMPs) when making certain changes to their parcels. However, these BMPs have not been discussed/identified in either the TGPA/ZOU EIR, nor this dEIR. At a minimum, these practices need to be identified/defined, and their likely impact on oak resources, riparian habitat, and wildlife habitat explored.

Similarly, management requirements for agricultural grazing operations need to be identified/defined. (See C. Langley comments dated December 23, 2015, on grazing operations, beginning on page 9) (NOTE: Please also note that several comments/questions posed in that discussion have yet to receive responses.)

Regarding grazing operations, oaks enhance these operations, and this adds an incentive for both the County and ranchers to retain oaks:

Oak woodlands have a productive understory of grasses that support approximately 60% of California’s rangelands. For many years oaks were removed from ranchlands until it became clear that forage quality is enhanced by the presence of oaks and degrades in the years that follow the removal of oaks.¹⁸

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¹⁶ dEIR, page 6-60 (134/270)

¹⁷ dEIR, page 6-65 (139/270)

¹⁸ 2016. California Wildlife Foundation, July 12, 2016, page 1.

Please include in the final EIR:

- Discuss possible oak retention guidelines for agricultural operations when those operations are expanded to include development other than food production activities (e.g. entertainment venues, ag worker housing, etc.)
- Identify/define BMPs for agricultural operations, and discuss how those requirements impact oaks/riparian habitat/wildlife habitat.
- Identify/define grazing restrictions for grazed lands, and discuss how those requirements impact oaks/riparian habitat/wildlife habitat.

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Comment 9: Riparian Zone Evaluation & Valley Oak Impacts

It is unclear why riparian buffer zones (setbacks) were established under the TGPA/ZOU process and not under this BRPU/ORMP process. Riparian habitat is relatively scarce, and crucial to numerous wildlife species. In addition, valley oak (*Quercus lobata*)—a species of “special concern” (an endemic species of limited range in the County, and an element of “sensitive habitat”) is often a component of riparian habitat. But the County has chosen to establish (and reduce) riparian buffers via the TGPA/ZOU project, and establish valley oak mitigation under the ORMP. This positions this habitat under two very different management scenarios—both of which are devoid of any meaningful acknowledgement/analysis of the biological value of riparian habitat.

The dEIR, page 5-12 (59-60/270), in an apparent attempt to meld the two issues states “*The proposed General Plan revisions are intended to establish a program for County-wide management of impacts to biological resources and mitigation for those impacts with the objective of conserving...wetland and riparian habitat...*” But wetland and riparian habitat are *not* evaluated and “conserved/mitigated” under this proposed project.

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When riparian buffers were established (and reduced in size) under the TGPA/ZOU, it was clear there was no scientific basis to guide the establishment of buffer size, and no analysis of the impact of the reduction. This change in riparian buffers needs to be evaluated within this dEIR (along with other numerous impacts to biological resources that are the result of TGPA/ZOU-based revisions.) Importantly—based on the importance of riparian systems and the significant impact of the buffer revision—buffer revisions and/or additional mitigation measures are in order, and must be developed.

Please include in the final EIR:

- Develop riparian buffer/setback standards based on research (including research referenced in the C. Langley NOP comments dated December 23, 2015). Evaluate the impacts of the proposed buffer/setback on oak woodlands/wildlife.

Comment 10: In-Lieu Fee Use

It is important to clarify precisely what the in-lieu fee will be used for. For instance, while it is presumed to be used for purchase of conservation easements, it is unclear if this is in fact the case, especially because the mitigation description in the *Proposed Oak Resources Conservation Ordinance* (Appendix D) does not identify its application:

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1. **Mitigation – Oak Woodlands Removal.** If identified Oak Woodlands will be impacted as part of the permit, the applicant shall mitigate for loss of oak woodlands. Mitigation shall occur at the ratio identified in Table 1 (Oak Woodland Mitigation Ratios) using one or more of the following options as specified in the ORMP:
- a. In-lieu Fee payment based on the percent of on-site Oak Woodland impacted by the development as shown in Table 5 (Oak Woodland In-Lieu Fee) in the ORMP;
 - b. Off-site Deed Restriction or Conservation Easement acquisition for purposes of off-site oak woodland conservation consistent with Chapter 4.0 (Priority Conservation Areas) of the ORMP;
 - c. Replacement planting within an area on-site for up to 50 percent of the total Oak Woodland mitigation requirement consistent with Section 2.4 (Replacement Planting Guidelines) of the ORMP. This area shall be subject to a Deed Restriction or Conservation Easement;
 - d. Replacement planting within an area off-site for up to 50 percent of the total Oak Woodland mitigation requirement. Off-site replacement planting areas shall be consistent with Section 2.4 (Replacement Planting Guidelines) and Chapter 4.0 (Priority Conservation Areas) of the ORMP. This area shall be subject to a Deed Restriction or Conservation Easement;
 - e. A combination of options a through d above.

Source: Appendix D, page XX-10 (12/14)

This description actually appears to *eliminate* the use of the in-lieu fee as a source of conservation easement acquisition. And, the definition section seems to do the same:

In-lieu Fee: Cash payments that may be paid into the County's Oak Woodland Conservation Fund by an owner or developer as a substitute for a Deed Restriction, Conservation Easement or replacement planting. In-lieu fee amounts for Individual Native Oak Trees, Heritage Trees, and Oak Woodlands as presented in the ORMP may be adjusted by the County over time to reflect changes in land values, labor costs, and nursery stock costs.

Source: Appendix D, page xx-4 (6/14)

Also problematic is the language in the fee study that states that in response to the Mitigation Fee Act (AB 1600; Government code Section 66000 et seq), the fees unexpended or uncommitted five years post-deposit will either be refunded to the current owner of record, or the county "...may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to Section 66000 of the Government Code."

Reallocation of Remaining Revenues

If the administrative costs of refunding unexpended or uncommitted revenues exceed the amount to be refunded, the County, after a public hearing, notice of which has been published under Government Code Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to Section 66000 of the Government Code.

Source: El Dorado County Oak Resources In-Lieu Fees Nexus Study, June 16, 2015, page 50 of 78 (53/81)

This puts oak mitigation in a precarious position; funds could easily be used to support numerous other perceived needs—or simply returned to the "owner of record"

Please include in the final EIR:

- Define in the dEIR *precisely* what in-lieu fees will be used for.

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- Revise language from “*revenues shall be allocated for some other purpose*” to “*revenues shall be dedicated to land conservation or natural lands stewardship.*” This suggested language provides some flexibility while keeping the use of the funds focused in the event the County has difficulty expending all the funds for oak woodlands within the five year time frame.

8-36

Comment 11: Personal Use Exemption

“Personal use” of oak resources on an owner’s property must be managed, otherwise, “pre-clearing” of a site under the guise of personal use is actually encouraged. Also, the exemption for non-commercial agricultural “operations” is excessive and likely to result in loss of oak woodland.

8-37

Please include in the final EIR:

- Explain what deters a property owner from “pre-clearing” oaks under the guise of “private use.”
- Include a discussion—and some options for managing “personal use”—that may include restricting personal use to certain zoning classifications (i.e., residential parcels of 5 acres or less, for example) and eliminating from “personal use” land zoned for commercial, industrial, and other properties subject to planned development, area specific plans, etc.
- Include a discussion that evaluates incorporating measures that restrict for a period of time—say 10 years—the rezoning of land that has been pre-cleared, even if oak woodland was removed while the land was under a zoning district that *allows* oak tree removal for personal use (parcels of 5 acres or less, for example).

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This discussion is necessary (as is the provision of a measure designed to prevent such behavior) because it is well known—and documented—that sites within the County have been cleared of oak trees immediately prior to development. (Documentation provided upon request.)

- Discuss the impact/benefit of removing the personal use exemption for non-commercial agricultural operations.

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Comment 12: Commercial Firewood Harvest

While commercial firewood cutting operations would be required to obtain a permit under the proposed plan, there is no mention of minimum retention standards; Shasta and Tehama counties adopted resolutions calling for 30% crown cover retention for commercial firewood cutting operations.¹⁹

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Please include in the final EIR:

- The impact/benefit of establishing a 30% retention rate for commercial firewood cutting operations.
- The specific criteria (thresholds) used to determine the following:
 - “significant negative environmental impact”;
 - “adequate regeneration”;
 - “potential for soil erosion”; and
 - “sound tree management practices.”
- Discuss specific criteria/thresholds/restrictions applied to restrict removal activity to a level that precludes impact to a level of “significant environmental impact,” and that supports “adequate regeneration,” avoids soil erosion, and institutes sound management practices.

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¹⁹ Standiford, et al., 1996. Impact of Firewood Harvesting on Hardwood Rangelands Varies with Region. California Agriculture, March-April, 1996. Available at: <http://ucce.ucdavis.edu/files/repositoryfiles/ca5002p7-69759.pdf>

Comment 13: Greenhouse Gas (GHG) Analysis

Attached is a letter provided by the California Wildlife Foundation/California Oaks, dated July 22, 2016 that discusses deficiencies in the GHG analysis performed under this dEIR.

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Please include in the final EIR:

- Correct the deficiencies in the GHG analysis/mitigation that are identified in the California Wildlife Foundation/California Oaks letter.

Comment 14: Impact to Soils/Hydrology/Water Quality

The dEIR concludes, “...the proposed project would have no impacts or less-than-significant impacts in the following resource areas...Hydrology and Water Quality.”²⁰ But the removal of 147,146 acres²¹—nearly 60% of the County’s estimated oaks—will have an impact on these elements, especially when “up to 138,704 acres of woodland impacts could occur with no mitigation required”²² Removal of this quantity of oaks/oak woodland will have a profound effect on hydrology and water quality. A July 12, 2016 letter from the California Wildlife Federation reads:

8-45

Oak woodlands protect the quality of greater than two-thirds of California’s drinking water supply. They stabilize soil, provide shade, and replenish groundwater.²³

Comments submitted on the first Notice of Preparation for this proposed project included excerpts from *the Napa County Voluntary Oak Woodland Management Plan*²⁴ in support of the importance of oaks/oak woodland to soils/hydrology/water quality (see C. Langley comments dated August 17, 2015, pages 15 – 19, attached). And yet this dEIR ignores the importance of oak woodlands to these elements.

Please include in the final EIR:

- A complete assessment of the impact of oak/oak woodland removal on soils/soil stability, hydrology and water quality.

Comment 15: Acorn Replacement Planting

Enough cannot be said about the lack of viability acorn plantings will have in “real world” application. While McCreary is cited in the dEIR as a source in support of acorn planting, McCreary also cautions that the planting of acorns will be impacted by a whole host of factors such as conditions at the planting site, including the kinds of animals present.²⁵ Because acorns are an important food source for a whole host of animals, acorn plantings are difficult to protect. McCreary also warns that the type of care necessary for survival and growth may not be logistically feasible for remote planting sites,²⁶ making a difficult prospect more even more susceptible to failure.

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²⁰ dEIR, page 2-5 (19/270)

²¹ dEIR, page 11-10 (246/270)

²² dEIR, page 11-11 (247/270)

²³ 2016. California Wildlife Foundation, July 12, 2016.

²⁴ Napa County. 2010. Napa County Voluntary Oak Woodlands Management Plan. October 26, 2010; page 20. Available at: <http://www.countyofnapa.org/WorkArea/linkit.aspx?LinkIdIdentifier=id&ItemID=4294973990>

²⁵ McCreary, D.D. Undated. *How to Grow California Oaks*. University of California Oak Woodland Management. Available at: http://ucanr.edu/sites/oak_range/Oak_Articles_On_Line/Oak_Regeneration_Restoration/How_to_Grow_California_Oaks/

²⁶ McCreary, D.D. Undated. *Living Among the Oaks: A Management Guide for Woodland Owners and Managers*. University of California, Agriculture and Natural Resources, Oak Woodland Conservation Workgroup; publication 21538.

According to McCreary,²⁷ an effective alternative to directly sowing acorns is growing oak seedling in containers and then planting the saplings out in the field. McCreary indicates propagating oaks in this manner results in starts that "...have higher survivorship than directly planted acorns, but they also cost far more."

↑
8-46
Cont.

Oak woodlands—especially blue oak woodlands—are experiencing poor regeneration rates in many areas of the State. This troubling condition—that of poor regeneration—means the viability of acorn plantings, too, will be problematic, making replacement of woodlands via the planting of acorns a fragile, ineffective strategy.

Please include in the final EIR:

- Identify California counties that have used acorns for replacement plantings, and describe the viability (efficacy) of those plantings for each species of oak. (That is, discuss the locations and specific outcomes of such plantings, include the species planted, the care regime, mortality rate, and the size surviving saplings have achieved over a specified period of time.)
- Efficacy of mitigation needs to be demonstrated. The two studies described in the Dudek memorandum 17A (Hobbs, et al., 2001; Young, et al., 2005) actually *do not* support the supposition that acorn planting is "better" than planting larger stock. McCreary—also cited by Dudek—mentions multiple caveats to acorn planting—as presented in my comments of September 29, 2015. But the difficulties of acorn use have been largely ignored, presumably due to its lower mitigation cost.

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Comment 16: Seedling/Sapling Replacement Planting

According to *A Planner's Guide for Oak Woodlands*:²⁸

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

8-49

It is apparent that preservation of oak woodland on-site is the preferred "mitigation." Short of on-site preservation, the purchase of oak woodlands that will remain undeveloped in perpetuity is to be preferred over on-site (or off-site) planting of saplings. Revegetation on- or off-site is a poor substitute for mature woodland, especially when value as wildlife habitat is part of the equation. It is likely that the loss of oak woodlands cannot be adequately mitigated under the current ORMP, especially in the absence of Option A retention requirements.

Please include in the final EIR:

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

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²⁷ McCreary, D.D. Undated. *Living Among the Oaks: A Management Guide for Woodland Owners and Managers*. University of California, Agriculture and Natural Resources, Oak Woodland Conservation Workgroup; publication 21538.

²⁸ Giusti, G.A. et al (editors). 2005. *A planner's guide for oak woodlands*. University of California, Agriculture and Natural Resources, Publication 3491, second edition.

Comment 17: Mitigation Efficacy/Performance Standards

While mitigation strategies are *identified* in the ORMP, the strategies themselves do not represent vetted processes. *Efficacy* of the measures under “real-world” conditions must be *proven*; performance standards must be incorporated.

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Please include in the final EIR:

- Evidence that research-based studies on oak replacement strategies have proven effective in practical application (i.e., do sapling/acorn plantings succeed under conditions/management strategies other than under research conditions).
- Include a discussion of mitigation efforts undertaken by the County. Discuss reason(s) for mitigation failures (such as the mitigation plantings adjacent to Serrano Village D2, and along road project sites within the County). If there have been successful mitigation efforts, describe the location of the plantings, the type of oak replanting that took place (i.e., acorns, container plants, etc.—including the size of the container plants), when they were planted, and the current status of the plantings (size, condition, mortality rate, etc.)
- Given the many examples of failed mitigation efforts in the County, discuss why the public should have confidence that future mitigations will be successful.
- Once again, efficacy based on achieving performance standards should dictate oak tree/woodland mitigation. Please identify in the final EIR specific performance standards (such as amount of canopy cover expected over a given [specific, identified] period of time).

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Comment 18: Oak Regeneration

Despite all evidence to the contrary (see attached comments dated August 17, 2015, September 29, 2015 and December 23, 2015) the issue of oak regeneration as a mitigation element seems to have exerted some influence on this project. It is interesting—and confounding—that unsupported “evidence” verbalized by members of the development community during workshops has somehow gained precedence over studies conducted by respected researchers in the field of oak woodlands.

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Relying on oak regeneration as a mitigating element for oak loss is *not mitigation*. Saying something will simply replace itself post-loss contradicts the meaning/purpose of mitigation. To identify *non-action* in this instance as mitigation defies logic; it is simply not credible. It is *not* supported by research on oak woodland dynamics.

I have cited numerous studies that discuss blue oak regeneration as inadequate to support the long-term survival of this woodland species in numerous areas of California (see discussion/citations in comments on the initial and second NOP, and in the September 29, 2015 comments to the BOS; reference materials are included for all documents [on disk] with this submitted material). These documents contain citations that describe the problems with blue oak regeneration (the species that will be most impacted [and replanted] as a result of development projects in EDC).

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And yet, this reliance on regeneration seems to persist in discussions in this dEIR. For instance, Policy 7.4.4.2 contains the following language:

Policy 7.4.4.2: Through the review of discretionary projects, the County, consistent with any limitations imposed by State law, shall encourage the protection, planting, restoration, and regeneration of native trees in new developments and within existing communities.

Source: dEIR, page 6-36 (110/270)

While it is unclear what “regeneration” means in this context, what “...the County...shall encourage...regeneration of native trees in new developments...” actually means, or how it may be “implemented,” it is disturbing that this language has any place in this ORMP.

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Likewise, under “Commercial Firewood Cutting,” the dEIR states, “In reviewing a permit application, the Planning Department shall consider the following...[w]hether replanting would be necessary to ensure adequate regeneration.”²⁹

Not only is the concept of natural regeneration as a replacement for mitigation unacceptable, the Planning Department—a department devoid of expertise in the area of oak woodland management—is tasked with making the decision (in lieu of utilizing a registered arborist).

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So what does this mean? Is there an expectation that oak regeneration will *replace* oak mitigation?

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Please include in the final EIR:

- Language that removes oak regeneration as a mitigating factor for oak woodland replacement.
- Clarify if “oak regeneration” will *replace* oak mitigation under this ORMP.
- Provide the scientific basis (studies from reputable research institutions) for the adequacy/viability/efficacy of replacing oak mitigation with oak regeneration.
- Cite authorities under CEQA which condone/support/authorize reliance on a natural environmental process as mitigation for the removal of the impacted resource (in this instance, oak woodland).

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Comment 19: Heritage Tree Size

Heritage tree size needs to be reduced to 24” diameter at breast height (dbh), if not for all species, for blue oak.

Due to slow growth, poor regeneration rates, and the fact that blue oak growth often ceases after trees reach 26” dbh³⁰—it is necessary to establish a Heritage Oak threshold designation for blue oak that is less than the 36” dbh threshold now proposed. It is only reasonable (and necessary) to protect this resource with a separate Heritage Oak threshold.

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Because blue oaks are slow growers, Tuolumne County has worked to establish a separate standard for blue oaks under their *old growth oaks* or “specimen oaks” category.³¹ Given this acknowledgement that blue oaks—given their slow growth rates and poor regeneration rates—warrant separate consideration, it seems reasonable that El Dorado County establish a separate size requirement for blue oak /Heritage Oak designation.

Comment 20: Definition of “Woodland”

“Oak Woodland” needs to be redefined to include not only standing living oaks, “...but also trees of other species, damaged or senescent (aging) trees, a shrubby and herbaceous layer beneath the oak canopy, standing snags, granary trees, and downed woody debris in conjunction with [oaks].”³² Existing oak woodlands need to be evaluated under these criteria and, *if on-site retention is not possible, mitigation for the loss of all woodland components* through either conservation easement or fee title acquisition in perpetuity of biologically equivalent (or greater) woodland must take place to ensure replacement of viable

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²⁹ dEIR, page 6-39 & 6-40 (113 & 144/270)

³⁰ Ritter, L.V. *Blue Oak Woodland*. California Wildlife Habitat Relationships System, California Department of Fish and Game, California Interagency Wildlife Task Group. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=67340>

³¹ Michael Brandman Associates. 2012. Tuolumne County Biological Resources Review Guide. December 4, 2012; page 38. Available at: <http://www.tuolumnecounty.ca.gov/DocumentCenter/View/204>

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

woodland/wildlife habitat. (Napa County, for instance, evaluates all woodland components and employs a 60/40 retention in *sensitive water drainages*: 60% tree cover; 40% shrubby/herbaceous cover.)³³

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Cont.

Please include in the final EIR:

- A redefinition of “oak woodland” to include other associated tree and shrub species (understory) to maintain wildlife habitat value; require mitigation to replace these elements as well as oaks.
- Discuss how the definition of oak woodland in the ORMP serves to limit mitigation effectiveness (in terms of wildlife habitat value) and how the definition from Tuolumne County (above) supports the wildlife value of woodland.

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Comment 21. Enforcement

The County has a poor ordinance enforcement track record; several oak mitigation sites are in poor condition, and there seems to be no effort to rectify failed mitigations. Because past performance is the best predictor of future performance, there is no confidence in the County’s ability to ensure successful mitigation.

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Please include in the final EIR:

- A discussion regarding the performance standard the County will be held to in terms of accomplishing mitigation success.
- Discuss how reestablishment of the PAWTAC—if tasked with mitigation oversight—could provide confidence that mitigation efforts would be successful. (Otherwise, what assurance does the public have that oak mitigation will be conducted in a manner that results in successful oak replacement?)

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Comment 22: Response to NOP Comments

Several issues raised in comments submitted under the NOPs were not answered (e.g., I requested a discussion of how impact significance under Approaches A, B & C to ORMP development was derived, etc.)

I include by reference the comments/discussion included in the NOP comment submission I made on August 17, 2015 and December 23, 2015, and comments made to the Board of Supervisors on September 29, 2015 (attached). I attach these comments for your review and request inclusion of your responses to the issues/comments/questions raised in these documents in the final EIR, or a recirculated EIR. I have also included comments to the Board of Supervisors dated September 29, 2015 that support issues discussed in the NOP comments; I also request the issues raised in that document receive responses.

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Conclusion

























I thank you for the opportunity to comment and look forward to your response.

Attachments:

1. NOP comments dated August 17, 2015
2. NOP comments dated December 23, 2015
3. Comments to the BOS dated September 29, 2015
4. CA Oaks / CA Wildlife Foundation Letter dated July 22, 2016

References on disk:

³³ Napa County. 2010. Napa County Voluntary Oak Woodlands Management Plan. October 26, 2010; page 20. Available at: <http://www.countyofnapa.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=4294973990>

 Brandman_TuolumneCounty	 McCreary_StockType	 Tecklin_RehabilitationBlueOak
 CA_wildlife_foundation.7.12.16	 McCreary_GrowOaks	 USDA FS_NortheasternCA_Report
 Defanti_Letter.3.10.15	 McCreary_LivingAmongOaks	 Verner_BlueOakFoothillPine
 Findlay_Riparian	 McDonald_Black Oak	 Young_InitialMortality
 Fryer_LiveOak	 Napa_OWMP	
 Giusti_OakImpactMatrix	 Phillips_BlueOakSeedlingGrowth	
 Giusti_Planner'sGuide	 Ritter_BlueOakWoodland	
 Harvey_SpatialDynamics	 Standiford_FirewoodHarvest	
 Jones&Stokes_RiparianSetbackGuidance	 Standiford_ModellingTreePlanting	
 McCreary.RestoringOakRangelands	 Swiecki_FactorsAffectingBlueOakRegene...	

Cheryl Langley
5010 Mother Lode Drive
Shingle Springs, CA 95682

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

August 17, 2015

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

Ms. Purvines:

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

Impact to Efficacy of the 2004 General Plan

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

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

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

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

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

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

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- Explain how the BRPU can legitimately be separated from the TGPA/ZOU evaluation. (The current BRPU is evaluated only in the context of the 2004 General Plan.) 8-75
- The TGPA/ZOU was evaluated as if Option A, the INRMP, and *multiple* other mitigations were “viable.” Because these mitigations have been stripped away under the proposed BRPU, will the TGPA/ZOU EIR be recirculated if the proposed ORMP is adopted? Please explain. 8-76
- Provide information on the TGPA/ZOU impact to oak woodlands (including its impact on oak woodlands in agricultural-zoned lands, and as a result of the reduction in open space requirements, allowance of construction on sites with > 30% slope, the depletion of groundwater that oak woodlands rely upon, etc.) 8-77

Support Information for Approaches A, B & C

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

8-78

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

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

Mitigation Performance

According to *A Planner’s Guide for Oak Woodlands*:¹

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

8-79

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

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

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

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Cont.

Mitigation Strategy

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

According to *A Planner's Guide for Oak Woodlands*:²

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

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

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

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

8-81

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

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

³ McCreary, D.D. Undated. *How to Grow California Oaks*. University of California Oak Woodland Management. Available at: http://ucanr.edu/sites/oak_range/Oak_Articles_On_Line/Oak_Regeneration_Restoration/How_to_Grow_California_Oaks/

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

Oak Regeneration and Acorn Plantings

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

According to *A Planner's Guide for Oak Woodlands*:⁵

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

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

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

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

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

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

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

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

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

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

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

↑ 8-83
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Mitigation Efficacy

According to the California Environmental Quality Act (CEQA) 15126.4a1(B) “Where several measures are available to mitigate an impact, each should be discussed and **the basis for selecting a particular measure should be identified.**” And, according to the Oak Woodland Impact Decision Matrix⁷ conservation planning grounded in science-based information supports the development of sensitive planning scenarios. But, **while mitigation strategies are identified in the ORMP, the strategies themselves do not represent vetted processes. Efficacy of the measures must be proven; evidence must be provided.**

8-85

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

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

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



This is a photo of a “tree shelter” around a blue oak; it was probably planted around the time of adjacent village construction (2001-2003). Photo taken June, 2015.



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



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Cont.



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



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Cont.

Revised Definition of Woodland

“Oak Woodland” needs to be redefined to include not only standing living oaks, “...but also trees of other species, damaged or senescent (aging) trees, a shrubby and herbaceous layer beneath the oak canopy, standing snags, granary trees, and downed woody debris in conjunction with [oaks].”⁸ Existing oak woodlands need to be evaluated under these criteria and, if on-site retention is not possible, **mitigation for the loss of all woodland components** through either conservation easement or fee title acquisition in perpetuity of biologically equivalent (or greater) woodland must take place to ensure replacement of viable woodland/wildlife habitat. (Napa County, for instance, evaluates all woodland components and employs a 60/40 retention in *sensitive water drainages*: 60% tree cover; 40% shrubby/herbaceous cover.)⁹

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

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

Source: ORMP, page 27.

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

8-87

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

⁹ Napa County. 2010. Napa County Voluntary Oak Woodlands Management Plan. October 26, 2010; page 20. Available at: <http://www.countyofnapa.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=4294973990>

Exempt Actions

- **Exemption for Personal Use of Oak Woodland Resources.** ORMP, page 7: “When a native oak tree, other than a Heritage Tree, is cut down on the owner’s property for the owner’s personal use.” This provision for “personal use” is problematic.

- **Explain what deters a property owner from “pre-clearing” oaks under the guise of “private use.”**
- Include a discussion—and some options for defining “personal use”—that may include **restricting personal use to certain zoning classifications** (i.e., residential parcels of 10 acres or less, for example) and eliminating from “personal use” land zoned for commercial, industrial, and other properties subject to planned development, area specific plans, etc.
- Include a discussion that evaluates incorporating measures that **restrict for a period of time—say 10 years—the rezoning of land that has been pre-cleared, even if oak woodland was removed while the land was under a zoning district that allows oak tree removal for personal use** (parcels of 10 acres or less, for example).

This discussion is necessary (as is the provision of a measure designed to prevent such behavior) because it is well known—and documented—that sites within the County have been cleared of oak trees immediately prior to development proposal. (Documentation provided upon request.)

8-88

- **Exemption for Non-Commercial Agricultural “Operations.”** ORMP, page 7: “Agricultural cultivation/operations, whether for personal or commercial purposes (excluding commercial firewood operations).”

- Include in the dEIR why this measure is necessary, and how much oak woodland is potentially impacted by this measure. The El Dorado Irrigation District (EID) is already on the threshold of eliminating a reduction in water rates for such operations, thus threatening their viability. Thus, while EID policies undercut such activity, the ORMP allows for the removal of oak resources minus mitigation. A reasoned outcome is that oaks are removed for a “hobby” agricultural operation that has little chance of being maintained.

8-89

Commercial Wood-Cutting Operations

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

8-90

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

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

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

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

8-90
Cont.

8-91



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



Blue oak firewood en route to Bay Area markets.

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

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

In-Lieu Fee Use

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

8-92

Willing Sellers in Community Regions/Rural Centers

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

8-93

Site Concurrence

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

8-94

Advisory Body

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

8-95

Initial Study

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

4.0 PROBABLE ENVIRONMENTAL EFFECTS AND SCOPE OF THE EIR

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

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

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

8-96

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

- Air Quality
- Cultural Resources
- Geology/Soils

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

Air Quality/Greenhouse Gas Emissions

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

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

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

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

8-96
Cont.

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

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

8-96
Cont.

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

8-97

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

The goal of AB 32—the California Global Warming Solutions Act—is to **reduce** carbon dioxide (CO₂) emissions by 2020 to 1990 levels, with a further 80 percent CO₂ reduction by 2050. The bill emphasizes the evaluation of CO₂ associated with the conversion of forests to other uses. **Oak woodland CO₂ emission effects must be considered for projects that convert native forests to non-forest use.** Both direct CO₂ emission impacts from dead tree disposal and cumulative impacts due to the loss of future increases in live tree carbon sequestration represent a biological emission subject to CEQA analysis and mitigation. Live tree biomass (including roots), standing dead tree biomass, and wood lying on the ground are to be evaluated to measure oak woodland biological emissions under CEQA.

8-98

CEQA CO₂ questions to be answered include:

- how much potential CO₂ sequestration over the next 100 years will be lost due to impacts to live native trees three (3) inches or greater diameter at breast height (dbh); and
- how much sequestered CO₂ will be released if the live trees, standing dead trees or woody debris are burned?

The County must analyze and mitigate CO₂ biological emissions associated with the land use changes that result in the loss of oak woodland sequestration capacity (the conversion of oak woodlands to non-forest use) and CO₂ release from burning oak debris/wood. If such an analysis is not done, the County disregards not only CEQA, but the Office of Planning and Research (OPR) guidelines, California Attorney General opinions and Court decisions. (See Center for Biological Diversity, et al. v. City of Desert Hot Springs, et al. (2008) Riverside County Superior Court - Case No. RIC 464585 and Berkeley Keep Jets Over the Bay Committee vs. Board of Port Commissioners (2001) 91 Ca.App.4th 1344, 1370-71.)

8-98
Cont.

Because California has designated CO₂ emissions a grave human health risk, local jurisdictions cannot invoke ministerial or overriding considerations in determining proportional mitigation for carbon biological emissions due to oak woodlands conversion to non-forest use. It is considered an abuse of discretion to declare an inadequately mitigated oak woodland conversion a **public benefit** when in fact woodland conversion represents a demonstrable **public health hazard**.

8-99


- Provide a complete analysis as required under AB 32.

Cultural Resources

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

A. CULTURAL/HISTORICAL

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



8-100

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

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

8-100
Cont.

Geology and Soils

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

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

8-101

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

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

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

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

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

8-101
Cont.

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

C. EROSION CONTROL

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

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

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

Hazards/Hazardous Materials

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

8-102

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

8-102
Cont.

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

Hydrology/Water Quality

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

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

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

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

8-103

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

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

8-103
Cont.

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

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

B. FLOOD PROTECTION

The Napa River is historically prone to flooding, causing damage to homes and vineyards within its floodplains. Oak woodlands play a part in minimizing the strength and effect of the river's floodwaters. Oaks slow the eroding energy of rainfall with their canopies by temporarily hold rainwater on their leaf and stem surfaces during a rainstorm, increasing the amount of time rain takes to reach the ground and contribute to runoff. Oak woodland canopies capture 20-30% more rainfall than do grasslands, and their contribution to organic matter in the soil improves its water holding capacity.⁴ As a result, they have a high capacity for detaining peak flows from rainfall events that

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

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

D. WATER QUALITY PROTECTION

Oak woodlands, whether located on the hillsides or on level lands near streams, play an important role in protecting water quality. By minimizing soil erosion as noted above, oak woodlands can help reduce sediment transport and washing of fine sediments into local waterways. High levels of sediment in waterways can negatively impact the aquatic food supply by reducing habitat available for fish, aquatic invertebrates and other organisms important to the diets of fish and birds. The Napa River is currently listed as impaired for sediment and a Sediment Total Maximum Daily Load (TMDL) is in the process of being adopted by the State.



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

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

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



8-103
Cont.

Noise

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

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

8-104

Population/Housing

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

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

8-105

Public Services/Utilities

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

8-106

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

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

Project Alternatives

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

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

8-107

The Standiford Study¹⁰ (NOTE: This study was relied upon for development of the County's IIG.) According to Standiford, the results of this study (cited in the footnote below) call into question whether planted stands adequately mitigate the loss of mature stands. The mitigated blue oak stand wildlife species list (specific to the Sierra Nevada foothills) was compared to a natural blue oak stand, averaging 10 inches dbh, with a 30 percent canopy cover. The natural stand was assumed to have small and medium size downed wood, snags, acorns and trees with cavities and was projected to have 102 vertebrate wildlife species. The number of vertebrate species projected to occur in a mitigated stand—after 50 years—was 73 species (1 amphibian, 40 bird, 19 mammal, and 13 reptile species). The results of this study underscore the fact that blue oak woodlands develop habitat conditions slowly, and that it may take in excess of 50 years to replace mature habitat that is lost in a particular project.

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

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

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

8-108

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

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

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

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

8-109

The Standiford Study¹¹ (NOTE: This study was relied upon for development of the County's IIG.)

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

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

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

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

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

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

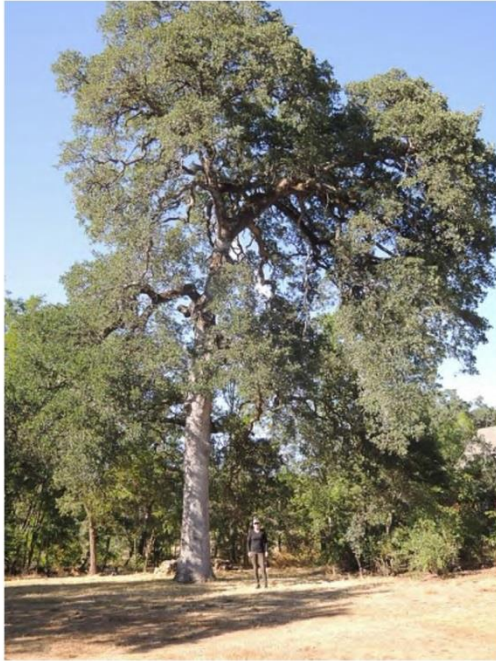
The following photographs serve to illustrate the growth rates for blue oak.
The blue oaks depicted below are **10-16 years old**.¹²



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

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

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



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

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



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



8-109
Cont.

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

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

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

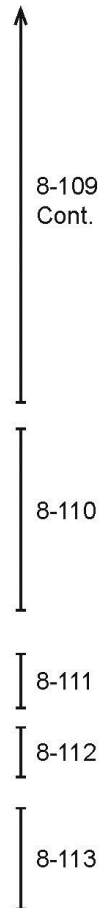
Growth Estimates for Black and Live Oak

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

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

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

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



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

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

¹⁶ McDonald, P.M. Undated. *California black oak (Quercus kelloggii)*. Available at: http://www.na.fs.fed.us/pubs/silvics_manual/volume_2/quercus/kelloggii.htm.

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

Requests for Clarification

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

8-114

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

8-115

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

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

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

Oak Planting, Conservation, etc.

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

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

8-116

Assembly Bill 1600

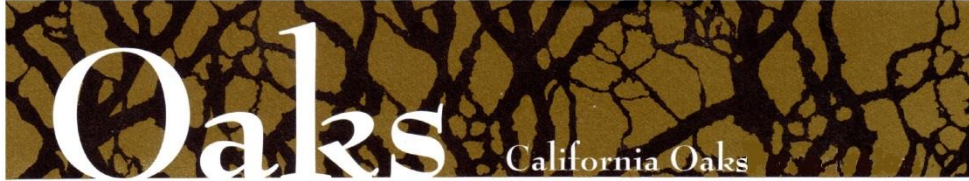
It is important **not** to limit the in-lieu fee evaluation to the criteria included in AB 1600. It is vital to remember that other funding “tools” that lack the narrow findings required under AB 1600 can be enacted to acquire the necessary amount of mitigation funds: Propositions 62 and 218, for instance,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

8-117

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

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

↑
8-117
Cont.



California Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460
board.public.comments@fire.ca.gov

California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812
dmallory@arb.ca.gov

June 29, 2015

Re: Oak Woodland Greenhouse Gas Emissions

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

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

The 2008 AB32 Scoping Plan recognized the significant contribution that terrestrial greenhouse gas storage will make in meeting the state's GHG emissions reduction goals: *"This plan also acknowledges the important role of terrestrial sequestration in our forests, rangelands, wetlands, and other land resources."* The Scoping Plan set a "no net loss" goal for forest land carbon sequestration and "stretch targets" of increasing forest land CO₂ storage by 2 million metric tonnes by 2020 and 5 MMT by 2050.



Blue oak firewood en route to Bay Area markets.

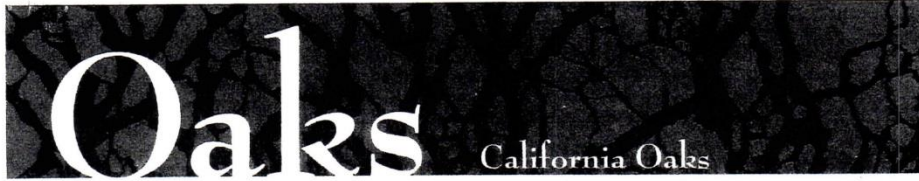
California Oaks would appreciate a cogent explanation of how the pictured blue oak firewood is consistent with the state's natural and working lands sector targets, given that unregulated/unmitigated oak tree cutting for "commercial purposes" results in: (1) the loss of carbon sequestration capacity;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

Sincerely,

Janet Cobb, Executive Officer

8-118

428 13th Street, 10th Floor, Suite A / Oakland, CA 94612 / 510-763-0282 / www.californiaoaks.org



Preserving and perpetuating California's oak woodlands and wildlife habitats

July 6, 2015

Community Development Agency
 Long Range Planning Division
 2850 Fairlane Court
 Placerville, CA 95667
shawna.purvines@edcgov.us

Re: Biological Policy Update Project

Shawna Purvines, Principal Planner:

California Oaks appreciates the opportunity to comment on the Biological Policy Update Project. Review of the project finds that it fails to consider California Environmental Quality Act (CEQA) greenhouse gas (GHG) emission requirements concerning the conversion of native forest resources to another land use. Specifically, the DEIR provides no analysis regarding potential forest conversion carbon dioxide (CO₂), methane (CH₄) and nitrous oxide (N₂O) emission effects or proportional mitigation measures. This DEIR omission is contrary to California forest GHG policy and law.

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

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

¹ The AB32 Scoping Plan set a "no net loss" goal for forest land carbon sequestration and "stretch targets" of increasing forest land CO₂ storage by 2 million metric tonnes by 2020 and 5 MMT by 2050. http://www.climatechange.ca.gov/forestry/documents/AB32_BOF_Report_1.5.pdf

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

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8-119

California Oaks

Page 2

Natural Resources Agency Response 66-7

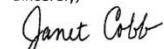
"As explained in the Initial Statement of Reasons, conversion of forest lands to non-forest uses may result in greenhouse gas emissions and reduce sequestration potential. (Initial Statement of Reasons, at pp. 63-64.)" See Exhibit A for a detailed CEQA discussion of forest conversion biogenic GHG emission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

When a native tree species is felled biomass carbon sequestration ceases. This immediate loss of biomass carbon sequestration capacity represents the direct forest conversion biogenic GHG emission effect. Upon disposal of the biomass carbon, the decomposition of biomass does in all cases result in indirect CO₂ and CH₄ emissions³ and the combustion of biomass does in all cases result in indirect CO₂, CH₄ and N₂O emissions.⁴ Thus, a CEQA oak woodlands GHG emission effects analysis requires carbon dioxide equivalent⁵ estimations for both the direct effect from loss of carbon sequestration and the indirect effect due to biogenic emissions associated with oak forest biomass disposal. Notably, burning biomass emits GHG instantaneously, while biomass decomposition takes years and even decades. See Exhibits B, C and D for biomass decomposition and combustion biogenic GHG emission citations.

Summary

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

Sincerely,


Janet Cobb, Executive Officer
attachments (4)

³ "Anaerobic digestion, chemical process in which organic matter is broken down by microorganisms in the absence of oxygen, which results in the generation of carbon dioxide (CO₂) and methane (CH₄) ... Sugars, starches, and cellulose produce approximately equal amounts of methane and carbon dioxide." Encyclopædia Britannica (2013). <http://www.britannica.com/EBchecked/topic/22310/anaerobic-digestion>

⁴ "... the combustion of biomass does in all cases result in net additions of CH₄ and N₂O to the atmosphere, and therefore emissions of these two greenhouse gases as a result of biomass combustion should be accounted for in emission inventories under Scope 1" (at p. 11). World Resources Institute/World Business Council for Sustainable Development (2005). http://www.ghgprotocol.org/files/ghgp/tools/Stationary_Combustion_Guidance_final.pdf

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

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8-119
Cont.

Letter 97

Kari Fisher
Associate Counsel
California Farm Bureau Federation

Tim Schmelzer
Legislative and Regulatory Representative
Wine Institute

November 10, 2009

Comment 97-1

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

Response 97-1

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

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



8-119
Cont.

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

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

Comment 97-2

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

Response 97-2

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

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



8-119
Cont.

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

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

Comment 97-3

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

Response 97-3

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



8-119
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Agency's more general authority to update the CEQA Guidelines every two years. (Public Resources Code, § 21083(f).)

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

Comment 97-4

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

Response 97-4

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

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

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



8-119
Cont.

Exhibit B

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

California Air Resources Board

"California is committed to reducing emissions of CO₂, which is the most abundant greenhouse gas and drives long-term climate change. However, short-lived climate pollutants [methane, etc.] have been shown to account for 30-40 percent of global warming experienced to date. Immediate and significant reduction of both CO₂ and short-lived climate pollutants is needed to stabilize global warming and avoid catastrophic climate change The atmospheric concentration of methane is growing as a result of human activities in the agricultural, waste treatment, and oil and gas sectors." *Reducing Short-Lived Climate Pollutants in California*, 2014.

UN Framework Convention on Climate, Deforestation Definition

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

Stanford University Engineering

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

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

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

European Geosciences Union

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

Phoenix Energy

"As wood starts to decompose it releases roughly equal amounts of methane (CH₄) and carbon dioxide (CO₂)." 2014. <http://www.phoenixenergy.net/powerplan/environment>

Macpherson Energy Corporation

"Rotting produces a mixture of up to 50 percent CH₄, while open burning produces 5 to 10 percent CH₄." 2014. <http://macphersonenergy.com/mt-poso-conversion.html>

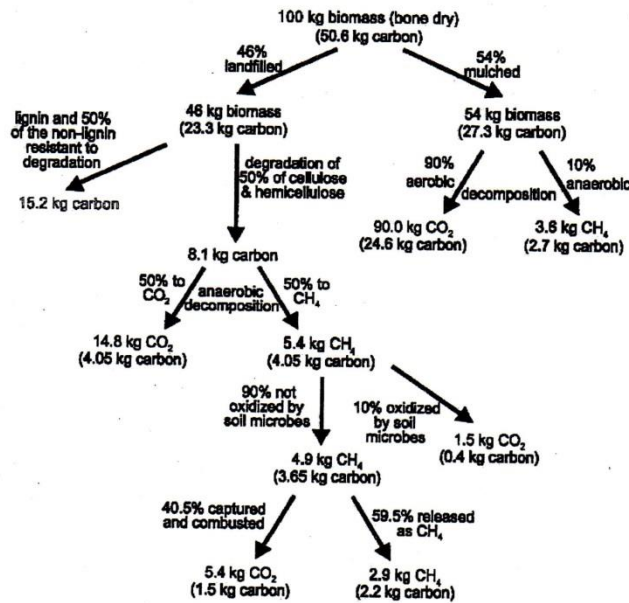
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Exhibit C

Biomass Decomposition Greenhouse Gas Emissions

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

- If 100 kilograms of bone dry biomass were dispersed to a controlled landfill (46%) and mulched (54%) greenhouse gas emissions would be: 111.7 kilograms of CO₂ emissions + 6.5 kilograms of CH₄ emissions = 274.2 kilograms CO₂-equivalent emissions.



Landfill: 46 kg biomass/23.3 kg CO = 21.7 kg CO₂ + 2.9 kg CH₄ = 94.2 kg CO₂-equivalent.
 Mulch: 54 kg biomass/27.3 kg CO = 90 kg CO₂ + 3.6 kg CH₄ = 180 kg CO₂-equivalent.
 Total: 100 kg biomass/50.6 kg CO = 111.7 kg CO₂ + 6.5 kg CH₄ = 274.2 kg CO₂-equivalent.

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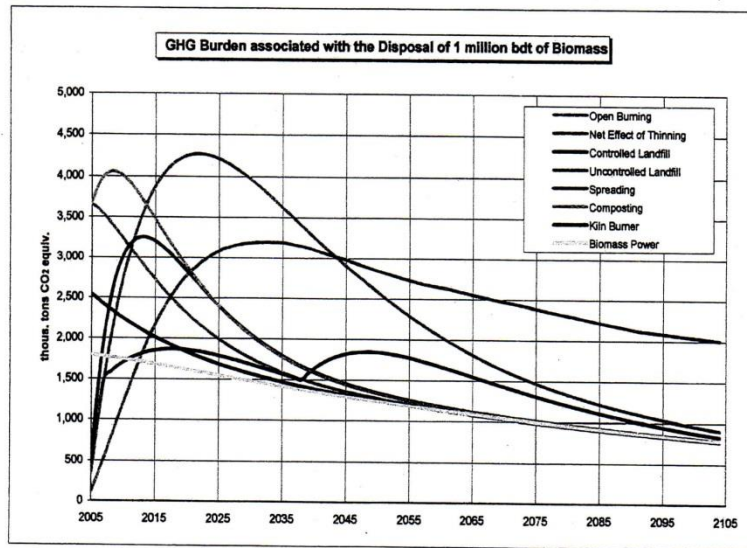
Exhibit D

Biomass Disposal Greenhouse Gas Emissions

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

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

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



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

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

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Cont.

Cheryl Langley
5010 Mother Lode Drive
Shingle Springs, CA 95682

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

December 23, 2015

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

Ms. Purvines:

Thank you for the opportunity to comment on the revised Biological Resources Policy Update (**BRPU**) and Oak Resources Management Plan (**ORMP**).

In addition to comments submitted for this revised NOP, I have included comments submitted for the initial NOP (resubmitted here), and comments provided to the Board of Supervisors (BOS) at the September 29, 2015 meeting. (Specifically, I include the latter set of comments to support/add to discussion within this document.)

Based on these previously submitted comments, and other materials, I have the following requests for information to be included in the draft Environmental Impact Report (dEIR) for the BRPU/ORMP.

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Retention of Option A

After reviewing the revisions to 2004 General Plan policies, the proposed ORMP, the BRPU, and Dudek memorandum (17A), it is clear that these policy revisions emphasize making oak mitigation the least onerous possible. This is good news for project applicants, but mitigation measures *must be effective*. The elimination of the Integrated Natural Resources Management Plan (INRMP), the disbanding of the Plant and Wildlife Technical Advisory Committee (PAWTAC), the elimination of Option A (oak retention standards), the reduction of tree sizes for mitigation plantings (from 15-gallon to acorns), the expansion of the number and kind of projects exempt from oak mitigation (including County road improvement projects) all signal a desire to make mitigation for the loss of oak woodland as “simple” and as affordable as possible, both for the County (which has struggled with oak mitigation projects), and for developers.

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But this asset—oak woodland—*is* worth protecting. And, retention of ***Option A requirements in no way impedes development***—but it ***does*** serve to make certain a project has been assessed to determine if there is a way ***the developer can meet project objectives while at the same time retain the maximum number of oaks possible on-site***. If it is *demonstrated* a projected cannot meet fruition *and* Option A oak retention standards, Option B “kicks in,” and other on- or off-site options for oak mitigation become available. **Why is this process—project evaluation as it relates to oak retention—deemed obstructive or impractical?** Aren’t our oak resources worth a serious project evaluation?

Members of the public have *continually* requested Option A retention standards be retained, and requested an equal-weight (co-equal) project alternatives analysis. Such an analysis would provide the BOS with the information necessary to make an informed decision and possibly approve a project alternative that could effectively reduce or avoid significant impact to oak resources. Without such an analysis, it is doubtful this project alternative will be evaluated to the extent necessary to make such a

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determination. And, importantly, the BOS—in their July 22, 2015 meeting—*agreed* it was important to evaluate oak retention standards. But without an equal-weight analysis, a meaningful project alternative will not be prepared. Thus—by default—retention of Option A has been roundly rejected before a complete analysis has been conducted. In effect, **it has been predetermined that the County is “not going there.” This is contrary to the purpose and spirit of California Environmental Quality Act (CEQA) analysis.** And it sends message to the public that “*your participation in the process is not welcome here.*”

This is disturbing, and perhaps more so because the resource at stake cannot be easily replaced. And, while BOS members are charged with making decisions that will impact this resource, at least some are not conversant in biological principles, and Dudek does not correct misconceptions when BOS members make statements that lay bare their lack of understanding. While it may at times prove uncomfortable to correct a BOS member during public discussions, the consultant is there to provide expertise. When they do not, this is a failure of their responsibility to the BOS, and to the public, and serves to undermine their own credibility. And most importantly, it is a disservice to the resource being impacted.

The result? BOS members vote—make important decisions with long-term implications—without understanding basic biological or legal principles, or the seriousness and longevity of their decisions. And, while it is not the responsibility of the *public* to educate the BOS, that is where the task has come to rest—in the three minutes granted to any given individual—during meeting opportunities that County staff has purposefully limited to meetings during the workweek days/hours that fundamentally **limit public participation** in this **expedited** process:

NOTE: “In recognition of the Board’s desire to expedite completion of this process, this approach would potentially limit public input to focused Planning Commission and Board meetings. The TGPA/ZOU process has used this approach to receive public comment rather than the public outreach program currently identified for input on revisions to the policies.”

(Source: Document 7B under Meeting Details, PROCESS APPROACHES FOR THE OAK WOODLAND MANAGEMENT PLAN.)

This expedited process—based on a request by development interests for an “interim policy”—was no more than suggested than taken up by Long Range Planning’s Ms. Purvine who said—at the same meeting at which the request was launched—“I’d actually like to look into that a little bit further and bring back a discussion on that.”¹ That initiated a cascade of activity that evolved into an expedited BRPU and ORMP. But repeated requests by members of the public to evaluate the retention of Option A have fallen on deaf ears.

Retention of Option A was vilified by suggesting it would impose constraints on economic development, and may even constitute “property taking” by rendering some properties undevelopable.² But no such results could come to pass with implementation of Option B, whose development is clearly one of the primary thrusts of this ORMP. In this instance, Option A would simply provide a “first screening” of projects; it would not be the “last word” on project development or on a project’s ultimate impact on oak woodlands. But retention of Option A *could* serve to protect woodlands when a project *could* meet fruition while accommodating resident oaks.

¹ Source of Quote: Planning Commission meeting of Aug 15, 2014; TGPA/ZOU meeting RE: Biological Resources.

² Dudek. 2015. Memorandum from Kathy Spence-Wells to Shawna Purvines, September 18, 2015; 17A, page 8.



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Cont.

Request for Information

- I request a co-equal analysis of a project alternative based on retaining Option A (oak retention standards).
- In the past, Option A was considered restrictive to development interests largely because Option B *was not available*. With the availability of Option B (contingent upon approval of this ORMP), explain why Option A is not being evaluated in a co-equal analysis, especially in light of CEQA guidelines that state EIRs must describe alternatives "...which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project..."(14 CCR 1526.6[a]). (In fact, there is probably no other alternative—other than the **No Project** alternative—that could reduce the project’s significant impacts more than this alternative; it is a viable project alternative that deserves co-equal analysis.)

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Cont.

Oak Regeneration as a Mitigation Element

Because this notion of oak regeneration as a viable/plausible mitigation element seems to be persisting, it is necessary to expand on this topic.

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First of all—this is not mitigation. Saying something will simply replace itself post-loss contradicts the meaning/purpose of mitigation. To identify *non-action* in this instance as mitigation defies logic, and it also defies scientific study on the topic. It is simply not credible. Even if this approach were *legally* defensible, **it is not supported by fact**.

I have cited numerous studies that discuss blue oak (*Quercus douglasii*) regeneration as inadequate to support the long-term survival of this woodland species in numerous areas of California (see discussion/citations in comments on the initial NOP, and in the September 29, 2015 comments to the BOS; reference materials are included for both documents [on disk] with this submitted material). These documents contain citations that describe the problems with blue oak regeneration (the species that will be most impacted [and replanted] as a result of development projects in EDC).

I add to this discussion on oak regeneration here. In a study by Swiecki, et al.,³ an in-depth evaluation was undertaken to assess the status of blue oak regeneration and determine how environmental and management factors influence blue oak sapling recruitment. This study was conducted in the counties listed in the table below on study sites of at least 150 acres in size dominated by blue oak

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County	Regeneration Adequate to Maintain Blue Oak Woodland?		Comments
	Yes	No	
Napa		X	This study site had the highest number of blue oak saplings but there were fewer plots with an increase in blue oak density than a decrease in density; there were few small seedlings.
Glenn		X	No blue oak saplings were present anywhere in the entire study site

³ Swiecki, et al. 1993. *Factors Affecting Blue Oak Sapling Recruitment and Regeneration*. Prepared for: Strategic Planning Program, California Department of Forestry and Fire Protection. Contract 8CA17358, December 1993.

San Benito	X		The blue oak stand at this site appears to be viable; regeneration appears to be moderate—more plots showed an increase in blue oak density than a decrease
Yuba	X		More plots showed an increase in blue oak density than a decrease; about a quarter of the saplings originated as stump sprouts in an area where blue oaks were cut in 1989; 7 % of the sprout-oriented saplings were dead; mortality was higher among seedling-origin saplings (mesic site)
Mendocino		X	No blue oak saplings were present anywhere in the entire study area; a few seedlings were observed
Tulare		X	Recruitment was sparse; current levels of recruitment are insufficient to support offset mortality
Tehama		X	Blue oak saplings were uncommon, as were seedlings; sapling recruitment was inadequate to maintain current stand densities
Amador		X	Blue oak saplings and seedlings were uncommon; very little regeneration has occurred since the Gold Rush; current recruitment is insufficient to maintain stand; conversion to grassland appears inevitable
San Luis Obispo		X	Recruitment is insufficient to offset mortality
Monterey		X	Recruitment is insufficient to offset mortality
Madera		X	No blue oak saplings were seen in the study area; a few small seedlings were seen; there was no regeneration of woody species in the study area
Santa Clara		X	No blue oak saplings were seen in the study area but some seedlings were seen; this stand had the highest mortality of those studied
Contra Costa		X	Recruitment lags far behind mortality at this study site
Tulare		X	Mortality was far in excess of sapling recruitment

8-123
Cont.

Tuolumne	Variable, but ultimately described as a site with more plots with “net loss” than “net gain”	Stump sprout-origin saplings outnumbered those of seedling origin (sprouts from previous tree removal) at this site (75% of saplings were of sprout origin); virtually the entire stand appeared to be second growth; a few seedlings were seen, particularly along creeks; although regeneration had apparently been successful in some portions of the site, blue oak had been eliminated from some large areas and no recolonization of these large clearings has occurred
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Cont.

Swiecki study conclusions include:

- *“...it appears that most locations are losing blue oak density at the stand level due to unreplaced mortality.”*
- *“These observations support the assertion that current recruitment is inadequate to maintain existing tree populations in at least some areas.”*
- *“...the conversion of blue oak woodland to grassland is not likely to be easily reversed.”*
- *“...the extent of blue oak woodlands will continue to decrease due to unreplaced mortality...”*
- *“Because our study locations are distributed throughout the range of blue oak, we are confident that the trends we observed can be generalized over much of the range of blue oak.”*
- *“In many stands, sapling blue oaks are absent or rare.”*
- *“In most stands, the percentage of the stand area which is likely to show a decrease in blue oak density and canopy cover is greater than the percentage that may show an increase in density and canopy cover.”*

Blue Oak Regeneration in EDC

During the various meetings and workshops on the BRPU/ORMP, some individuals have brought up the issue of oak regeneration—presumably in “defense” of oak removal—and have stated—anecdotally—that there are more trees in EDC now than in the past. There have also been figures brought up (undocumented) to “substantiate” gains in EDC oak woodland.

The most current study I was able to find to quantify blue oak woodlands in EDC was presented in the report *“Monitoring Land Cover Changes in California.”*⁴ (NOTE: The northeastern California project area covers Amador, Butte, **El Dorado**, Lassen, Modoc, Nevada, Placer, Plumas, Sierra, Sutter, Yolo and Yuba counties.)

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⁴ USDA Forest Service & California Department of Forestry and Fire Protection Fire and Resource Assessment Program. 2002. *Monitoring Land Cover Changes in California; California Land Cover Mapping and Monitoring Program. Northeastern California Project Area, January, 2002.*

Report findings are as follows:

For **blue oak woodland** (all owners):

- 509 acres with small, moderate, large woodland decrease (1.55% decrease)
- 194 acres with small, moderate, large woodland increase (0.59% increase)
- 32,878 acres total
- Net decrease of 315 acres or 0.96%**

For **blue oak/foothill pine woodland** (all owners):

- 119 acres with small, moderate, large woodland decrease (0.66% decrease)
- 95 acres with small, moderate, large woodland increase (0.53% increase)
- 17,995 acres total
- Net decrease of 24 acres or 0.13%**

TOTAL for **blue oak** and **blue oak/foothill pine woodlands** combined: **0.67% decrease**
1.09% decrease

Table C-14 Acres of Classified Change in El Dorado County by Hardwood Cover Type and Owner Class

	National Forest		Other Public		Private		All Owners	
	Acres	%	Acres	%	Acres	%	Acres	%
Blue Oak Woodland								
LDVC	0	0	0	0	17	0	17	0
MDVC	0	0	4	0	82	0	86	0
SDVC	5	6	11	1	390	1	406	1
NCH	71	93	1,576	97	30,386	97	32,033	97
SIVC	0	1	15	1	155	0	170	1
MIVC	0	0	0	0	22	0	22	0
LIVC	0	0	0	0	2	0	2	0
NVG	0	0	23	1	119	0	142	0
CLD/SHA	0	0	0	0	0	0	0	0
TOTAL	77	100	1,628	100	31,173	100	32,878	100
Blue Oak / Foothill Pine								
LDVC	0	0	0	0	3	0	3	0
MDVC	0	0	1	0	23	0	24	0
SDVC	0	4	3	0	89	1	92	1
NCH	4	82	1,097	99	16,637	99	17,738	99
SIVC	1	14	4	0	76	0	81	0
MIVC	0	0	0	0	14	0	14	0
LIVC	0	0	0	0	0	0	0	0
NVG	0	0	9	1	34	0	43	0
CLD/SHA	0	0	0	0	0	0	0	0
TOTAL	5	100	1,113	100	16,877	100	17,995	100

LDVC – large decrease in vegetation cover; MDVC – moderate decrease in vegetation cover; SDVC – small decrease in vegetation cover; NCH – little to no change in vegetation cover; SIVC – small increase in vegetation cover; MIVC – moderate increase in vegetation cover; LIVC – large increase in vegetation cover; NVG – non-vegetation change; CLD/SHA – cloud or shadow
Refer to Appendix D for WHR type descriptions.

Source: USDA Forest Service & California Department of Forestry and Fire Protection, *Monitoring Land Cover Changes in California; California Land Cover Mapping and Monitoring Program.*

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Cont.

McCreary⁵ also weights in on this topic of regeneration.

For nearly a century, there has been concern that several of California's 20 native oak species are not regenerating adequately (Jepson 1910). Such concern was partially responsible for the establishment of the Integrated Hardwood Range Management Program (IHRMP) in 1986, a cooperative effort between the University of California, the California Department of Forestry and Fire Protection, and the California Department of Fish and Game to promote oak woodland conservation (Standford and Bartolome 1997). Evidence indicating that there is an "oak regeneration problem" in California has been based largely on observations of a paucity of young seedlings and saplings in the understories of existing oak stands. Describing the foothill woodland in the Carmel Valley, White (1966) stated that "A prevailing characteristic . . . is the lack of reproduction . . . with very few seedlings." Bartolome and others (1987) also concluded that "current establishment appears insufficient to maintain current stand structure for some sites." And Swiecki and Bernhardt (1998) reported that of 15 blue oak locations evaluated throughout the State, 13 were losing stand density at the stand level due to unreplaced mortality.

The species that are having the most difficulty regenerating are all members of the white oak sub-genera of *Quercus*, and include blue oak (*Quercus douglasii*), valley oak (*Q. lobata*), and Engelmann oak (*Q. engelmannii*) (Muick and Bartolome 1987; Bolsinger 1988). Blue and valley oak are endemic to the State, while Engelmann oak, which actually has a far narrower distribution range than the other 2 species, does extend into Baja California (Griffin and Critchfield 1972). Concern about poor

Request for Information:

- Please include in the NOP a discussion of why oak regeneration is being evaluated as a possible "mitigation" element. Discuss what is to be accomplished by this approach—if accepted—and who will benefit. Discuss the impact on oak woodland mitigation if this approach is implemented.
- Describe the science that *supports* the notion that relying on oak regeneration is a plausible approach to impact mitigation. Also provide scientific studies that *refute* this approach to impact mitigation.
- Identify other California counties that have used—or entertained the idea of using—oak regeneration to "offset development impacts to oak woodlands." If other counties have used this approach, identify those counties and present their rationale for using this approach, and if this approach was actually pursued, the outcome of that decision (impact on oak resources).
- Describe what makes this approach viable under CEQA mitigation guidelines.
- Keeping in mind that blue oak is the species that will be most impacted by development projects—and that it is the species that will make up the bulk of mitigation efforts—discuss how its declining ability to regenerate can possibly be used as a mitigation element.
- From a workshop PowerPoint presentation (Document 5D), mitigation is identified as "strategies to reduce impacts." "Reducing impacts" implies an active process. How does relying on a *natural process* (especially one in decline), meet this criterion?

8-124
Cont.

Use of Acorns for Oak Woodland Replacement

The poor natural regeneration of blue oak woodlands means the viability of acorn plantings, too, will be problematic, making replacement of woodlands via the planting of acorns a fragile, ineffective strategy. According to A Planner's Guide to Oak Woodlands:⁶

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

8-125

⁵ McCreary, D. and J. Tecklin. 2005. *Restoring Native California Oaks on Grazed Rangelands*. USDA Forest Service Proceedings RMRS-P-35.

⁶ Giusti, G.A. et al (editors). 2005. *A planner's guide for oak woodlands*. University of California, Agriculture and Natural Resources, Publication 3491, second edition.

Thus, while it may be tempting to think planting acorns will provide a low-cost alternative to container-planting, acorns are prone to failure and could ultimately cost project developers *more* than container-planting. The excessive replacement of dying seedlings, the necessity for irrigation, weed and rodent control, and tree shelter or fencing placement (and replacement) means in-field acorn propagation will be costly and burdensome.

Studies have shown that mortality from direct seeding of acorns is high. According to Young,⁷ “Approximately 40% of the field-planted acorns disappeared in the first two months after planting, probably taken by ground squirrels or other seed predators.” And, according to Swiecke:⁸

A blue oak seedling observation plot was established just outside the study area in 1988 (Swiecki et al 1990), but was destroyed by ground squirrels before permanent markers could be installed. A second seedling plot located about 3 km south of the study area was resurveyed in July 1993, at which time only 6.5% of the seedlings tagged five years earlier were still surviving.

Not only is acorn planting fraught with difficulties and failure, the results—even under the best of circumstances—will be dismal. Blue oaks are slow growers. Harvey⁹ showed that many of the blue oak saplings less than four feet tall were between 40 and 100 years old. (NOTE: Both sets of comments submitted previously [August 17, 2015; September 29, 2015] include a discussion of blue oak growth rates and additional studies/citations, which see.)

Request for Information

- If acorn planting is to be pursued as a mitigation element under this ORMP, provide specific details/requirements for planting that include specific site treatment, monitoring, replacement schedules, equipment, and measures that will be employed to ensure success.
- Describe (and establish) a **performance standard** for acorn *and* sapling (container) plantings. That is, commit to a canopy coverage standard to be attained within X number of years (say 5 years, for example).

8-125
Cont.

⁷ Young, T.P. and R.Y. Evans. 2002. *Initial Mortality and Root and Shoot Growth of Oak Seedlings Planted as Seeds and as Container Stock Under Different Irrigation Regimes*. Department of Environmental Horticulture, University of California, Davis; Final Report.

⁸ Swiecki, et al. 1993. *Factors Affecting Blue Oak Sapling Recruitment and Regeneration*. Prepared for: Strategic Planning Program, California Department of Forestry and Fire Protection. Contract 8CA17358, December 1993.

⁹ L.E Harvey. 1989. *Spatial and Temporal Dynamics of a Blue Oak Woodland*. Ph.D. Thesis, University of California, Santa Barbara.

Cattle Grazing on Conservation Easements

From the draft revised ORMP, November, 2015; Page 24:

4.2 Management of PCAs

Existing oak woodlands within the PCAs identified as mitigation for project impacts, whether on or off a project site, will be protected from further development through a conservation easement granted to the County or a land conservation group approved by the County or by acquisition in fee title by a land conservation group. Management activities would be conducted by land conservation organizations and may include, but are not limited to, one or more of the following activities, as determined appropriate and/or necessary through monitoring of the sites: inspections, biological surveys, fuels treatment to reduce risk of wildfire and to improve habitat, weed control, database management, and mapping. Agricultural use (i.e., grazing) shall be allowed in conserved oak woodlands as long as the activity occurred prior to the establishment of the conservation easement, the spatial extent of the agricultural use is not expanded on conserved lands, and the agricultural use does not involve active tree harvest or removal (e.g., fuelwood operations, land clearing for crop planting, etc.).

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Livestock grazing can have serious implications for oak woodlands and wildlife. For instance, research conducted by Swiecki¹⁰ shows:

- Oak saplings are unlikely to be found in areas with high chronic levels of livestock browsing.
- In areas subject to at least moderate browsing, the majority of oaks are shorter than the browse line and show evidence of chronic browsing damage.
- Seedlings and saplings were more common in ungrazed natural areas than in grazed pastures.

To this end, Swiecki suggests:

- Alternative grazing regimes that reduce the duration and intensity of browsing pressure may help to reduce the negative impact of browsing on oak resources.
- In any gap-creating event (such as oak harvest or wildfire), livestock use should be minimized until oaks have grown taller than the browse line.

And McCreary¹¹ weighs in on this issue, too:

¹⁰ Swiecki, et al. 1993. *Factors Affecting Blue Oak Sapling Recruitment and Regeneration*. Prepared for: Strategic Planning Program, California Department of Forestry and Fire Protection. Contract 8CA17358, December 1993.

¹¹ McCreary, D. and J. Tecklin. 2005. *Restoring Native California Oaks on Grazed Rangelands*. USDA Forest Service Proceedings RMRS-P-35.

Timing of Grazing Study

In 1989, a UC Davis graduate student named Lillian Hall initiated an experiment at the SFREC to evaluate how planted oak seedlings fare in pastures where cattle have access (Hall and others 1992). She planted 1-year-old blue oak seedlings in pastures grazed by cattle at different stock intensities, and included a control where cattle were excluded. She found that damage to seedlings was significantly less in the winter and fall when the deciduous oaks did not have foliage and were apparently less appetizing to the cattle. Cattle did not seem to seek out or prefer young oaks. However, in the spring green-forage season, they appeared drawn to clover patches near seedlings and browsed the oaks in the process. Heavy damage to seedlings in the summer at all cattle densities probably resulted from the fact that the young oaks were often the only green vegetation in the grazed pastures, and were therefore more palatable than the dry annual grasses. Within each season, total damage also increased with increasing stock density.

While some researchers suggest livestock management techniques can *lessen* the impact of grazing in oak woodlands, it is clear that **the best approach is to not graze these areas** unless absolutely necessary. For instance—speaking in terms of “real world” observation—while only spring grazing is done on the property north of Highway 50 by the Scott Road exit (in Sacramento County), it is clear that the blue oak woodland on these pastures is in decline; oak regeneration is largely absent.

Conservation easements should be managed for wildlife and woodlands—that is the purpose of a conservation easement. But if grazing is allowed on conservation easements, management (protection) of young oak trees must be actively performed. These protective practices may make cattle grazing on protected lands impractical/costly.

Request for Information

- Describe the grazing regime (management practices) that will/will not be allowed on conservation lands. For instance, will grazing be restricted to certain times of the year?
- Discuss/disclose the following: if the livestock owner is also the land owner, will this person receive a property tax reduction for the land being established as a conservation easement? Or, will they be charged a fee for use of a conservation easement for grazing purposes? And, if a fee is charged, will it go into a fund to be utilized for conservation easement acquisition?
- Similarly, discuss the situation described in the bullet above in the case where the livestock owner is *not* the landowner. Will “land rental fees” be levied, and if so how much, and how will the fees be used?

Discuss the following:

- How might the presence of grazing livestock on conservation easements impact wildlife and wildlife habitat?
- How might the presence of grazing livestock impact the oak woodland (specifically survival of young oaks)?
- How might the presence of grazing livestock impact water features, and the wildlife/ecology of those water features (e.g., vernal pools, seasonal creeks, drainages, ponds, etc.)

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Cont.

- If grazing is to be allowed on conservation easements, provide examples of EDC properties where grazing has occurred and oak regeneration is “active” (successful). Identify the amount of time grazing has occurred on the property (both in terms of years grazed and duration of grazing per season), the size and makeup of grazing herds (cattle, sheep, other), and the age classes and species of the oaks present.

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Cont.

Impact to Riparian Zones / Riparian Setbacks

While Long Range Planning staff touted the establishment of permanent riparian setback under the Targeted General Plan Amendment/Zoning Ordinance Update (TGPA/ZOU), it was not made clear that these setbacks were being reduced under the TGPA/ZOU. The BRPU had established the following interim guidelines:

From the BRPU, page 13D, page 10:

Until standards for buffers and special setbacks are established in the Zoning Ordinance, the County shall apply a minimum setback of 100 feet from all perennial streams, rivers, lakes, and 50 feet from intermittent streams and wetlands. These interim standards may be modified in a particular instance if more detailed information relating to slope, soil stability, vegetation, habitat, or other site- or project-specific conditions supplied as part of the review for a specific project demonstrates that a different setback is necessary or would be sufficient to protect the particular riparian area at issue.

The TGPA/ZOU reduced these interim guidelines to the following:

Title 130, Zoning Ordinance; Article 3, page 11:

Ministerial development, including single family dwellings and accessory structures, shall be set back a distance of 25 feet from any intermittent stream, wetland or sensitive riparian habitat, or a distance of 50 feet from any perennial lake, river or stream. This standardized setback may be reduced, or grading within the setback may be allowed, if a biological resource evaluation is prepared which indicates that a reduced setback would be sufficient to protect the resources.

All discretionary development which has the potential to impact wetlands or sensitive riparian habitat shall require a biological resource evaluation to establish the area of avoidance and any buffers or setbacks required to reduce the impacts to a less than significant level. Where all impacts are not reasonably avoided, the biological resource evaluation shall identify mitigation measures that may be employed to reduce the significant effects. These mitigation measures may include the requirement for compliance with the mitigation requirements of a state or federal permit, if required for the proposed development activity.

Any setback or buffer required by this subsection shall be measured from the ordinary high water mark of a river, perennial or intermittent stream, and the ordinary high water mark or spillway elevation of a lake or reservoir.

8-127

Because mitigation elements related to biological resources are the topic of this BRPU update, it is only reasonable that riparian setbacks should be evaluated, discussed, and developed under this BRPU process, not under the TGPA/ZOU process alone.

From the BRPU, 13C, page 35:

MEASURE CO-O

Prepare and adopt a riparian setback ordinance. The ordinance, which shall be incorporated into the Zoning Code, should address mitigation standards, including permanent protection mechanisms for protected areas, and exceptions to the setback requirements. The ordinance shall be applied to riparian areas associated with any surface water feature (i.e., rivers, streams, lakes, ponds, and wetlands) and should be prepared in coordination with Measure CO-B. [Policy 7.4.2.5]

When riparian setbacks were established under the TGPA/ZOU, it was clear that there was no scientific basis for setback size, and therefore no valid analysis of the impact of the reduction. This change in riparian setback distances needs to be evaluated within this dEIR (along with other numerous impacts to biological resources that are the result of TGPA/ZOU-based revisions.) Importantly—based on the importance of riparian systems—and the significant impact of the setback revision—setback revisions and/or additional mitigation measures are in order, and could be developed under this BRPU process.

For instance, it has been established that development and encroachment setbacks should include the entire active floodplain¹² of a creek or river to adequately preserve stream banks and associated riparian vegetation. And, while there is no single, abrupt, well-documented threshold setback width that would provide maximum benefits for all riparian functions (because riparian functions have different mechanistic bases and are affected by different site attributes), it is well known that most riparian functions would be affected if setbacks included a buffer of less than 66 feet beyond the active floodplain.¹³ Consequently, narrower widths are not adequate for long-term conservation of riparian functions. (This conclusion is based on a review of the scientific literature.) A recent study of riparian buffers states that for first and second order stream segments¹⁴ a minimum riparian setback that includes the entire active floodplain plus a buffer of 98 feet of adjacent land (on each side of the active floodplain) is required; along higher order stream segments (i.e., third order and greater), and along those in or adjacent to conservation lands, a setback of at least 328 feet—and preferably 656 feet from the active floodplain is necessary to conserve stream and riparian ecosystem functions, including most wildlife habitat functions. Although these setbacks may seem large, even these setback distances would not be sufficient for the conservation of many wildlife species with large area requirements. (For instance, some species that live in riparian areas must move to other areas to reproduce, as is the case with pond turtles.)

8-127
Cont.

¹² Active floodplain means the geomorphic surface adjacent to the stream channel that is typically inundated on a regular basis (i.e., a recurrence interval of about 2-10 years or less). It is the most extensive low depositional surface, typically covered with fine over-bank deposits, although gravel bar deposits may occur along some streams.

¹³ Jones & Stokes. *Setback recommendations to conserve riparian areas and streams in western Placer County*. 2005. February, 2005.

¹⁴ First order stream segments are upstream segments that have no tributaries, and second order segments are formed by the junction of first order segments.

The problem is simple: land uses (including agricultural uses) within recommended buffer setbacks preclude the effectiveness of setbacks.¹⁵ Conversion of large portions of a watershed to developed and agricultural land uses is associated with broad negative effects on riparian and stream ecosystems (Findlay and Houlihan 1996, Roth et al 1996, Booth and Jackson 1997, Magee et al. 1999, Doyle et al. 2000, Paul and Meyer 2001, Allan 2004, Hatt et al. 2004, Pellet et al. 2004, Wissmar et al 2004, and Jones & Stokes 2005).¹⁶

What Some Relevant Science “Says” About Stream/Riparian Setbacks

The following information was taken from Jones & Stokes, 2005.¹⁷

- Development and encroachment setbacks should include the entire *active floodplain* of a creek or river to adequately preserve stream banks and associated riparian vegetation. Because active floodplain boundaries are more stable and measurable than stream banks or the boundaries of riparian vegetation (that are dynamic and change with time), the boundary of the active floodplain—which can be readily delineated—is a preferable basis for determining setback widths rather than edges of stream banks, stream centerlines (or thalwegs), or any boundaries based exclusively on channel widths or vegetation.
- There is no single, abrupt, well-documented threshold width setback that would provide maximum benefits for all riparian functions. Rather, because riparian functions have different mechanistic bases, they are affected by different site attributes, and the relationship between setback widths and reduction of human effects differs among riparian functions. Nevertheless, several defensible arguments can be constructed regarding the appropriate width for a buffer to include within riparian setbacks. First, most riparian functions would be affected if setbacks included a buffer of less than 20 m (66 feet) beyond the active floodplain; consequently, narrower widths are not adequate for long-term conservation of riparian functions. This conclusion is based largely on a review of the scientific literature. In addition, stream incision and a discontinuous cover of woody plants reduces the benefits of narrow buffers. This variability in vegetation extent and structure reduces the effectiveness of narrow setbacks.

Recommendations for riparian setbacks are presented below:

- Apply to first and second order stream segments a minimum riparian setback that includes the entire active floodplain plus a buffer of 30 m (98 feet) of adjacent land (on each side of the active floodplain), or the distance to the nearest ridgeline or watershed boundary, whichever is less. (First order stream segments are upstream segments that have no tributaries, and second order segments are formed by the junction of first order segments.) Though the purpose of this setback would be to conserve stream and riparian functions; it would not be sufficient for the conservation of many wildlife species with large area requirements.
- Along higher order stream segments (i.e., third order and greater), and along lower order segments at selected sites (e.g., those in or adjacent to conservation lands), apply a setback of at least 100 m (328 ft), and preferably 150 m (656 ft), from the active floodplain for the purpose of conserving and enhancing stream and riparian ecosystem functions including most wildlife habitat functions. Along these larger stream segments, floodplains and riparian areas are more extensive, continuous, and structurally diverse than for lower order stream segments (e.g., first

¹⁵ Jones & Stokes. *Setback Recommendations to Conserve Riparian Areas and Streams in Western Placer County*. 2005. February, 2005.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

and second order). These areas constitute corridors connecting a watershed's lower order stream segments, and, at a watershed scale, the riparian areas of these higher order segments contain particularly important habitats for most riparian-associated species.

- The conservation of wildlife habitat functions within these areas may be necessary for the persistence of their populations. For this reason, a wider setback, sufficient for the retention of wildlife habitat functions, is recommended along stream segments. Recommendations would result in a total setback width ranging from slightly more than 30 m (98 feet) on most first- and second order stream segments to over 150-200 m (492-656 feet) on higher-order streams.
- By basing these recommendations, in part, on the width of active floodplains, a variable, site-specific setback width that accounts for stream size is created. The width of the active floodplain provides a clear, functional basis for a variable width criterion that accomplishes the same purpose more directly than criteria based on stream order, slope, and other attributes of streams and their settings.

Riparian woodland restoration and enhancement measures should include:

- Where feasible, contiguous areas larger than 5 ha (12 ac) should be maintained, enhanced and linked to provide habitat refuge areas for sensitive species. These areas should be connected by riparian corridors more than 30 m (98 feet) wide on both sides of the channel wherever possible, in order to provide movement and dispersal corridors for wildlife.
- The preservation, restoration and linkage of large parcels of undeveloped and uncultivated lands adjacent to riparian areas will provide significant benefits to riparian species. Thus, large contiguous areas of riparian vegetation surrounded by "natural" uplands should be conserved to the greatest extent possible.
- Potential effects of adjacent land uses on riparian areas should be thoroughly evaluated during regional land use planning, and during the environmental review and permitting processes for specific projects, and these effects should be avoided to the maximum extent practicable.
- Re-creation of regular disturbance events (e.g., high water) on the floodplain will enhance vegetation and breeding bird populations in most systems (Riparian Habitat Joint Venture 2004).
- Within setbacks, most developed land uses would be incompatible with the conservation of stream and riparian functions. Developed land uses should be restricted to unavoidable crossings by roads and other infrastructure, because any structures or alterations of topography, vegetation or the soil surface are likely to affect both stream and riparian functions, and could result in substantial effects both on-site and downstream.
- For the purpose of long-term conservation of plant habitat functions, riparian setbacks should include the entire active floodplain, regardless of the current extent of riparian vegetation on that surface. The distribution of riparian vegetation is not static within the active floodplain, and the diversity of vegetative structure and species composition is strongly related to the hydrologic and geomorphic processes within the active floodplain. Therefore, conversion of any portion of the active floodplain to developed or agricultural land-cover types would affect hydrologic and geomorphic functions and affect plant habitat functions.
- Riparian-associated wildlife species differ in the specific habitat attributes they require in riparian systems. Consequently, structurally diverse vegetation, as well as the full range of naturally occurring physical conditions and disturbance regimes, are necessary to provide suitable riparian habitat for the entire community of associated wildlife species. Many riparian-

8-127
Cont.

associated wildlife species use, and often require, both riparian and adjacent upland habitats for reproduction, cover, and/or foraging.

Recommendations for riparian setbacks by agricultural operations are presented below:

- Along first- and perhaps second-order streams, mitigation for adjacent agricultural uses would include filter strips and riparian buffers managed according to standards established by the National Resources Conservation Service. Such practices would improve the buffers' effectiveness for conserving some functions. Along first- and perhaps second-order streams, compatible developed land uses could include open space and low-density residential development, provided no impervious surfaces, infrastructure, or irrigation are placed within the setback.

Request for Information

- Please provide the scientific basis upon which riparian/stream setbacks were developed (such as peer-reviewed research documents, studies from universities, reports from State agencies with expertise in riparian/stream protection).
- Discuss why the riparian setback for a ministerial project is different from a discretionary project, given a hypothetically equivalent environment in each case.
- Discuss the criteria used to determine both the impacts/mitigations for discretionary development projects and the setback size(s) for discretionary projects.
- Include in the dEIR a discussion detailing whether the individual performing the Biological Resource Assessment will be required to consult with agencies with expertise in the field of riparian/stream protection, wildlife protection, etc., and include information from such consultations in the report.
- Discuss who will conduct the monitoring and reporting requirements for ministerial and discretionary projects. (If they will be conducted, who will conduct them, and the qualifications of individuals conducting the monitoring.)
- Describe any penalties or corrective actions that will be required for violations to prescriptive mitigations, and the criteria upon which these actions will be based.
- Identify actions that will be taken to revise ordinances and policies if mitigation measures established in the zoning ordinance are found not to be effective.
- Discuss the impact of livestock on riparian areas and identify the mitigation measures designed to reduce these impacts. If Best Management Practices (BMP) are employed, identify where those BMPs are documented, and discuss their efficacy in terms of mitigating impacts.
- It has been stated that developed land uses (including agricultural uses) within recommended buffer setbacks preclude the effectiveness of setbacks.¹⁸ Discuss why this is/or is not the case.
- It is also widely believed that conversion of large portions of a watershed or region to developed and agricultural land uses is associated with broad negative effects on riparian and stream ecosystems.¹⁹ Discuss why this is/is not the case.

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¹⁸ Jones & Stokes. *Setback Recommendations to Conserve Riparian Areas and Streams in Western Placer County*. 2005. February, 2005.

¹⁹ Findlay and Houlihan 1996, Roth et al 1996, Booth and Jackson 1997, Magee et al. 1999, Doyle et al. 2000, Paul and Meyer 2001, Allan 2004, Hatt et al. 2004, Pellet et al. 2004, Wissmar et al 2004, and Jones & Stokes 2005).

- Discuss whether the existing riparian setbacks will result in unbuildable parcels in EDC. Quantify how many would become unbuildable if riparian setbacks were increased to protective levels (as discussed in the Jones & Stokes report).
- Discuss whether EDC has developed a database of important surface water features, and if not, when this will be developed. Discuss whether it is possible/legal for EDC to approve development projects that will impact these resources prior to the development of this database.

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BRPU, 13D, page 10:

Policy 7.3.3.3 The County shall develop a database of important surface water features, including lake, river, stream, pond, and wetland resources.

Agricultural Operations and Evaluation Under AB 32

Agricultural operations may be exempt from Public Resources Code 21083.4 (Kuehl) provisions under the TGPA/ZOU, but agriculture *is not* exempt from CEQA oak woodland biogenic greenhouse gas emissions (GHG) analysis. (There are no GHG exceptions or exemptions for any oak woodland conversion project.)

Request for Information

- Because the TGPA/ZOU adds 17,000 acres of agricultural land—some of which is currently designated Open Space—impact to oak woodlands is likely significant. While agricultural operations are exempt from oak mitigation (tree replacement measures), they are not exempt from the evaluation of impacts under AB 32. Therefore, this conversion of land from other zoning designations to agricultural land designations must be evaluated as an impact to oak woodlands under this dEIR.
- Discuss the following: Does the project fully account for direct and indirect oak woodland conversion biogenic soil/vegetation GHG emission effects, including carbon dioxide, methane, nitrous oxide and black carbon emission associated with biomass disposal (including from agricultural operations).

8-128

Valley Oak Replacement / Request for Information

- Include a discussion regarding valley oak (*Quercus lobata*). Specifically, given the designation of this species as a species of “special concern,” why is there no recognition of this fact in terms of enhanced mitigation to protect/replace this species?
- Discuss what mitigation elements will be included to protect this species of special concern.
- If specific mitigation elements are not to be included for this species, discuss why this is the case.
- Quantify the estimated decline of this species if special protections are not provided.

8-129

Tree Replacement Scenarios

There seems to be some confusion regarding the tree replacement

Replacement Tree Sizes:

During its June 22, 2015 hearing, the Board requested further clarification and discussion on the potential for allowing different sized container trees to be planted for mitigation. Currently, the draft ORMP requires individual native oak trees to be replaced with 15-gallon sized trees and allows replacement planting for oak woodland mitigation to utilize a variety of smaller sized containers (1-gallon (or equivalent)) or acorns (with a 3:1 replacement ratio).

Source: Dudek Memorandum, September 18, 2015; 17A, page 9.

I believe this is incorrect. The ORMP does not require "...individual native oak trees to be replaced with 15-gallon sized trees..."; on page 13 of the May, 2015 ORMP (identical language/criteria is in the revised November 2915 ORMP) it states under "*Individual Native Oak Tree and Heritage Tree Impacts*":

Replacement tree sizes may vary and may include acorn plantings, based on documentation of inch-for-inch replacement consistency included in an oak resources technical report. If acorns are used, they shall be planted at a 3:1 ratio (3 acorns for every 1-inch of trunk diameter removed)

Source: ORMP, May 2015; 13F, page 13. (Identical language/criteria as in the revised November 2915 ORMP.)

In any case, the formula will presumably work in this manner:

Under the tree-for-inch standard, tree planting would not replace the number of diameter inches removed. However, it would require planting of the same number of trees that would have been planted under an inch-for-inch standard that requires use of 15-gallon trees. To compare the two replacement standards, mitigation for removal of one 12-inch tree under the current draft ORMP would require a project applicant to plant 12 15-gallon oak trees; under the tree-for-inch mitigation standard mitigation for the same impact would require planting of 12 trees of any container size, or 36 acorns.

Source: Dudek memorandum of September 18, 2015; 17A, page 13.

Request for Information

- Once again, **efficacy** (and **performance standards**) should dictate oak tree/woodland mitigation, not an arbitrary formula. Please identify in the dEIR the efficacy of such an approach, and identify specific performance standards (such as canopy cover over time).
- Efficacy of mitigation needs to be demonstrated. The two studies described in the Dudek memorandum 17A (Hobbs, et al., 2001; Young, et al., 2005) actually *do not* support the supposition that acorn planting is "better" than planting larger stock. McCreary –also cited by Dudek—mentions multiple caveats to acorn planting—as presented in my comments of September 29, 2015. But the difficulties of acorn use have been largely ignored, presumably due to its lower mitigation cost.

8-130

Tree-for-Inch Mitigation

The tree-for-inch (as opposed to the inch-for-inch) mitigation represents another approach to lessening the cost of mitigation for the project applicant at the expense of oak woodland replacement. As written, this tree-for-inch standard can include replacement of one inch of tree with three acorns. Thus, a 12 inch oak could be replaced with 36 acorns (which are intended to yield 12 live trees, not 36 trees). Based on the growth rate of blue oaks (the species most likely to be removed and replaced via mitigation plantings) it could take a very long time to replace an oak.



The oak seedling at left is 8 to 10 inches tall and 12 to 16 years old. Below is a 6 to 8 inch tall seedling estimated to be 10 to 15 years old.

Source: Phillips, et al., 1996



This cross section was derived from a blue oak that was 4.5 inches dbh. This oak was estimated to be 95 years old.

Photo Source: Don & Ellen Van Dyke

8-131

A study by Standiford²⁰ on blue oak growth rates revealed an average diameter at breast height (dbh) after 50 years that ranged from 3.4 to 4.1 inches. Even under fairly aggressive restoration efforts, the largest mean diameter of the stand was only 3.9 inches.

Request for Information

- How much “dilution” of mitigation can occur before “mitigation” is no longer mitigation? The following statement was taken from the Dudek memorandum dated September 18, 2015 (17A):

The tree-for-inch standard would be the lesser burden for applicants.

This is great for the applicant; not so good for oak woodland resources. After all is said and done, it is important to remember that—while some individuals have requested that mitigation costs be kept as low as possible—**mitigation must be adequate to mitigate loss**. Affordability is not a criterion under which the effectiveness of mitigation can legitimately be degraded.

As this BRPU/ORMP process has moved forward, more approaches to cost/effort reduction have been inserted. Interestingly, I have not seen documentation in the record, nor heard public testimony requesting these cost-saving changes. Therefore, please disclose in the dEIR the motivation behind the changes. That is, are these modifications based on discovery of what other counties have instituted, or based on mitigation successfully performed in other counties—or are these approaches simply designed to reduce costs/effort for applicants, in spite of the fact that there appears to be *no evidence* to support this approach to mitigation? (And by mitigation I mean the successful replacement of oak woodland within a reasonable amount of time—say five to seven years.) If other counties have instituted these changes (acorn use, tree-for-inch replacement, relying on natural regeneration as a mitigation element, etc.,) please supply documentation that supports the efficacy of these measures in “real world” applications.

- Because it is looking less likely any of the mitigation proposals put forth will realistically mitigate for the loss of oak woodland in a reasonable amount of time, it is reasonable to assume the most effective “mitigation” will be either on-site retention (avoiding the impact in the first place), or the purchase of conservation easements that already contain viable oak woodlands. Therefore, in the dEIR, please evaluate this latter form of mitigation as the primary mitigation scenario. Identify the areas of EDC in which conservation easements are most likely to be established, and the anticipated acreage that is available for easement purchase. Also, identify the plant/wildlife component of these areas, and whether these conservation easements will adequately retain/protect a variety of plant/animal communities, or whether they are limited in scope in terms of diversity.

Oak Tree Replacement

According to the ORMP, “any trees that do not survive the 7-year monitoring and maintenance period shall be replaced by the responsible party listed on the Oak Tree Removal permit and shall be monitored and maintained for 7 years.”

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²⁰ Standiford, R, et al. 2001. *Modeling the Effectiveness of Tree Planting to Mitigate Habitat Loss in Blue Oak Woodlands*. USDA Forest Service General Technical Report PSW-GTR-184, 2002.

Request for Information

- Please explain in the dEIR how tree replacement is expected to work. That is, are dead trees monitored and replaced annually, or are dead trees only replaced at the end of the 7-year period?

8-133
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Project Exemptions

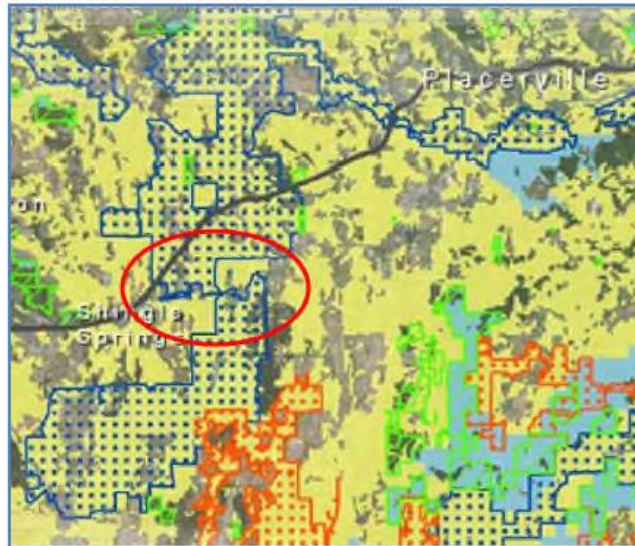
- Discuss exemption for County road projects. This is a source of significant impact to oak resources. Bridge projects especially can disproportionately impact valley oak, a species of “special concern.” Discuss—based on scheduled road widening/bridge projects—the anticipated impact to oak resources.

8-134

IBC and PCA Maps, etc.

Closer examination of the IBC/PCA maps raises more questions than answers. For instance, in this section of the map, it appears the IBC is greatly constricted in this particular area. Discuss the reason for this constriction—it appears to be artificial.

8-135



Request for Information

- Please provide better (more detailed) IBC/PCA maps for each planning area. Identify any outstanding anomalies, and characterize the importance/necessity of each area (what they are designed to protect/serve.)

In Conclusion

In closing I'd like to say the policies proposed in the ORMP represent a significant weakening of environmental protection policies developed under the 2004 General Plan. Therefore, please consider revision to the draft ORMP that strengthen biological resource protections.

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Public Comment
Board of Supervisors Meeting
September 29, 2015
Agenda Item #26; File No. 12-1203

Cheryl Langley
Shingle Springs Resident

RE: Biological Resources Policies Update & Oak Resources Management Plan

Board Members:

Thank you for the opportunity to comment on the Biological Resources Policy Update (BRPU) and Oak Resources Management Plan (ORMP).

OAK TREE RETENTION STANDARDS

I urge the Board to **retain the Option A retention standards**. Oak retention should be a priority. Woodland removal beyond Option A retention standards should be considered **only after it has been determined the project cannot meet these standards through any reasonable means**. This determination could be made in conjunction with preparation of the *Oak Resources Technical Report*.

8-137

OAK TREE REGENERATION

Several studies have shown that **blue oak regeneration is a problem in numerous areas of the State**. Consequently, evaluation of the role natural regeneration may play as mitigation for project impacts (in the EIR impact analysis) is a "non-starter." **Claims that oak regeneration can somehow mitigate for loss of oak woodland is not supported by scientific study.**

Ritter writes:¹

Most stands of blue oak woodland exist as medium or large tree stages with few or no young blue oaks present (White 1966, Holland 1976, Griffin 1977, Baker et al 1981). **Few areas can be found in California where successful recruitment of blue oaks has occurred since the turn of the century" (Holland, 1976).**

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Teklin writes:²

Natural regeneration of two endemic California oaks, blue oak (*Quercus douglasii*) and valley oak (*Q. lobata*), has been widely recognized to be a problem statewide on many sites (Bolsinger 1988, Griffin 1971, Muick and Bartolome 1987, Swiecki and Bernhardt 1993). Lack of recruitment to the sapling stage has been identified as a widespread occurrence.

Verner writes of blue oak woodland:³

The age at which they normally begin producing acorn crops is unknown (M. McClaran, pers. Comm.), but it likely takes several decades. Concern has been expressed for the long-term existence of this habitat (Holland 1976), because *'little regenerations has occurred since the late 1800s, as livestock, deer, birds, insects, and rodents consume nearly the entire*

¹ Ritter, L.V. Undated. Blue Oak Woodland. California Wildlife Habitat Relationships System, California Department of Fish and Game, California Interagency Wildlife Task Group. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=67340>

² Teklin, J., Conner, J.M., McCreary, D.D. 1997. Rehabilitation of a Blue Oak Restoration Project. USDA Forest Service General Technical Report, PSW-GTR-160.

³ Verner, J. Undated. Blue Oak-Foothill Pine. California Wildlife Habitat Relationships System, California Department of Fish and Game, California Interagency Wildlife Task Group.

acorn crop each year. Of the few seedlings that become established a large proportion are eaten by deer' (Neal 1980:126). Furthermore, the absence of grazing livestock does not generally result in regeneration (White 1966), because many other animals eat acorns and seedling oaks. Moreover, introduced grasses...may compete directly with seedling oaks for light and nutrients, and may be allelopathic to the oaks.

And, according to *A Planner's Guide for Oak Woodlands*:⁴

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

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

REGENERATION & ACORN PLANTINGS

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

According to *A Planner's Guide for Oak Woodlands*:⁵

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

Thus, while Dudek cites a 1996 study by McCreary as support for acorn plantings, McCreary, too, states that **an effective alternative to directly sowing acorns is growing oak seedling in containers and then planting the saplings out in the field.** McCreary indicates propagating oaks in this manner results in starts that **"...have higher survivorship than directly planted acorns, but they also cost far more."**⁶

The specific study cited by Dudek (17A, page 10) reveals that acorn mortality was the highest of any group (acorns, four-month old starts, one year old saplings), and McCreary concludes that *"acorns did have significantly less overall survival,"* and cautions about their usage *"if large numbers of acorn-eating rodents are present at the planting site..."*⁷ And, note Dudek's numerous qualifiers to acorn use:

⁴ Giusti, G.A. et al (editors). 2005. *A Planner's Guide for Oak Woodlands*. University of California, Agriculture and Natural Resources, Publication 3491, second edition.

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

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

⁷ McCreary, D.D. 1996. The Effects of Stock Type and Radicle Pruning on Blue Oak Morphology and Field Performance. *Annals des Sciences Forestieres*, 53 (2-3), pp. 641-646.

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8-139

Acorn and oak seedling (1-gallon and smaller) establishment success has been well-documented in field research, with several studies noting the successful establishment of planted oak seedlings in northern California sites^{3,4,5}. In some cases, acorns and smaller containers can outgrow larger container-sized trees⁶, primarily due to taproot development being more successful as it is not inhibited by excessive time in containers. In the study by McCreary⁷, blue oak acorns and 4-month-old seedlings outgrew 1-year-old seedlings over a 4-year period once planted. The variation in seedling container sizes allows for flexibility in oak tree replacement projects that need to consider soil type, maintenance needs, access, and available irrigation.

Source: 17A, page 10.

The qualifiers include:

- "...several studies noting the successful establishment of planted oak seedlings" (not acorns);
- "In some cases..." (presumably "cases" in areas of intensive care, such as research plots); and
- "...need to consider soil type, maintenance needs, access, and available irrigation."

All citations listed by Dudek (3,4,5,6, & 7) are from studies by McCreary. However, according to McCreary⁸, the planting of acorns will be impacted by a whole host of factors such as conditions at the planting site, including the kinds of animals present. **Because acorns are an important food source for a whole host of animals, acorn plantings are difficult to protect.** McCreary also warns that the type of care necessary for survival and growth may not be **logistically feasible** for remote planting sites,⁹ making a difficult prospect even more susceptible to failure.

According to *A Planner's Guide for Oak Woodlands*:¹⁰

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

³ McCreary, D.D. Undated. *How to Grow California Oaks*. University of California Oak Woodland Management. Available at: http://ucanr.edu/sites/oak_range/Dak_Articles_On_Line/Oak_Regeneration_Restoration/How_to_Grow_California_Oaks/

⁹ McCreary, D.D. Undated. *Living Among the Oaks: A Management Guide for Woodland Owners and Managers*. University of California, Agriculture and Natural Resources, Oak Woodland Conservation Workgroup; publication 21538.

¹⁰ Giusti, G.A. et al (editors). 2005. *A planner's guide for oak woodlands*. University of California, Agriculture and Natural Resources, Publication 3491, second edition.

MITIGATION EFFICACY & PERFORMANCE STANDARDS

It is essential that whatever mitigation option is chosen, **it must meet performance standards**. For instance, in the Interim Interpretive Guidelines (IIG) (7)(b), page 10, and IIG (7)(c), page 11, replacement plantings are “designed” to achieve oak woodland canopy coverage equal to the canopy removed **no more than 15 years from the date of planting**.

What is the performance standard for the mitigations described in the ORMP?

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



This is a photo of a “tree shelter” around a blue oak; it was probably planted around the time of adjacent village construction (2001-2003). Photo taken June, 2015.

8-140



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



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



8-140
Cont.

This effort at oak woodland mitigation is dismal. And unfortunately, **past performance is the best predictor of future performance.** What assurances do County residents have that mitigation efforts will be successful?

Woodland replacement is crucial—especially in terms of habitat value to wildlife. According to *A Planner's Guide for Oak Woodlands*:¹¹

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

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It is apparent that **preservation of oak woodland on-site is the preferred "mitigation."** Short of on-site preservation, **the purchase of oak woodlands that will remain undeveloped in perpetuity** is to be preferred over on-site (or off-site) planting of saplings. Revegetation on- or off-site is a poor substitute for mature woodland, especially when value as **wildlife habitat** is part of the equation. **It is likely that the loss of oak woodlands cannot be adequately mitigated under the proposals in the ORMP, especially in the absence of Option A retention requirements.**

TREE REPLACEMENT QUESTION

Dudek presents the following:

8. Replacement Tree Sizes:

During its June 22, 2015 hearing, the Board requested further clarification and discussion on the potential for allowing different sized container trees to be planted for mitigation. **Currently, the draft ORMP requires individual native oak trees to be replaced with 15-gallon sized trees** and allows replacement planting for oak woodland mitigation to utilize a variety of smaller sized containers (1-gallon (or equivalent)) or acorns (with a 3:1

Source: 17A, page 9.

I believe this is incorrect. The ORMP does not require "*...individual native oak trees to be replaced with 15-gallon sized trees...*"; on page 13 of the ORMP it states under "*Individual Native Oak Tree and Heritage Tree Impacts*":

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Replacement tree sizes may vary and may include acorn plantings, based on documentation of inch-for-inch replacement consistency included in an oak resources technical report. If acorns are used, they shall be planted at a 3:1 ratio (3 acorns for every 1-inch of trunk diameter removed)

Source: ORMP, page 13.

So my question is, what is actually being proposed here? Apparently, Dudek sees the formula working in this manner:

¹¹ Giusti, G.A. et al (editors). 2005. *A planner's guide for oak woodlands*. University of California, Agriculture and Natural Resources, Publication 3491, second edition.

Under the tree-for-inch standard, tree planting would not replace the number of diameter inches removed. However, it would require planting of the same number of trees that would have been planted under an inch-for-inch standard that requires use of 15-gallon trees. To compare the two replacement standards, mitigation for removal of one 12-inch tree under the current draft ORMP would require a project applicant to plant 12 15-gallon oak trees; under the tree-for-inch mitigation standard mitigation for the same impact would require planting of 12 trees of any container size, or 36 acorns.

Source: 17A, page 13.

But once again, **efficacy** (and **performance standards**) should dictate oak tree/woodland mitigation, not an arbitrary formula. As previously quoted in this document (Gusti 2005), **“focusing on mitigation plantings based on a tree to seedling ratio is not a sufficient strategy to ensure the viability of oak woodlands.”**

DEFINITION OF OAK WOODLANDS

It would be most appropriate to expand the definition of **“Oak Woodland”** to include not only standing living oaks, *“...but also trees of other species, damaged or senescent (aging) trees, a shrubby and herbaceous layer beneath the oak canopy, standing snags, granary trees, and downed woody debris in conjunction with [oaks].”*¹² Evaluate existing oak woodlands under these criteria and, *if on-site retention is not possible, mitigate for the loss of all woodland components* through either conservation easement or fee title acquisition in perpetuity to ensure replacement of viable woodland/wildlife habitat. (Napa County, for instance, employs a 60/40 retention in *sensitive water drainages*: 60% tree cover; 40% shrubby/herbaceous cover.)¹³

DEAD, DYING & DISEASED OAKS

The loss/removal of dead, dying and diseased oaks should be mitigated and not exempt from mitigation requirements. Trees in these states of decline are not “useless,” they are an important element of an oak woodland. They provide nesting sites for cavity nesting birds (as is the case with dead trees or dead tree limbs [snags]), and food storage sites for others (e.g., acorn woodpeckers). These trees should not be excluded from the calculation of oak woodland—or from mitigation requirements—and should be left standing in on-site retained woodland as long as they do not present public safety issues.

In fact, this issue of retention of declining oaks raises important questions:

- **What is important to save? Oak trees alone, or oak trees and their attendant habitat?**
- **Where does value lie? In what people believe is useful/aesthetically pleasing, or in what wildlife finds useful/habitable?**

Answering these questions can help focus the ORMP.

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¹² Michael Brandman Associates. 2012. Tuolumne County Biological Resources Review Guide. December 4, 2012; page 32. Available at: <http://www.tuolumnecounty.ca.gov/DocumentCenter/View/204>

¹³ Napa County. 2010. Napa County Voluntary Oak Woodlands Management Plan. October 26, 2010; page 20. Available at: <http://www.countyofnapa.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=4294973990>

REDUCTION OF HERITAGE TREE SIZE REQUIREMENT

I ask that Heritage Oak size be defined as 24" diameter at breast height (dbh), if not for all oak species, for blue oak. Why the necessity? Blue oak are slow growers. For instance, the blue oaks depicted in the following two photographs are **10-16 years old**.¹⁴



The oak seedling at left is 8 to 10 inches tall and **12 to 16 years old**. Below is a 6 to 8 inch tall seedling estimated to be **10 to 15 years old**.



This cross section was derived from a blue oak that was 4.5 inches dbh. This oak was estimated to be 95 years old.

Photo Source: Don & Ellen Van Dyke

¹⁴Phillips, R. L., et al. 1996. Blue Oak Seedlings May be Older than they Look. California Agriculture, May-June 1996. Available at: <http://ucanr.edu/repositoryfiles/ca5003p17-69761.pdf>

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Large blue oaks are likely **153 to 390 years old** (White, 1966). And, growth is extremely slow or even ceases after trees reach **26 inches dbh** (McDonald, 1985).¹⁵ Creating a separate category for blue oaks is not unprecedented; **Tuolumne County** has worked to establish a separate standard for blue oaks under their *old growth oaks* or **“specimen oaks”** category.¹⁶

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COMMERCIAL FIREWOOD HARVEST

While **commercial firewood cutting operations** would be required to obtain a permit under the proposed plan, **there is no mention of minimum retention standards**. Shasta and Tehama counties adopted resolutions calling for **30% crown cover retention** following firewood harvest.¹⁷

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EXEMPTIONS FOR PERSONAL USE & NON-COMMERCIAL AGRICULTURAL OPERATIONS

“Personal use” of oak resources on an owner’s property must be better defined, otherwise, “pre-clearing” of a site under the guise of personal use is actually encouraged. Also, the **exemption for non-commercial agricultural “operations” is excessive and likely to result in the needless loss of oak woodland**.

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ADVISORY BODY

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

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In closing, I ask:

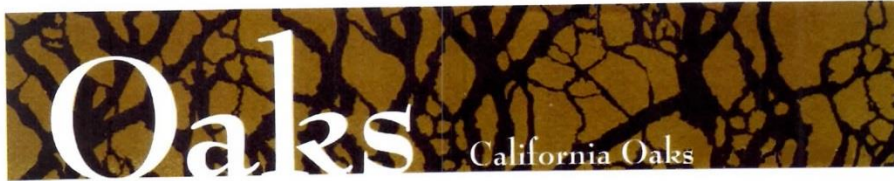
- **Please retain the Option A retention schedule**. Short of reinstatement, I ask that an **equal-weight analysis of this alternative be performed and included in the draft EIR**.
- Do not allow replacement of oak woodland with **acorn plantings**.
- Establish a **performance standard** for oak mitigations.
- **Define “Oak Woodland”** to include other associated tree and shrub species (understory) to maintain wildlife habitat value; require mitigation to replace these elements as well.
- Revise the **Heritage Oak size requirement**, if not for all oaks, for **blue oaks**.
- Establish a minimum retention standard for commercial firewood cutting operations.
- Define exemptions for personal use and for non-commercial agricultural operations.
- Establish an Advisory Body to review mitigation plans, mitigation implementation, and efficacy (similar to PAWTAC).

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

¹⁶ Michael Brandman Associates. 2012. Tuolumne County Biological Resources Review Guide. December 4, 2012; page 38. Available at: <http://www.tuolumnecounty.ca.gov/DocumentCenter/View/204>

¹⁷ Standiford, et al., 1996. Impact of Firewood Harvesting on Hardwood Rangelands Varies with Region. California Agriculture, March-April, 1996. Available at: <http://ucce.ucdavis.edu/files/repositoryfiles/ca5002p7-69759.pdf>



Preserving and perpetuating California's oak woodlands and wildlife habitats

July 22, 2016

Community Development Agency
 Long Range Planning Division
 2850 Fairlane Court
 Placerville, CA 95667
shawna.purvines@edcgov.us

Re: Biological Policy Update Project

Shawna Purvines, Principal Planner:

California Oaks appreciates the opportunity to comment on the Biological Policy Update Project. While acknowledging California Oaks previous greenhouse gas (GHG) concerns, the DEIR has provided no meaningful or cogent responses to the issues raised. Specifically: (1) the failure to feasibly and proportionally mitigate the direct loss of sequestered carbon; (2) the failure to analyze or feasibly and proportionally mitigate the foreseeable indirect carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O) and black carbon emission effects due to removed biomass decomposition or combustion. These DEIR omissions represent a failure to proceed in the manner prescribed by the California Environmental Quality Act (CEQA). The project is also inconsistent with other aspects of California's GHG reduction policy.

Necessity

The stated CEQA purpose of Senate Bill 97 (2007) is "the feasible mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions." The CEQA Appendix G checklist encourages that forest land conversion GHG biogenic emissions be considered. The direct effect biogenic emissions are due to the one-time loss of sequestered carbon. The indirect effect biogenic emissions are the result of biomass utilization or disposal of the carbon stored in the dead vegetation. CEQA recognizes the secondary GHG biogenic emissions in the indirect effects language of Guidelines § 15358(2), "... are later in time or farther removed in distance, but are still reasonably foreseeable."

DEIR: "Buildout of the General Plan could result in the loss of 6,442 acres of forest land by 2035 resulting in a significant and unavoidable impact." (at 7-9).

Comment 1: Please answer the following forest land conversion question:

1. Due to biomass decomposition or combustion, how many metric tonnes of CO₂, CH₄, N₂O and black carbon biogenic emissions are projected with buildout impacts to 6,442 acres by 2035?

DEIR: "The effect each GHG has on climate change is measured as a combination of the mass of its emissions and the potential of a gas or aerosol to trap heat in the atmosphere, known as it "global warming potential" (GWP). GWP varies between GHGs; for example, the GWP of CH₄ is 21, and the GWP of N₂O is 310" (at 8-2).

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Comment 2: The DEIR is quoting outdated GWP standards. The California Air Resources Board (CARB) current GWP standards list methane as having 25 times, nitrous oxide 298 times and black carbon 900 times more climate warming potential than CO₂ over a 100-year time horizon.¹

DEIR: "The El Dorado County Air Quality Management District was part of the committee of air districts in the Sacramento region involved in the development of GHG thresholds of 1,100 metric tons CO₂e per year for the construction phase of projects or the operational phase of land use development projects ..." (at 8-12).

Comment 3: The El Dorado County air district and SMAQMD project GHG thresholds are knock offs of the 2010 Bay Area Air Quality Management District (BAAQMD) standards. They mimic the same forest conversion biogenic emissions accounting deficiencies as the BAAQMD project threshold. The following quote from the current Ciminelli vineyard conversion DEIR in Napa County (CAL FIRE lead agency) correctly recognizes that the BAAQMD project threshold excludes GHG biogenic emissions quantification:

"Although the [BAAQMD] Guidelines provide clear guidance on how to analyze GHG emissions from biogenic sources, which result from natural biological processes such as the decomposition or combustion of vegetative matter (wood, paper, vegetable oils, animal fat, yard waste, etc.), the Guidelines do not require the quantification of biogenic GHG emissions as part of the quantification of project-related GHG emissions and does not provide a GHG emission threshold for these sources for either operation and construction activities. The Guidelines require that only exhaust from construction equipment be included in the climate change analysis, similar to the analysis for criteria pollutants" (Ciminelli DEIR at 4.7-7).

The El Dorado County air district project threshold excludes forest land conversion biogenic emissions quantification, which is inconsistent with CEQA requirements. This omission is understandable given that forest land oversight is the purview of the State of California not the air districts. The state has chosen not to establish a forest land conversion threshold of significance.

A greenhouse gas project threshold of significance that excludes the entire category of forestry sector emissions cannot be claimed to unequivocally reduce all GHG impacts to less than significant. Since the El Dorado air district project threshold fails to account for forest land conversion biogenic emissions, these GHG emissions must be analyzed and mitigated independent of the air district project threshold of significance standard.

¹ Black carbon (BC, also referred to as black soot, black carbon aerosols, black carbon particles) refers to a solid particle emitted during incomplete combustion. All particle emissions from a combustion source are broadly referred to as particulate matter (PM) and usually delineated by sizes less than 10 micrometers (PM10) or less than 2.5 micrometers (PM2.5). Black carbon is the solid fraction of PM2.5 that strongly absorbs light and converts that energy to heat. When emitted into the atmosphere and deposited on ice or snow, black carbon causes global temperature change, melting of snow and ice, and changes in precipitation patterns. Roughly half of atmospheric BC comes from fossil fuel combustion, and the other half from biomass and biofuel burning. While BC is short-lived in the atmosphere (1-4 weeks), it is linked to strong regional climate effects and a large share (~30%) of recently observed warming in the Arctic."
<http://www.unep.org/transport/gfei/autotool/understandingtheproblem/Black%20Carbon.pdf>

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DEIR: "A development that converts natural vegetation to a developed site results in potential release of sequestered carbon to the atmosphere as CO₂, which would not have been released had there been no change in land cover ... To evaluate the effect of oak woodland conversion on the Countywide GHG emissions inventory, this analysis uses available carbon sequestration data for oak woodlands to determine the loss of sequestration associated with the oak woodland impacts that would occur under the 2025 and 2035 General Plan buildout scenarios ... The analysis of the loss of carbon sequestration uses sequestered carbon content data derived from the Carbon Online Estimator (COLE) (Van Deusen and Heath 2016)" (at 8-16).

Comment 4: Stored carbon in dead biomass not only releases CO₂ into the atmosphere but also CH₄, N₂O and black carbon. Programmatic models like COLE are designed to measure the biomass carbon stocks for a given area. The end user takes the model's site-specific biomass information and translates it into GHG emissions. These models don't know what regulations, rules or laws they are being applied under. The end user has to adjust for those regulatory nuances. In California we have the uniqueness of CEQA, which recognizes GHG indirect biogenic emissions, which are delineated in Guidelines § 15358(2). COLE is a federal product from the USDA Forest Service. USDA neither knows nor cares about CEQA legal nuances so COLE doesn't address indirect biogenic emissions. Thus, the Cole programmatic model being used doesn't know how the biomass will be utilized or disposed.

1. Please explain how the DEIR can claim to make a "good faith effort" to measure forest conversion GHG biogenic emissions due to potentially removing 140,000 acres of oak woodland biomass when the programmatic model being used doesn't know how the biomass will be utilized or disposed?

DEIR: "These calculations assume a one-time loss of sequestered carbon resulting from conversion of existing oak woodlands to developed uses. This analysis also assumes that sequestered carbon from removed vegetation will be returned to the atmosphere; that is, the wood from the removed oak woodlands would not be re-used in another form that would retain carbon (e.g., furniture). This analysis of sequestered carbon impacts does not account for CO₂ emissions estimates associated with vegetation clearing or removal activities, or the transport and disposal of vegetative biomass. GHG emissions generated during project-specific construction activities, including clearing, tree removal and disposal, and grading, would be evaluated at the project level.

The ORMP requires mitigation in the form of conserving off-site oak woodlands and replanting (up to a maximum of 50% of the required mitigation). As outlined in the ORMP, mitigation ratios for oak woodland impacts may be 1:1, 1.5:1, or 2:1, depending on the extent of on-site impacts. The following summarizes potential mitigation scenarios under the 2035 General Plan buildout scenario:" (at 8-18).

Comment 5: The off-site conservation of existing forest coupled with the proposed replanting standards are inconsistent with scientific fact and 2008 AB 32 Scoping Plan forest sector policy targets. The already existing "conserved" trees aren't suddenly going to begin growing faster and sequester more carbon to reduce soil/vegetation GHG biogenic emission impacts in a timely manner. The appropriate means to feasibly and proportionally mitigate forest conversion biogenic emissions is by planting/maintaining the requisite number of replacement trees in El Dorado County to reduce emissions 80 percent by 2050.

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1. Please explain how the DEIR biogenic emissions mitigation measures will provide consistency with Executive Orders S-3-05 to reduce GHG emissions 80 percent by 2050.² See *Cleveland National Forest Foundation, et al. v. San Diego Association of Governments, et al.* ___ Cal.App.4th ___, 2014 and the 2015 California Supreme Court citation in *Center for Biological Diversity v. Department of Fish and Wildlife* (Exhibit A). Here the Supreme Court is giving CEQA practitioners a heads-up regarding an issue in its upcoming *Cleveland National Forest Foundation v. SANDAG* decision. The Court indicates it will confirm that the climate change executive order timeline thresholds established by Governors Schwarzenegger and Brown should be fully considered in CEQA documents. Pending Senate Bill 32 (Pavley) codifies Governor Brown’s Executive Order B-30-15 establishing a midterm target to reduce GHG emissions by 2030, to 40 percent below 1990 levels.
2. Please explain and demonstrate mathematically how the proposed off-site conservation/replanting standards are consistent with the 2008 AB 32 Scoping Plan goals of “no net loss” for forest land carbon sequestration and “stretch targets” of increasing forest land CO₂ storage by 2 million metric tonnes by 2020 and 5 MMT by 2050.
3. Please explain and demonstrate mathematically how the off-site conservation of existing forest land feasibly and proportionally mitigates direct or indirect forest conversion biogenic emissions in a manner consistent with the state’s 2020, 2030 and 2050 timeline thresholds.
4. Please explain how the DEIR GHG mitigation measures will provide consistency with the 2016 CARB Short-Lived Climate Pollutants Policy. The goal is by 2030 to cut yearly emissions of several pollutants from 2013 levels. CARB seeks to shrink black carbon pollution to 19 million metric tons of carbon dioxide equivalent (MMTCO₂e) from 39 MMTCO₂e (50% reduction) by 2030 and methane to 71 MMTCO₂e from 118 MMTCO₂e (40% reduction). Pending Senate Bill 1383 (Lara) codifies these GHG reduction standards.
5. The DEIR appears to be piecemealing the project’s near- and long-term GHG biogenic emissions by not fully estimating the countywide forest conversion biogenic emission impacts but instead delaying comprehensive GHG emission calculations to future “project-specific” analysis. Please explain why the piecemealing perception is incorrect and how the DEIR approach provides consistency with the state’s 2020, 2030 and 2050 timeline thresholds.

DEIR: “In addition to the estimated oak woodland impacts from buildout of the General Plan with residential, commercial, retail, and industrial uses, there is a potential for an additional 138,704 acres of woodland that could be lost without mitigation under the exemptions in the ORMP. This could contribute an additional 1,070,210 MT CO₂e annually from release of sequestered carbon to the atmosphere. However, 132,281 acres of oak woodlands would be impacted without mitigation as a result of expanded agricultural production activities ...” (at 8-19).

² Both forests and GHGs are analyzed over a 100-year planning horizon. However, California has climate change planning timelines that only extend out to the year 2050. So while for CEQA discussion and consistency purposes 80 percent of emissions must be reduced by 2050, in fact 80 percent of a project’s forest conversion biogenic emissions are actually mitigated over a 100-year period. This allows enough time for feasible and proportional forest conversion biogenic emissions mitigation to occur.



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Comment 6: Forest GHG emissions are measured over a 100-year planning horizon; not on an annual basis. The “additional 1,070,210 MT CO₂e annually” translates into 107,021,000 MMT CO₂e over 100 years. That’s not counting the CO₂, CH₄, N₂O and black carbon emissions due to removed biomass decomposition and combustion over time.

Apparently El Dorado County has a reading comprehension problem. If the county is going to claim forest land conversion GHG biogenic emission exemptions it will need to provide statutory law citations to justify each exemption category. The Natural Resources Agency has already said no twice to agriculture regarding a forest land conversion CEQA GHG exemption. El Dorado County needs to take no for an answer:

Natural Resources Agency (2009)

"Moreover, the text of the questions themselves demonstrate that the concern is *any* conversion of forests, not just conversions to other agricultural operations."

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

Please answer the following forest land conversion questions:

1. Due to biomass decomposition or combustion, how many metric tonnes of CO₂, CH₄, N₂O and black carbon biogenic emissions are projected with impacts to 138,704 acres?
2. Due to biomass decomposition or combustion, how many metric tonnes of CO₂, CH₄, N₂O and black carbon biogenic emissions are projected due to forest land conversion impacts by 2025?
3. Due to biomass decomposition or combustion, how many metric tonnes of CO₂, CH₄, N₂O and black carbon biogenic emissions are projected due to forest land conversion impacts by 2035?
4. Due to biomass decomposition or combustion, how many metric tonnes of CO₂, CH₄, N₂O and black carbon biogenic emissions are projected due to forest land conversion impacts by 2050?

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EIR: "The proposed project would result in a significant and unavoidable impact related to GHG emissions. There is no feasible mitigation that would substantially reduce or avoid this impact. The proposed project would result in no impacts related to conflicts with plans, policies, and regulations related to GHG emissions and climate change, and, therefore, no mitigation is required for this impact" (at 8-22).

Comment 7: In fact there is feasible and proportional project mitigation available by planting/maintaining the requisite number of replacement trees in El Dorado County to reduce forest conversion GHG biogenic emissions 80 percent by 2050. The question becomes whether El Dorado County would have land available for planting oaks after developing 140,000 acres of oak woodland. The assertion that the DEIR is not in conflict with state climate change policy and law is specious.

Summary

The DEIR chose to apply the El Dorado air district project threshold and COLE model for its forest land conversion GHG emissions analysis. However, as the Ciminelli DEIR factually observes biogenic emissions exist but the El Dorado air district project threshold excludes direct and indirect biogenic emissions quantification. The COLE model doesn't account for indirect GHG biogenic emissions and the end user apparently wasn't cognizant of CEQA regulatory requirements. The DEIR doesn't account for the GHG biogenic emissions associated with biomass decomposition and combustion, which result in CO₂ emissions in combination with the much more potent CH₄, N₂O and black carbon emissions. At a time when the state is acting aggressively to significantly reduce methane and black carbon emissions, the DEIR is oblivious to the importance of immediately addressing these powerful GHG emissions. The project greenhouse gas impacts remain significant and appropriate mitigation/alternatives to reduce these impacts have not been adequately considered.

Greenhouse gas emissions, especially forest conversion emissions, stand out from all other CEQA effects. This is because only GHG emission impacts have been *decreed* a serious threat to the well-being of all Californians and the state itself. Further, forests are the only state GHG sector that sequesters carbon. The constant among court decisions regarding GHG analysis is that project emissions must be accurately and fully rendered in a CEQA document. This DEIR appears designed to obfuscate and minimize project forest land conversion GHG biogenic emissions, rather than a bona fide attempt to comply with CEQA's focus of ascertaining "the feasible mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions."

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

Sincerely,



Janet Cobb, Executive Officer
California Wildlife Foundation/California Oaks



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Exhibit A

California Supreme Court - Center for Biological Diversity v. Department of Fish and Wildlife (2015)

A qualification regarding the passage of time is in order here. Plaintiffs do not claim it was improper for this EIR, issued in 2010, to look forward only to 2020 for a guidepost on reductions in greenhouse gas emissions, and we therefore do not consider the question whether CEQA required the EIR to address the state's goals beyond 2020. Nevertheless, over time consistency with year 2020 goals will become a less definitive guide, especially for long term projects that will not begin operations for several years. An EIR taking a goal consistency approach to CEQA significance may in the near future need to consider the project's effects on meeting longer term emissions reduction targets.⁶

⁶ Executive Order No. S-3-05, signed by Governor Schwarzenegger on June 1, 2005, set reduction targets of 1990 levels by 2020 and 80 percent below 1990 levels by 2050. A.B. 32 codified the 2020 goal but did not indicate any intent to abandon the 2050 goal; indeed, the Legislature cited the executive order and indicated its intent that the climate policy efforts the order initiated continue. (Health & Saf. Code, § 38501, subd. (i).) More recently, in an update to the Scoping Plan, the Air Board noted the need for steep post-2020 reductions and proposed the state adopt a strong mid-term target for the year 2030, in the range of 35-50 percent below 1990 levels. (Air Resources Board, First Update to the Climate Change Scoping Plan: Building on the Framework (May 2014), p. 34.) Executive Order No. B-30-15, signed by Governor Brown on April 29, 2015, endorsed the effort to set an interim target of emission reductions for 2030. Pending legislation would codify this additional goal, directing the Air Board to establish a 2030 limit equivalent to 40 percent below 1990 levels. (Sen. Bill No. 32 (2015-2016 Reg. Sess.))



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Response to Comment Letter 8

Cheryl Langley
August 15, 2016

8-1 This comment introduces the comments attached to the letter.

This comment does not address the accuracy or adequacy of the Draft Environmental Impact Report (EIR); therefore, no response is required. This comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed Biological Resources Policy Update and Oak Resources Management Plan (project).

8-2 This comment states there was a public request for an equal-weight analysis of the Option A alternative, states that the Minimum Oak Woodland Retention Requirement Alternative is a misconstrued version of Option A, and inquires how the 30% retention standard used in Alternative 2 was developed. The comment also states that the 30% retention requirement is much more rigid than the Option A requirements.

Alternative 1, as described in Chapter 10 (Alternatives) of the Draft EIR, is the Option A alternative. It is defined as continued implementation of the existing General Plan policies, including the oak canopy retention and replacement standards included in Policy 7.4.4.4 (Option A) and inch-for-inch tree replacement. Alternative 2, the Minimum Oak Woodland Retention Requirement, includes applying a 30% retention requirement to all development projects. This alternative was selected for analysis as part of the reasonable range of alternatives required under the California Environmental Quality Act (CEQA) Guidelines, as discussed in Response to Comment 1-3 above in this section (Section 3.4, Individuals). Per the CEQA Guidelines, EIRs are required to “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives” (14 CCR 15126.6(a)). As discussed in Response to Comment 6-5 above in this section (Section 3.4, Individuals), 30% was selected as the retention requirement to be evaluated under Alternative 2 because it has the potential to reduce impacts while still achieving the basic project objectives and would be meaningfully different from the proposed project and the No Project Alternative, which is important in meeting the requirement of the CEQA Guidelines that “the range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making” (14 CCR 15126.6(f)). Currently, under Policy 7.4.4.4 Option A, the minimum oak canopy

retention requirement is 60%; thus, 30% is a midpoint between the minimum required under the No Project Alternative and policies that require no retention. The 30% retention requirement would be applied uniformly, and thus could be considered more rigid than the Option A requirements; however, Option A requires retention of between 60% and 90% of oak canopy and therefore would be more restrictive than the 30% retention requirement in Alternative 2.

- 8-3** This comment asserts that an equal-weight Option A project alternative analysis is necessary to provide the County of El Dorado (County) with enough information to make an informed decision.

As discussed in Response to Comment 8-2 above in this section (Section 3.4, Individuals) and described in Chapter 10 (Alternatives) of the Draft EIR, the Option A alternative is Alternative 1, the No Project Alternative, which was developed by the County to include the oak canopy retention and replacement standards included in Policy 7.4.4.4 (Option A). Regarding the request for an equal-weight analysis of all alternatives, the lead agency believes that the alternatives analysis in Chapter 10 provides sufficient information for an informed decision-making process. An alternatives analysis of equal weight to the proposed project analysis is not required by CEQA. Per the CEQA Guidelines Section 15126.6(d), an EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. The Board of Supervisors agreed that retention standards should be considered but determined that it was not necessary to provide an equal weight analysis of such an alternative. Regarding public input, as described in Chapter 3 (Project Description) of the Draft EIR, opportunities for public comment on the proposed policy changes occurred in 2014 and 2015, when 10 public meetings were held to address revisions to the biological resources policies. At these workshops, the public was invited to submit comments on the proposed revisions to the policy language, the Draft Oak Resources Management Plan (ORMP), and the content of the EIR.

- 8-4** The comment asserts that Option A does not impede development but ensures that development is evaluated to determine that the maximum feasible number of oaks are retained. The comment also states that Option B could be used to provide other on- or off-site mitigation options if it is determined that a project cannot feasibly meet the Option A retention requirements.

Existing Policy 7.4.4.4 states “the County shall require one of two mitigation options: (1) the project applicant shall adhere to the tree canopy retention and replacement standards described below; or (2) the project applicant shall contribute to the

County’s Integrated Natural Resources Management Plan (INRMP) conservation fund described in Policy 7.4.2.8.” The policy does not say that Option B can only be applied if it is demonstrated that Option A is not feasible for a given project. Further, Option B only provides one option for mitigation; it does not provide “other on- of off-site mitigation options.”

During the years when Option A was in effect, and where applicable development activities were required to demonstrate consistency with the Interim Interpretive Guidelines for Policy 7.4.4.4 (Option A) (Interim Interpretive Guidelines), initial consultations with Development Services Division staff (e.g., at the public counter and at scheduled pre-application meetings) indicated that a significant number of potential applicants for both ministerial and discretionary projects chose not to move forward with new development projects due to issues or concerns directly related to meeting the on-site oak canopy retention and replacement requirements of Option A, including the lack of an option to pay a fee. However, the actual number of potential applicants electing not to proceed with development is not known, and cannot be known with certainty, because detailed results of such informal consultations are not typically documented. Further, this discussion does not include the number of potential applicants who chose not to develop due to Option A constraints but did not approach the County. It is not possible to quantify a number that is unquantifiable, and any endeavor to do so would be speculative.

8-5 This comment states that an Option A alternative deserves co-equal analysis. The commenter states there is no other alternative, other than the No Project Alternative, that could reduce the project’s significant impacts more than Option A.

Refer to Responses to Comments 8-2 and 8-3 above in this section (Section 3.4, Individuals), which state that the No Project Alternative is the Option A alternative. The comment provides no evidence or analysis to support the statement that Option A would reduce the project’s significant impacts. As discussed in Response to Comment 4-30 in 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 Priority Conservation Areas (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 in Section 3.2 (State and Local Agencies) 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. Also refer to Responses to Comments 6-16 and 6-18 above in this section (Section 3.4, Individuals) regarding the likely effects of

the No Project Alternative, which includes the Option A retention standards. As discussed in those responses, the Draft EIR analysis of the No Project Alternative demonstrates that the retention required under Option A could lead to an expansion of the areas in which development occurs. This is because parcels would be developed with less density to accommodate on-site retention, which would require a greater total number of parcels to be developed to attain the population and employment growth projected for the County. Thus, although the No Project Alternative would result in retention of oak woodland in areas currently projected for development, it would require additional parcels to be developed (beyond what is currently projected) to accommodate the same total amount of development. This would result in additional impacts to oak woodland and other habitat types. Therefore, there is no substantial evidence that the No Project Alternative would result in a net reduction in the total amount of habitat loss.

Further, Option A would substantially constrain development opportunities, particularly in the Community Regions where the majority of development and oak woodland impacts are anticipated to occur, by requiring on-site retention. As discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR, this would be inconsistent with the County’s overall goals and objectives identified in the General Plan.

8-6 The commenter requests an equal-weight analysis of an Option A analysis.

Refer to Response to Comment 8-3 above in this section (Section 3.4, Individuals), which states that CEQA does not require an equal-weight analysis of project alternatives.

8-7 The commenter requests a discussion of how the decision was made to use a 30% retention rate as Alternative 2.

As discussed in Response to Comment 6-5 and summarized in Response to Comment 8-2 above in this section (Section 3.4, Individuals) , 30% was selected as the retention requirement to be evaluated under Alternative 2 because it has the potential to reduce impacts while still achieving the basic project objectives. Further, the 30% retention standard would be meaningfully different from the proposed project and the No Project Alternative by setting the retention requirement at a midpoint between the proposed project and the No Project Alternative. This difference is important in meeting the requirement of the CEQA Guidelines that “the range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making” (14 CCR 15126.6(f)).

8-8 The commenter requests a discussion about why Option A was not selected as a project alternative.

As described in Chapter 10 (Alternatives) of the Draft EIR and discussed in Responses to Comments 8-2 and 8-3 above in this section (Section 3.4, Individuals), Alternative 1, the No Project Alternative, is the Option A alternative.

8-9 The comment states that because the Targeted General Plan Amendment and Zoning Ordinance Update (TGPA-ZOU) EIR is being litigated, if it is invalidated, it would invalidate this project and EIR.

The commenter suggests that the text quoted indicates that the TGPA-ZOU project is the baseline for this EIR. Instead, the text simply indicates that the Draft EIR considers two planning horizons (or development scenarios) – the extent and location of new development anticipated in the County by 2025 and the extent and location of new development anticipated in the County by 2035 – and that this approach is consistent with the planning horizons considered in the TGPA-ZOU EIR. Therefore, this EIR analysis is consistent with the TGPA-ZOU EIR analysis in that both EIRs considered impacts to 2025 and 2035. While the Project EIR references pertinent analyses contained in both the 2004 General Plan EIR and the TGPA-ZOU EIR, the Project EIR draws its own conclusions about the significance of environmental impacts of the Biological Policies Update. Therefore, because the Draft EIR is an independent analysis and does not rely on the TGPA-ZOU EIR analysis as the basis of its conclusions, invalidation of the TGPA-ZOU EIR would not automatically invalidate the Biological Resources Policy Update EIR. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR, and. Also refer to Chapter 4 (Methodology and Assumptions) of the Draft EIR for an explanation of the approach used in this EIR and the relationship between this EIR analysis and those of the 2004 General Plan EIR and the TGPA-ZOU EIR.

8-10 This comment states that the proposed project and the TGPA-ZOU project should have been combined, and requests that development of this EIR be withheld until the TGPA-ZOU litigation has concluded.

Combining the two policies, as the commenter suggests, would have been a valid approach, although it is not required by CEQA. However, the Board of Supervisors has chosen to comprehensively analyze the proposed project and the TGPA-ZOU project separately to give the biological resources policies its full attention. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the

relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 8-11** This comment requests that this EIR be put on hold until Measure E implementation has been established.

As described in Chapter 4 (Methodology and Assumptions) of the Draft EIR, the County began preparation of the Draft EIR prior to the elections of June 2016, in which El Dorado County voters passed Measure E. The various provisions in Measure E impact many types of development projects; however, the effect of these General Plan policy amendments is currently unclear. Measure E could reduce the total amount of development within the County, could result in additional road construction and widening, could result in changes in the locations of development, or could result in some combination of these three potential scenarios. Further, Measure E is now subject to litigation as well. If Measure E withstands that challenge, these General Plan policy changes will become part of the regulatory conditions applicable to new development in the County. However, because Measure E was passed after circulation of the Notice of Preparation (NOP) for this Draft EIR and there is substantial uncertainty about its effects, the potential effects of this new regulatory condition are not reflected in the analysis of General Plan buildout.

- 8-12** The comment states that the Draft EIR stated that the impacts to oaks and oak woodlands under the TGPA-ZOU are equivalent to the impacts under the 2004 General Plan, and that this is incorrect because the TGPA-ZOU would increase the locations and intensity of development in the County, which would result in a greater degree of impact to biological resources.

Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR. The Draft EIR does not state that the TGPA-ZOU and 2004 General Plan would result in equivalent impacts; further, it is not the role of this EIR to compare the impacts of the TGPA-ZOU to those of the 2004 General Plan, or to compare the proposed project to either of these prior efforts. The Draft EIR summarizes the findings of the 2004 General Plan EIR and TGPA-ZOU EIR to provide context that can help the public and decision makers understand the environmental conditions in the County.

On page 6-75, the Draft EIR states, “The amount of land cover conversion that would occur under the proposed project is identified in Table 6-15 and is similar to the level of development and resultant habitat conversion described in the 2004

General Plan EIR and the TGPA-ZOU EIR.” However, because the impacts to biological resources in the TGPA-ZOU are discussed qualitatively and are not quantified, it is not possible to precisely compare the relative impacts of each General Plan iteration. Further, the statement of the relative impacts is not central to the impact analysis or conclusions in this Draft EIR.

- 8-13** The comment states that the only place where this EIR acknowledges that the TGPA-ZOU will have a greater impact than buildout under the 2004 General Plan is in the analysis of impacts to scenic views and vistas. The comment states that the Draft EIR downplays the impact because the EIR says the duration of the view is limited since the viewer would be traveling at high speeds along U.S. Highway 50 (Highway 50). The commenter also notes that the statements in Chapter 9 (Visual Resources) of the Draft EIR about views of Marble Valley being from the westbound lanes of Highway 50 in the description of Marble Valley views should be changed to “eastbound” or should include both directions.

This EIR does not make determinations about the TGPA-ZOU impacts or compare the impacts of the TGPA-ZOU to the impacts of the 2004 General Plan. Rather, this EIR summarizes the findings of the TGPA-ZOU EIR and the 2004 General Plan EIR in order to provide context. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

As discussed in Section 9.3 (Impacts) of the Draft EIR, this EIR relies in part on the U.S. Forest Service and Federal Highway Administration methods for evaluating visual resources and project-related effects, as summarized in the County’s 2004 General Plan EIR (County of El Dorado 2004). One element of visual impact assessment is viewer sensitivity or concern, which is gauged by many factors, including the frequency and duration of views. Therefore, the duration of the view is a valid metric when assessing visual impacts.

The text in Chapter 9 (Visual Resources) of the Draft EIR has been revised. Refer to Chapter 4 (Text Changes to the Draft Environmental Impact Report) in this Final EIR to more clearly describe available views of Marble Valley and the proposed Village of Marble Valley Specific Plan area. The predominant view is from the westbound lanes on Highway 50 because the ridgeline along the western boundary of the specific plan area limits views from the eastbound lanes. However, there are limited views of the Specific Plan area from the eastbound lanes.

- 8-14** The comment states that the proposed project, combined with the TGPA-ZOU, and the elimination of 2004 General Plan mitigation measures such as the INRMP and the Plant and Wildlife Technical Advisory Committee (PAWTAC), would cause serious decline for oaks, oak woodlands, and wildlife habitat in the County because it eliminates important evaluations and mitigation oversight.

The analysis of cumulative impacts (impacts of the proposed project along with other reasonably foreseeable or already planned projects, such as the TGPA-ZOU) is included in the resource impact analyses in Chapters 4 through 9 of the Draft EIR. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR. The proposed General Plan biological resources policies and ORMP include detailed requirements for site-specific biological resources evaluations, mitigation, and mitigation monitoring. Proposed Policy 7.4.2.8 would create a Biological Resources Mitigation Program that would take the place of the INRMP. Through the policy's requirements for evaluating existing biological resources and assessing and mitigating project impacts, the Biological Resources Mitigation Program will result in conservation of habitats that support special-status species, aquatic environments, wetland and riparian habitat, important habitat for migratory deer herds, and large expanses of native vegetation. The proposed Biological Resources Mitigation Program would function in combination with proposed Policy 7.4.2.9 (which requires that development within the IBCs demonstrate that they have achieved no net loss of wildlife movement and habitat values within the IBCs) and the proposed ORMP (which defines requirements for evaluation and mitigation of impacts to oak resources) to ensure that compensation is provided for habitat loss due to General Plan implementation. Further, the proposed project would ensure that this compensation is undertaken in a way that maximizes the habitat value of conserved areas to provide comprehensive and long-term habitat protection. Although the proposed project would eliminate the INRMP, it includes the evaluation and mitigation requirements necessary to ensure effective conservation of the County's biological resources.

- 8-15** The comment states that the ORMP would have serious impacts on mature oak woodlands if the project allows 100% removal of oaks in exchange for an in-lieu fee, particularly because replacement plantings would take in excess of a century to reach equivalent maturity or attain a comparable wildlife habitat value.

The commenter is correct in that the ORMP would allow for 100% removal of oaks and oak woodlands, with mitigation. However, as described in Chapter 6 (Biological Resources) of the Draft EIR, the ORMP is consistent with California Public

Resources Code Section 21083.4 in that replacement planting would not account for more than 50% of the oak woodlands mitigation requirement. Mitigation would also include substantial levels of conservation of existing oak woodlands, at ratios ranging from 1:1 to 2:1. Nonetheless, as described under Impact BIO-1 in Chapter 6 (Biological Resources) of the Draft EIR, development allowed under the proposed project would result in significant and unavoidable impacts to wildlife habitat.

- 8-16** The commenter requests that the Final EIR include the impact and value of the reintroduction of the INRMP process and the PAWTAC, or explain why that is not feasible.

The proposed project does not include reintroduction of the INRMP or the PAWTAC; therefore, neither is analyzed in the Draft EIR. The County invested considerable time and energy in beginning to implement the INRMP as required by the 2004 General Plan, and encountered several challenges in this process. After the Superior Court's ruling on the 2008 Oak Woodland Management Plan (OWMP) was issued, the Board of Supervisors considered several options for addressing the County's biological resource management goals. The Board determined that revising the General Plan policies to be self-implementing, rather than to call for a protracted and burdensome implementation process, would better allow the County to implement the General Plan in a manner consistent with the overarching goals and objectives of the plan. Thus, reintroduction of the INRMP would not meet the project objectives and therefore would not be feasible as part of the proposed project. Rather, the proposed project includes substantial revisions to Policy 7.4.2.8 to create a Biological Resources Mitigation Program that requires site-specific resource evaluations and establishes the required mitigation ratios and requirements for impacts to such resources.

Under the proposed project, the County would not be obligated to convene the PAWTAC but also would not be precluded from doing so when appropriate. The PAWTAC is an advisory body. A requirement to convene this body would have no influence on the environmental effects from General Plan implementation; therefore, it is not necessary for the EIR to consider such a requirement.

- 8-17** The comment states that the proposed project will lead to development in areas historically constrained by the more stringent Option A, by allowing 100% removal of oak resources on any parcel.

The Draft EIR evaluates the effects of development projected to occur within the County under a short-term (2025) and a long-term (2035) scenario. This includes assumptions regarding the location of development. The impact analysis assumes

that 100% of any existing oak woodland would be removed from all parcels to be developed. Thus, the Draft EIR fully evaluates the amount of development that could occur under the proposed project and the resulting effects to oak woodlands and other habitat types.

During the years when Option A was in effect, and where applicable development activities were required to demonstrate consistency with the Interim Guidelines, initial consultations with Development Services Division staff (e.g., at the public counter and at scheduled pre-application meetings) indicated that a significant number of potential applicants for both ministerial and discretionary projects chose not to move forward with new development projects due to issues or concerns directly related to meeting the on-site oak canopy retention and replacement requirements of Option A, including the lack of an option to pay a fee. However, the actual number of potential applicants electing not to proceed with development is not known, and cannot be known with certainty, because detailed results of such informal consultations are not typically documented. Further, this discussion does not include the number of potential applicants that chose not to develop due to Option A constraints but did not approach the County. It is not possible to quantify a number that is unquantifiable, and any endeavor to do so would be speculative.

- 8-18** This comment says that the Draft EIR states a loss of 147,147 acres of woodland is likely, and that nearly 139,000 acres could be removed without mitigation because many project types are exempt from ORMP mitigation requirements.

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. As discussed in Chapter 6 (Biological Resources) of the Draft EIR, a total of 246,806 acres of oak woodlands exist in the ORMP area. Table 6-6 as revised in Chapter 4 (Text Changes to the Draft Environmental Impact Report) in this Final EIR shows that 4,848 acres of oak woodlands would potentially be converted under the General Plan Buildout Scenarios, excluding the amount of oak woodland that could be converted under the ORMP exemptions. The Draft EIR also explains that this impact estimate likely overstates the actual impact because it assumes that no on-site retention would occur. However, historic development patterns in the County and the effect of other development requirements, such as setbacks and provision of open space, indicate that some amount of on-site retention is likely on most project sites. The commenter is correct in stating that if all oak woodlands in areas with exemptions were impacted, it would total 138,704 acres, and that impacts associated with ORMP exemptions would result in the loss and fragmentation of oak woodlands wildlife habitat without mitigation. Refer to Response to Comment 6-14 above in this

section (Section 3.4, Individuals) for additional discussion of the exemptions included in the proposed ORMP.

- 8-19** This comment states that the proposed project would allow development on thousands of acres of oak woodlands important to wildlife, which would be retained under the 2004 General Plan due to Option A retention standards. The commenter emphasizes the importance of retention and states that the proposed project offers no protection for mature woodland.

Refer to Response to Comment 8-18 above in this section (Section 3.4, Individuals) for clarifications regarding the maximum acreage of oak woodland loss under the ORMP. Also refer to Responses to Comments 6-16 and 6-18 above in this section (Section 3.4, Individuals) regarding the likely effects of the No Project Alternative, which includes the Option A retention standards. As discussed in those responses, the Draft EIR analysis of the No Project Alternative demonstrates that the retention required under Option A could lead to an expansion of the areas in which development occurs. This is because parcels would be developed with less density to accommodate on-site retention, which would require a greater total number of parcels to be developed to attain the population and employment growth projected for the County. Thus, although the No Project Alternative would result in retention of oak woodland in areas currently projected for development, it would require additional parcels be developed (beyond what is currently projected) to accommodate the same total amount of development. This would result in additional impacts to oak woodland and other habitat types. Therefore, there is no substantial evidence that the No Project Alternative would result in a net reduction in the total amount of habitat loss.

The comment is incorrect in stating that the proposed project offers no protection for mature oak woodland. The proposed project requires conservation of existing oak woodland to compensate for oak woodland lost to development. This conservation must occur at ratios between 1:1 and 2:1, ensuring that the amount of oak woodland conserved is equal to the amount lost, at minimum. The proposed project also includes detailed performance standards that must be met by the conserved areas—they must be in contiguous habitat blocks of no less than 5 acres and they must be of the same type and habitat value as the habitat lost. In contrast, the patches of oak woodland retained on individual project sites under the No Project Alternative would have no minimum acreage requirement. Where these patches are less than 5 acres, they would have less habitat value than the large patches of oak woodland that would be conserved under the proposed project.

- 8-20** This comment states that the Draft EIR incorrectly states that project alternatives that limit impacts to oaks/oak woodlands in community regions would shift development to rural regions because of an incorrect assumption that a definite amount of growth must occur and be accommodated within the County.

Refer to Chapter 4 (Methodology and Assumptions) of the Draft EIR for a discussion of the 2004 General Plan's planning horizons under both a short-term (2025) and a long-term (2035) scenario. As discussed therein, the development assumed for the County in these two scenarios is based on the residential population and employment projections for the County. The County's economic consultant, BAE Urban Economics, developed the projected residential annual growth rate of 1.03% based on their evaluation of three separate data sources and projections—California State Department of Finance data, Sacramento Area Council of Governments data, and historic construction trend data (primarily building permit issuance) furnished by El Dorado County. Further, the locations of projected development reflect both historic and recent development patterns in the County as well as the changes to those patterns anticipated as a result of the General Plan and zoning changes adopted under the TGPA-ZOU. Assuming that a lesser level of development would occur in the County would be speculative and contrary to these economic data.

- 8-21** This comment states that the Draft EIR assumes that high-density development is a given and that lower-density development in community regions cannot accommodate the necessary amount of growth.

As discussed in Response to Comment 8-20 above in this section (Section 3.4, Individuals), the development assumptions used in the Draft EIR are based on economic and construction (building permit issuance) trend data. When development density is reduced, the total amount of dwelling units and/or non-residential square footage that can be accommodated on a given site is reduced. If the development density is reduced in some or all areas, then a greater total area would be needed for the same amount of dwelling units and non-residential square footage to be constructed. The Draft EIR assumes that 100% removal of natural habitat will occur on each development site because there is no mechanism to ensure that any amount of habitat is retained. Although it is expected that some amount of retention will occur, based on historic development patterns in the County, the Draft EIR relies on the 100% removal assumption to ensure that impacts are not underestimated.

8-22 This comment states that the Draft EIR ignores the fact that the Planning Commission and Board of Supervisors have the ultimate authority to limit and prohibit development proposed in rural regions of the County.

Although it is true that the Planning Commission and Board of Supervisors may have authority to deny or conditionally approve development projects in the rural regions of the County that require discretionary approvals, the Draft EIR analysis is based on the development projections for the County, as discussed in Responses to Comments 8-20 and 8-21 above in this section (Section 3.4, Individuals).

8-23 This comment states that the Draft EIR ignores the ways in which the TGPA-ZOU promotes growth and development in the rural areas of the County. The commenter asks why oak retention is not considered a viable path.

As stated in Chapter 4 (Methodology and Assumptions) of the Draft EIR, “The development projections used for this EIR analysis reflect both historic and recent development patterns in the County as well as the changes to those patterns anticipated as a result of the General Plan and zoning changes adopted under the TGPA-ZOU. Those changes primarily increased the number of locations where development of different types would be allowed within the County and increased the potential for higher intensity development to occur” (Draft EIR, Chapter 4, Methodology and Assumptions, p. 4-3). Therefore, the analysis has considered development within the County under the changes adopted with the TGPA-ZOU project, including development within rural areas.

Although the TGPA-ZOU project did alter some of the County’s General Plan policies and zoning standards to increase development potential within the County’s rural regions, the General Plan continues to emphasize development of residential, retail, commercial, and office uses in the County’s Community Regions and Rural Centers. The types of development that the TGPA-ZOU discussed as occurring within rural areas are generally resource-industry-based or recreation uses. Although it is correct that the County assumes that more jobs would be located in the rural areas, the focus is on providing jobs related to keeping the agriculture and timber industries economically viable, not on providing office-professional and retail jobs and moderate-density residential subdivisions and developments. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

This is reflected in the total acreage of oak woodland impacts expected to occur within the County's Community Regions compared to the amount of impacts expected in the rural areas. As discussed in Response to Comment 4-35 in Section 3.2 (State and Local Agencies) in this Final EIR, a more detailed analysis of where oak woodland impacts are projected to occur was conducted. Note that the discussion in that response reflects the corrected acreage totals for land cover type impacts discussed in Master Response 9 in Chapter 2 (Master Responses) in this Final EIR. Table 3-4 in Response to Comment 4-35 (Section 3.2, State and Local Agencies) in this Final EIR shows that of the total 3,500 acres of oak woodland impacts anticipated by 2025, 2,754 acres of impact would occur within the Community Regions whereas 746 acres of impact would occur in other areas (rural centers and rural regions). As shown in Table 3-5 in Response to Comment 4-35 (Section 3.2, State and Local Agencies), an additional 1,349 acres of impact are anticipated to occur by 2035, with 1,235 acres of that amount occurring within the Community Regions. In total, under the 2035 development scenario, 3,989 acres of impacts to oak woodlands are anticipated within the Community Regions and 860 impacts of oak woodlands would occur in the rural areas.

The proposed project recognizes the values attributed to on-site retention by using a sliding scale of mitigation requirements to incentivize oak woodland retention. The proposed project also requires oak woodland conservation to compensate for the loss of oak woodland, thus providing for retention of a substantial amount of high-habitat-value oak woodlands within the County in perpetuity.

- 8-24** The commenter requests that the Final EIR include an analysis of reduced development densities in the community regions to accommodate Option A retention standards.

The Draft EIR includes a reasonable range of alternatives, including the No Project Alternative, which incorporates Option A. The Draft EIR does not include any alternatives that would reduce development densities in the Community Regions because this would be inconsistent with the overarching goals and objectives of the General Plan. Consistency with the General Plan is further discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR.

- 8-25** The commenter requests that a reevaluation of project alternatives such as the No Net Loss of Oak Woodlands Alternative (No Net Loss Alternative) be included in the Final EIR to reflect that rural areas will be developed to a greater degree than assumed in the Draft EIR.

As stated in Response to Comment 8-23 above in this section (Section 3.4, Individuals), the Draft EIR analysis has considered development within the County under the changes adopted with the TGPA-ZOU project, including development within rural areas. Therefore, a reevaluation is not warranted.

Further, as discussed in Chapter 10 (Alternatives) of the Draft EIR, the No Net Loss Alternative was rejected as infeasible 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. 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. Further, as summarized in Response to Comment 8-23 above in this section (Section 3.4, Individuals) and discussed in detail in Response to Comment 4-35 in Section 3.2 (State and Local Agencies) in this Final EIR, a total of 3,949 acres of impacts to oak woodlands are expected to occur in the Community Regions. To achieve a no net loss standard, substantial amounts of on-site retention would be necessary, along with extensive restoration and replanting efforts, to compensate for any oak woodland removal, including temporal loss. Thus, the No Net Loss Alternative would require substantially reducing development in the Community Regions to retain most of the 3,949 acres of oak woodland anticipated to be impacted. Although some retention could be achieved by increasing development densities in the Community Regions, it would not be feasible to account for all of the development projected for the 3,949 acres by increasing densities. This would require redirecting development to the rural areas, which would be inconsistent with the General Plan.

- 8-26** The comment references text on page 6-60 of the Draft EIR and states that the time period between 2002 and 2015 is not a viable indicator of the scale at which oak woodlands are being impacted, because a recession occurred during that time period and Option A was in place. The comment requests that the Final EIR include a realistic projection of County-wide oak woodland conversion.

The referenced text was presented in the Draft EIR discussion of the agricultural exemption included in the proposed ORMP. The discussion of oak woodland loss between 2002 and 2015 was not used to indicate future impacts from implementation of the General Plan (i.e., all projected development). Instead, it was used to indicate that although the agricultural exemption could apply to 132,281 acres of oak woodland, it is not expected that impacts would occur within the entirety of this area. An agricultural exemption from the requirements of current Policy 7.4.4.4 has been in place during the period analyzed (thus, the availability of Option B is not relevant), but impacts to oak woodlands from all activities, including agriculture, were limited.

Refer to Master Response 5 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the potential effects of the agricultural activity exemption, including proposed limitations on the use of the exemption. As demonstrated in Master Response 5 in Chapter 2 (Master Responses) in this Final EIR, there is no substantial evidence in the record that current or forecasted agricultural activities will result in large-scale permanent oak woodland conversion. The EIR states that a maximum of 132,281 acres would be exempted under the agricultural activity exemption under the ORMP. Because there is a wide range of factors that influence what changes in agricultural activities may occur and the degree to which those changes would affect oak woodlands, it would be speculative to quantify the actual acreage of oak woodland that will be impacted under that exemption. The EIR provides a projection of the maximum amount of oak woodland conversion in the County based on the projected development through 2035, including quantification of the effects of each exemption in the proposed ORMP, and assuming 100% removal of oak woodlands from all project sites. Although it is expected that some amount of on-site oak woodland retention would occur, it would be speculative to quantify this amount in the scope of the Draft EIR's programmatic analysis. Refer to Master Response 8 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the nature of a programmatic analysis under CEQA.

8-27 This comment states that impacts resulting from the agricultural exemption to oak woodlands will be significant and unmitigated. It states that it is important to evaluate oak retention and mitigation for agricultural operations as a possible path to oak retention. The commenter states that under the TGPA-ZOU, agricultural operations would include features such as entertainment venues and health resorts, and states that best management practices (BMPs) for agricultural operations have not been included in the TGPA-ZOU EIR or this Draft EIR, but need to be defined.

As discussed in Response to Comment 8-26 above in this section (Section 3.4, Individuals), the Draft EIR finds that the agricultural exemption could apply to 132,281 acres of oak woodland, but it is not expected that agricultural activities would expand to this degree. Refer to Master Response 5 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the agricultural activity exemption. As described in Master Response 5, the proposed ORMP has been modified to stipulate that the agricultural activity exemption does not apply to activities that require a Conditional Use Permit. This modification ensures that the exemption is applied as narrowly as possible while ensuring the continued viability of the County's agricultural economy. However, it is not possible to estimate the degree to which this modification could limit the area in which the exemption would apply. Thus, the analysis and conclusions of the Draft EIR remain unchanged.

The requirement for agricultural operations to meet BMPs is included in the TGPA-ZOU project, which is separate from the proposed project. Identifying specific BMPs for agricultural operations to meet the TGPA-ZOU requirements is beyond the scope of this EIR. This EIR does not assume any benefits to oak resources, riparian habitat, and wildlife habitat associated with use of BMPs. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

8-28 This comment states that management requirements for agricultural grazing operations need to be identified and defined, referencing the commenter's prior comments submitted on December 23, 2015. The commenter references a California Wildlife Foundation letter that states oak woodlands provide a productive understory of grasses that enhance the forage quality of rangelands.

Refer to Response to Comment 6-9 above in this section (Section 3.4, Individuals) for a detailed discussion of the potential for cattle grazing to impact oak woodlands that are subject to conservation easements. As demonstrated in that response, there is no inherent conflict between cattle grazing and oak woodland conservation. Therefore, although cattle grazing operations would qualify for the agricultural activity exemption in the proposed ORMP, an expansion of cattle grazing would not necessarily result in loss of oak woodland habitat. This is recognized on page 6-60 of the Draft EIR, which identifies "grazing activities that retain woodlands and trees" as an example of agricultural activities that would not result in oak woodlands conversion.

As shown in Draft EIR Table 6-13, there is a total of 13,329 acres of oak woodland within parcels zoned Agricultural Grazing. Grazing is also allowed in all other agricultural zone districts. Management of grazing operations is highly site specific. Determining the methods and timing of grazing, use of exclusion fencing, erosion control measures, and other BMPs is dependent on the conditions and resources present at each individual grazing area. As grazing operations vary widely based on site-specific conditions, parcel size/location, and other factors, a Countywide analysis of grazing operations would be speculative and therefore inappropriate as part of this Program EIR. Further, the County's biological experts found no substantial evidence that cattle grazing activities would result in substantial new impacts to oak woodlands. As shown in Table 2-1 in Master Response 5 in Chapter 2 (Master Responses) in this Final EIR, the total number of cattle grazed within the County has ranged from a high of 11,400 in 1970 to a low of 4,300 in 2000. Since 2010, the number of cattle has remained between 5,900 and 6,800.

The commenter's December 23, 2015, comments are included as an attachment to this letter and responses to each individual comment are provided in Responses to Comments 8-120 through 8-149 below in this section (Section 3.4, Individuals).

- 8-29** The commenter requests that the Final EIR include possible oak retention guidelines for agricultural operations when those operations are expanded to include development other than food production activities.

Refer to Master Response 5 in Chapter 2 (Master Responses) and Responses to Comments 8-27 and 8-28 above in this section (Section 3.4, Individuals) in this Final EIR, which discuss the modification made to the agricultural activities exemption to ensure it is applied as narrowly as possible while still meeting the County's General Plan goals and objectives.

- 8-30** This comment requests that the Final EIR identify and define BMPs for agricultural operations and how those requirements would impact oaks, riparian habitat, and wildlife habitat.

Refer to Responses to Comments 8-27 and 8-28 above in this section (Section 3.4, Individuals), which discuss why defining BMPs is outside the scope of this EIR. The County has already identified typical agricultural activity BMPs. These are available at the County's website: http://edcgov.us/government/ag/ag_grading_permits_and_BMP_s.aspx.

- 8-31** This comment requests that the Final EIR identify and define grazing restrictions for grazed lands and how those requirements would impact oaks, riparian habitat, and wildlife habitat.

Refer to Responses to Comments 8-27 and 8-28 above in this section (Section 3.4, Individuals), which states that there is no evidence that grazing operations would increase substantially or result in new impacts to oak woodlands and other habitats, and that grazing practices vary widely and an analysis of grazing operations and restrictions to minimize habitat impacts is outside the scope of this Program EIR.

- 8-32** The commenter states that it is unclear why riparian buffer zones were established under the TGPA-ZOU process but not under the proposed project's process, and requests that newly developed riparian setbacks be included in the Final EIR. The comment also states that wetland and riparian habitat are not evaluated and "conserved/mitigated" under the proposed project. The comment also references the commenter's prior comments submitted on December 23, 2015.

The County adopted Zoning Ordinance Section 130.30.030.G under the TGPA-ZOU project. This section identifies setbacks required for the protection of wetlands and sensitive riparian habitat. It is not necessary for the same provision to be included in the proposed project. As discussed in Response to Comment 6-27 above in this section (Section 3.4, Individuals), where the required setbacks are not sufficient to protect all wetlands and habitat, the proposed project identifies mitigation requirements (generally off-site conservation and restoration at defined ratios) to compensate for the on-site habitat loss. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

Impacts to wetland and riparian habitat are evaluated in Impact BIO-1 in Chapter 6 (Biological Resources) of the Draft EIR. The maximum potential impacts to these habitat types are identified in Table 6-15, on pages 6-68 and 6-69 of the Draft EIR. As shown in that table, it is expected that by 2035, implementation of the General Plan could result in loss of 527 acres of wetlands and riparian habitat if no on-site avoidance (such as through setbacks) and retention occur. Proposed Policy 7.4.2.8 requires mitigation for all vegetative cover types, including wetland and riparian habitat, in accordance with the Habitat Mitigation Summary Table contained in the policy. For wetland and riparian habitat, the proposed project would require a combination of habitat preservation and creation to compensate for impacts.

The commenter's December 23, 2015, comments are included as an attachment to this letter and responses to each individual comment are provided in Responses to Comments 8-120 through 8-149 below in this section (Section 3.4, Individuals).

- 8-33** The commenter requests clarification regarding what the in-lieu fee would be used for, and suggests that the definition of "in-lieu fee" in Appendix D appears to eliminate the use of the in-lieu fee as a source of conservation easement acquisition.

Appendix D defines the Oak Woodland Conservation Fund as a fund set up by the County to receive in-lieu fees (Oak Woodland In-Lieu Fee and Individual Tree In-Lieu Fee), which shall be used to fund the acquisition of land and/or Oak Woodlands Conservation Easements from willing sellers, native oak tree planting projects, and ongoing conservation area monitoring and management activities, including but not limited to fuels treatment, weed control, periodic surveys, and reporting. As described in detail in Section 3 (Cost to Conserve OWAs) of the El Dorado County Oak Resources In-Lieu Fees Nexus Study (Nexus Study; Appendix B of the ORMP), the in-lieu fee is designed to pay the full cost of the mitigation for development impacts, including acquisition, management and monitoring (initial and long term), and

administration. In the text referenced by the commenter, item *a* provides for mitigation to occur through payment of the in-lieu fee, which would then be used by the County or a land conservation organization to acquire conservation easements and manage the land in perpetuity, whereas item *b* provides for a developer to independently negotiate an off-site deed restriction or conservation easement that would be created in favor of the County or a land conservation organization. In this case, the developer would pay the maintenance and monitoring portion of the in-lieu fee, but not the acquisition portion. The text of the ORMP has been edited to clarify use of the in-lieu fee, as shown in Chapter 4 (Text Changes to the Draft Environmental Impact Report) in this Final EIR.

- 8-34** This comment states that language in the fee study regarding returning or reallocating fees that have been unspent after 5 years could jeopardize oak mitigation.

The referenced language in the Nexus Study is required under the Mitigation Fee Act, Section 66001(d). The County is bound by the requirements of that act in adopting any in-lieu fee. The County intends to use the fees collected for acquisition of conservation easements as described in the proposed ORMP.

- 8-35** The commenter requests that the Draft EIR define what in-lieu fees will be used for.

Refer to Response to Comment 8-33 above in this section (Section 3.4, Individuals), which states that the in-lieu fees would be used for acquisition of conservation easements, initial and long-term management and monitoring, and administration of the fee program.

- 8-36** The commenter suggests a revision to the language in the Nexus Study.

The proposed Nexus Study states that collected fees that remain unexpended after 5 years could be reallocated to another purpose for which fees are collected subject to Section 66000 of the Government Code. This is required under Section 66000 (the Mitigation Fee Act). Fees collected under a process that is subject to the Mitigation Fee Act may not be reallocated to another purpose for which no in-lieu fee has been established under the same act.

- 8-37** The commenter requests that the Final EIR include how the personal use of oak resources on an owner's property must be managed to prevent pre-clearing of a site, and states that the exemption for non-commercial agricultural operations is excessive and likely to result in loss of oak woodland.

Refer to Response to Comment 6-14 above in this section (Section 3.4, Individuals) and Master Response 6 in Chapter 2 (Master Responses) in this Final EIR for discussion of the personal use exemption. The personal use exemption would apply only to removal of oak trees and would not exempt a property owner from compliance with the evaluation and mitigation requirements for potential impacts to oak woodland habitat. Refer to Response to Comment 1-15 above in this section (Section 3.4, Individuals) for discussion of penalties that the County may impose on property owners who violate the proposed ORMP.

- 8-38** The commenter requests that the Final EIR include options for managing personal use and offers suggestions including methods for deterring “pre-clearing” for future non-personal uses, and the removal of exemptions for non-commercial agricultural operations

A discussion of these points, as presented by this commenter, as well as responses to similar comments, is discussed in detail in Master Responses 5 and 6 in Chapter 2 (Master Responses) in this Final EIR.

- 8-39** The commenter requests that the Final EIR include a discussion that evaluates incorporating measures that restrict the rezoning of land that has been pre-cleared.

As discussed in Master Response 6 in Chapter 2 (Master Responses) in this Final EIR, the personal use exemption in the proposed ORMP has been modified to limit tree removal under this exemption to a maximum of 6 individual oak trees or a maximum of 140 inches diameter at breast height. To deter illegal removal of oaks, the ORMP includes penalties and fines for removing oaks without first obtaining an oak tree removal permit. “Fines may be as high as three times the current market value of replacement trees, as well as the cost of replacement, and/or the cost of replacement of up to three times the number of required replacement trees” (ORMP (Appendix C to the Draft EIR), p. 12). For Heritage Trees, this increases to up to nine times the current market value. In addition to these fines, all applications for development of the site in question will be deemed incomplete until “the property owner enters into a settlement agreement with the County or all code enforcement and/or criminal proceedings are complete and all penalties, fines and sentences are paid or fulfilled” (ORMP, p. 13).

- 8-40** The commenter requests that the Final EIR discuss the impact/benefit of removing the personal use exemption for non-commercial agricultural operations.

Non-commercial agricultural operations would be exempt from the requirements of the ORMP under the agricultural activities exemption and would not be expected to

use the personal use exemption. Refer to Master Response 5 in Chapter 2 (Master Responses) in this Final EIR regarding the agricultural exemption.

- 8-41** The comment acknowledges the ORMP’s commercial firewood harvesting permit requirements, identifies canopy retention standards for such operations in Shasta and Tehama Counties, and requests that the EIR evaluate the impacts and benefits of a minimum 30% retention rate for commercial firewood harvesting.

As described in the proposed ORMP, commercial firewood cutting operations in oak woodlands shall require an oak woodland removal permit, and cutting of individual native oak trees for commercial firewood harvesting shall require an oak tree removal permit. The County will review all oak resources removal permit applications for firewood cutting operations. In reviewing the applications, the County will consider whether the removal of the trees would have a significant environmental impact; whether the proposed removal would not result in clear-cutting, but would result in thinning or stand improvement; whether the trees proposed for removal are Heritage Trees; whether replanting would be necessary; whether removal would create soil erosion; whether any other conditions should be imposed in accordance with sound tree management practices; and what the extent of the remaining oak woodland coverage would be after firewood cutting. These impact considerations are consistent with those included in existing General Plan Policy 7.4.5.2, with the exception of considering whether a tree proposed for removal is a Heritage Tree. This inclusion is consistent with Board of Supervisors direction to afford greater protection to native oak trees measuring 36 inches or more in trunk diameter.

Minimum retention standards are not specifically required for commercial firewood harvesting operations; however, the County must consider the aforementioned variables prior to issuing a commercial firewood cutting permit. In addition, as identified in the Draft ORMP, an oak resources technical report, prepared by a Qualified Professional, must accompany all oak woodland or oak tree removal permit applications. The effect of proposed firewood harvesting activity on oak resources, including quantification of impacted and non-impacted resources, shall be analyzed and presented in the oak resources technical report, which will be used to inform the County’s permit decision.

- 8-42** The commenter requests that the Final EIR discuss the thresholds used to determine significant negative environmental impact, adequate regeneration, potential for soil erosion, and sound tree management practices.

As discussed in Response to Comment 8-41 above in this section (Section 3.4, Individuals), the County shall review an oak resources technical report prepared by a Qualified Professional when considering a commercial firewood cutting permit application. No specific thresholds are defined for evaluating the effect of firewood harvesting activities because each potential site would exhibit unique elevation, slope, soil, access, canopy cover, tree density, and tree species composition, among other factors. For this reason, the County will use site-specific information provided in an oak resources technical report to determine the level of environmental effect and any conditions it may place on the operations to minimize negative environmental effects.

The County will rely on the definition of “significant effect on the environment,” as presented in Section 21068 of CEQA (“a substantial, or potentially substantial, adverse change in the environment”) when evaluating potential impacts resulting from a specific proposed firewood harvesting operation (California Public Resources Code, Section 21000 et seq.). The County will also rely on the site description, project description, and mitigation measures/BMPs outlined in the oak resources technical report when evaluating environmental effects. Oak resources technical reports are expected to include sufficient information from which the County can evaluate potential impacts, including, but not limited to, the regeneration capacity of a site, remaining oak woodland and canopy cover following harvesting operations, the necessity for replanting to sufficiently regenerate a site, a site’s soil erosion potential, and whether cutting will improve stand conditions. The Qualified Professional preparing the report is expected to provide their professional recommendations for harvesting operations such that sound tree and woodland management practices are implemented prior to, during, and following harvesting operations. As noted, the County may also condition a commercial firewood cutting permit to ensure that measures are implemented to minimize negative environmental effects.

8-43 The commenter requests that thresholds be applied to restrict commercial firewood removal activity.

Refer to Response to Comment 8-42 above in this section (Section 3.4, Individuals).

8-44 This comment refers to an attached letter from the California Wildlife Foundation/California Oaks dated July 22, 2016, that discusses deficiencies in the greenhouse gas (GHG) emissions analysis/mitigation performed in the Draft EIR.

Refer to Responses to Comments 1-1 to 1-22 in Section 3.3 (Organizations) in this Final EIR for responses to comments from California Oaks.

- 8-45** This comment mentions the July 12, 2016, California Wildlife Federation letter that states that oak woodlands protect the quality of greater than two-thirds of California’s drinking water supply. The commenter also states that comments on the NOP for the proposed project included excerpts from the Napa County Voluntary Oak Woodland Management Plan in support of the tie between oaks and water quality. The commenter requests that the Final EIR include an assessment of the impact of oak/oak woodland removal on soils/soil stability, hydrology, and water quality.

As described in Chapter 2 (Introduction) of the Draft EIR, the Initial Study concluded that the proposed project would result in either no impact or less than significant impacts related to Geology, Seismicity, and Soils and Hydrology and Water Quality. Therefore, those resource chapters are not included in the EIR. A brief overview of water quality is included in Impact FOR-1 in Chapter 7 (Forestry) of the Draft EIR, which states that impacts of the proposed project to the water quality value of oak woodlands would be less than significant.

- 8-46** The commenter quotes McCreary’s warnings and suggestions for acorn plantings, from a University of California Oak Woodland Management publication.

Impact BIO-1 in Chapter 6 (Biological Resources) of the Draft EIR, which evaluates the impacts of the ORMP and the General Plan biological resources policies revisions regarding the loss and fragmentation of wildlife habitat, also describes and evaluates the replacement oak tree mitigation included in the ORMP. This impact analysis describes the acorn planting requirements in the ORMP and cites several sources regarding documentation of successful establishment of acorn seedlings, including McCreary.

- 8-47** The commenter requests that the Final EIR identify California counties that have used acorns for replacement plantings and to describe the efficacy of those plantings for each species of oak.

Refer to Response to Comment 6-55 above in this section (Section 3.4, Individuals) which identifies jurisdictions in California that allow acorn planting or have approved oak woodland mitigation plans that include acorn planting. In preparation of the Final EIR, Dudek confirmed through telephone calls that the counties listed in Comment 6-55 do not maintain data regarding the success of individual oak woodland mitigation programs conducted in their jurisdictions. However, the success of acorn planting efforts has been documented in field research, with several studies noting success in northern California sites, as presented in Dudek’s September 15, 2015 memo (Appendix E to the Draft EIR).

In addition, Section 2.4 (Replacement Planting Guidelines) of the proposed ORMP (Appendix C to the Draft EIR) includes specific criteria that must be achieved by any replanting effort, including consistency with accepted native oak tree planting standards established by the University of California, Division of Agriculture and Natural Resources and the California Oaks Foundation. These criteria include replanting in accordance with a technical report prepared by a Qualified Professional and monitoring of all replanted trees to ensure they survive or are replaced. Additionally, acorn planting is limited to no more than 25% of the project's total replanting requirements.

- 8-48** The commenter requests that the Final EIR demonstrate the efficacy of mitigation and states that two references cited by Dudek do not support the supposition that acorn planting is “better” than planting larger stock.

Impact BIO-1 in Chapter 6 (Biological Resources) of the Draft EIR does not state that acorn planting is better than planting larger stock. This chapter does state that in some cases, acorns and smaller containers can outgrow larger container-sized trees (McCreary 1996), primarily due to taproot development being more successful because it is not inhibited by excessive time in containers. It goes on to say that the variation in seedling container sizes in the ORMP allows for flexibility in oak tree replacement projects to allow for consideration of these factors.

- 8-49** This comment quotes *A Planner's Guide for Oak Woodlands*, and states that revegetation on or off site is a poor substitute for mature woodland, especially for wildlife habitat value. The commenter states that the loss of oak woodlands cannot be adequately mitigated under the ORMP, especially in the absence of the Option A retention requirement.

Refer to Chapter 10 (Alternatives) of the Draft EIR for a comparison of the proposed project to the No Project Alternative (Option A). The existing policies do include on-site retention; however, this can result in patches of retained oak canopy that are not likely to function as a cohesive habitat block. The habitat value of the individual retained areas would be expected to be reduced compared to the existing physical conditions. Further, to the extent that retaining oak canopy on site would reduce development intensities on individual parcels, it would be expected that a greater total number of parcels would be developed to accommodate the projected growth within the County. This could result in greater amounts of habitat loss and fragmentation (across all habitat types, not just oak woodlands) County-wide. Thus, the No Project Alternative could reduce impacts related to habitat loss at the project-level scale but would not reduce impacts related to habitat loss and fragmentation County-wide. Please

refer to Impact BIO-1 in Chapter 6 (Biological Resources) of the Draft EIR for a description and analysis of the oak tree replacement planting mitigation. Despite implementation of this mitigation, Impacts BIO-1, BIO-2, BIO-3, and BIO-4 would remain significant and unavoidable, even while reducing habitat loss at a County-wide level as compared to existing policies. Chapter 6 states that opportunities for further reduction of these impacts include omitting the agricultural activity exemption, establishing a minimum oak resource retention standard, and reducing development intensities. A minimum retention standard is evaluated as a project alternative in Chapter 10. The other potential mitigation measures are considered infeasible, as further explained in Chapter 10. Refer to Master Response 2 regarding fragmentation and Priority Conservation Areas (PCAs) and Master Response 4 regarding oak mitigation monitoring in Chapter 2 (Master Responses) in this Final EIR.

- 8-50** The commenter requests that the Final EIR specify performance standards for mitigation plantings.

Section 2.4 (Replacement Planting Guidelines) of the proposed ORMP includes performance standards for mitigation plantings. Specifically, the number of trees required to be planted must survive through the monitoring period. Additional replanting would be required for any trees initially planted for mitigation that do not survive.

- 8-51** The commenter requests that the Final EIR analyze the advantages of oak woodland retention versus oak woodland replacement.

Please note that the proposed project does not rely solely on oak woodland replacement. Replanting to mitigate for loss of oak woodland is limited to no more than 50% of a project's mitigation strategy. Please refer to Chapter 10 (Alternatives) of the Draft EIR, which analyzes the No Project Alternative, which consists of the current retention policies under Option A. Also refer to Response to Comment 1-4 above in this section (Section 3.4, Individuals), which discuss the value of on-site oak woodland retention, and Master Response 3 in Chapter 2 (Master Responses) in this Final EIR, which discusses the value of conservation within the PCAs.

- 8-52** The comment states that performance standards of mitigation strategies must be incorporated.

The proposed project includes performance standards for mitigation that includes oak tree or acorn planting, as discussed in Master Response 4 in Chapter 2 (Master Responses) in this Final EIR. Additionally, Section 2.4 (Replacement Planting Guidelines) of the proposed ORMP defines the requirements for preparation of a

technical report documenting any proposed replanting efforts, including mechanisms by which to ensure tree survival and requirements for replanting any trees that do not survive during the monitoring period.

- 8-53** The commenter requests that the Final EIR include a discussion of mitigation efforts undertaken by the County, reasons for mitigation failures, and success of oak replanting.

The EIR evaluates the proposed project as described in the Project Description (Chapter 3 of the Draft EIR). Evaluating the efficacy of other mitigation efforts undertaken by the County is beyond the scope of the proposed project and is not required by CEQA. Refer to Master Response 4 in Chapter 2 (Master Responses) regarding oak mitigation monitoring.

- 8-54** The commenter requests that the Final EIR include specific performance standards with regard to oak tree and oak woodland mitigation (e.g., amount of canopy cover expected over a period of time).

The proposed ORMP defines the number and type of trees to be planted. Because tree growth is subject to many diverse conditions, defining a required amount of tree canopy over time was not considered to be a reliable metric by which mitigation success can be measured.

- 8-55** The commenter states that unsupported evidence verbalized by members of the development community during workshops has gained precedence over research studies in the field of oak woodlands. The commenter states that relying on oak regeneration is not mitigation, and that to identify non-action as mitigation defies logic.

The Draft EIR does not cite any evidence regarding oak woodlands presented in workshops. Refer to Chapter 12 (References) of the Draft EIR for a complete list of references used in the Draft EIR, which includes the best available scientific data in the field of oak woodlands. Additionally, the EIR does not rely on non-action as mitigation. It does analyze the mitigation included in the ORMP as presented in the Project Description (Chapter 3 of the Draft EIR), which may include conservation of existing oak woodlands, replacement tree planting (of up to half of the required mitigation total), and/or payment of an in-lieu fee to be used for conserving oak woodlands or replacement plantings.

- 8-56** The commenter states that several studies discuss blue oak regeneration as inadequate to support the long-term survival of the species. The commenter states that the

language in policies in the Regulatory Setting section in Chapter 6 (Biological Resources) of the Draft EIR should be changed.

Section 6.2 (Regulatory Setting) of the Draft EIR identifies the existing General Plan language and does not describe the proposed project. The proposed ORMP does not rely on blue oak regeneration as mitigation. The mitigation options provided in the ORMP include on-site retention, off-site conservation, and tree planting/oak woodland restoration.

8-57 This comment states that natural regeneration as a replacement for mitigation is unacceptable and that the Planning Department is not experienced in oak woodland management.

Refer to Response to Comment 8-56 above in this section (Section 3.4, Individuals), which states that oak regeneration is not relied on as a mitigation strategy in the proposed project.

8-58 The commenter asks whether oak regeneration will replace oak mitigation.

Refer to Response to Comment 8-56 above in this section (Section 3.4, Individuals), which states that oak regeneration is not relied on as a mitigation strategy in the proposed project.

8-59 The commenter requests that the Final EIR remove oak regeneration as a mitigating factor for oak woodland replacement.

Refer to Response to Comment 8-56 above in this section (Section 3.4, Individuals), which states that oak regeneration is not relied upon as a mitigation strategy in the proposed project.

8-60 The commenter requests that the Final EIR clarify whether oak regeneration will replace oak mitigation under the ORMP.

Refer to Response to Comment 8-56 above in this section (Section 3.4, Individuals), which states that oak regeneration is not relied on as a mitigation strategy in the proposed project.

8-61 The commenter requests that the Final EIR include the scientific basis for the adequacy/viability/efficacy of replacing oak mitigation with oak regeneration.

Refer to Response to Comment 8-56 above in this section (Section 3.4, Individuals), which states that oak regeneration is not relied on as a mitigation strategy in the proposed project.

- 8-62** The comment requests that the Final EIR cite authorities under CEQA that condone/support/authorize reliance on a natural environmental process as mitigation for the removal of the impacted resource.

Refer to Response to Comment 8-56 above in this section (Section 3.4, Individuals), which states that oak regeneration is not relied on as a mitigation strategy in the proposed project.

- 8-63** The commenter requests that the ORMP reduce the diameter of Heritage Trees from 36 inches to 24 inches.

Refer to Responses to Comments 6-42, 6-43 above, and 8-109 below in this section (Section 3.4, Individuals) regarding the size of Heritage Trees as established in the proposed ORMP.

- 8-64** The commenter requests that the ORMP redefine “oak woodland” to include not only standing living oaks but also trees of other species, damaged or aging trees, and a shrubby and herbaceous layer beneath the oak canopy.

As described in the ORMP, the term “oak woodland” is defined in the Oak Woodlands Conservation Act (Article 3.5 (commencing with Section 1360) of Chapter 4 of Division 2 of the California Fish and Game Code) as “an oak stand with a greater than ten percent canopy cover or that may have historically supported greater than ten percent canopy cover.” On January 26, 2015, the Board of Supervisors decided to use oak woodland as the unit of measurement for the ORMP, rather than oak canopy, as addressed in Dudek’s memo for Decision Point No. 2 (Legistar File No. 12-1203, Item 10B and Board of Supervisors Action Details 1/26/2015). As presented to the Board of Supervisors, and as described in Dudek’s memo dated January 20, 2016 (Draft EIR, Appendix E), oak woodlands are an oak-tree-dominated native vegetation community that includes oak trees and canopy, may encompass some of the areas between tree canopies, and may include other associated tree or understory shrub species. In addition, the ORMP requires that oak woodlands be mapped according to standards outlined by the California Department of Fish and Wildlife (CDFW), which consider other tree, shrub, and herbaceous species and trees in various stages of growth or decline (e.g., senescent trees). The definition of oak woodlands used in the ORMP, therefore, is inclusive of the components identified by the commenter.

For the purposes of this ORMP, the conservation focus is on existing oak woodlands. This ORMP addresses the same study area (below 4,000 feet above mean sea level) and the same categories of oak woodlands (California Department of Forestry and Fire Protection California Fire and Resource Assessment Program (FRAP) data) as were addressed in the 2008 OWMP. These categories of oak woodland were also addressed in the 2004 General Plan using FRAP data from 2002. Therefore, the definition of oak woodland used in the ORMP is consistent with that used by other state agencies.

- 8-65** The commenter requests that the Final EIR discuss how the definition of oak woodland in the ORMP serves to limit mitigation effectiveness in terms of wildlife habitat value and how the definition from Tuolumne County supports the wildlife value of woodland.

Refer to Response to Comment 8-64 above in this section (Section 3.4, Individuals) regarding the definition of oak woodland included in the ORMP, mapping requirements consistent with CDFW standards, and the inclusion of various woodland components (other tree species, shrubs, senescent trees) in the definition of oak woodland. Also refer to Response to Comment 4-30 in Section 3.2 (State and Local Agencies) and Master Response 2 in Chapter 2 (Master Responses) in this Final EIR regarding how 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. Also refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR regarding oak mitigation monitoring.

- 8-66** The commenter states that the County has a poor ordinance enforcement track record; several oak mitigation sites are in poor condition, and there seems to be no effort to rectify failed mitigations. The commenter states because of this history, there is no confidence in the County's ability to ensure successful mitigation.

Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR regarding ORMP mitigation and monitoring.

- 8-67** The commenter requests that the Final EIR discuss how reestablishment of the PAWTAC could provide confidence that mitigation efforts would be successful.

Under the proposed project, the County would not be obligated to convene the PAWTAC but also would not be precluded from doing so when appropriate. The PAWTAC is an advisory body. A requirement to convene this body would have no direct influence on the environmental effects from General Plan implementation and

would require speculation as to the actions of the advisory body to assume any direct or indirect influence on the implementation or monitoring of any mitigation requirements under the proposed project; therefore, it is not necessary for the EIR to consider such a requirement.

- 8-68** The commenter states that several issues raised in comments submitted under the NOP were not answered, so the commenter included her original comments on the NOP as attachments.

The commenter's comments on the NOP dated August 17, 2015, and December 23, 2015, are included as attachments to this letter and responses to each individual comment are provided in Responses to Comments 8-69 through 8-149 below in this section (Section 3.4, Individuals).

- 8-69** The commenter requests that the Draft EIR discuss how the removal of specific biological resources mitigation policies will impact the legitimacy and viability of the 2004 General Plan, because its approval was based in part on the presence of mitigation measures such as the INRMP.

In September 2012, the Board of Supervisors determined that several General Plan biological policies should be updated and directed staff to begin that process. As described in Chapter 3 (Project Description) of the Draft EIR, opportunities for public comment on the proposed policy changes occurred in 2014 and 2015, when 10 public meetings were held to address revisions to the biological resources policies. At these workshops, the public was invited to submit comments on the proposed revisions to the policy language and the Draft ORMP. Refer to Master Response 2 (Policy Actions by the Board of Supervisors) in Chapter 2 (Master Responses) in this Final EIR. This EIR meets the requirement of CEQA to evaluate the physical environmental effects of the project as proposed. The impact of deleting a particular requirement that is contained in current policy is not relevant to the impact analysis. The analysis properly considered the effects of implementation of the General Plan under the proposed policies and ORMP based on the development projections for the County.

This comment does not address the accuracy or adequacy of the EIR. 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.

- 8-70** The commenter states that because the INRMP and Option A have been eliminated under the Biological Resources Policy Update, a discussion should be included in the Final EIR that specifies how the ORMP satisfies the OWMP court decision.

Refer to Response to Comment 8-69 above in this section (Section 3.4, Individuals). This EIR evaluates the physical environmental effects of the project as proposed, which includes the ORMP proposed to replace the OWMP. This comment does not address the accuracy or adequacy of the EIR. 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.

- 8-71** The commenter states that TGPA-ZOU policy changes will impact oak woodlands and will not be evaluated under any EIR.

Refer to Response to Comment 6-13 above in this section (Section 3.4, Individuals). This EIR provides a programmatic analysis, so site-specific conditions are not within the scope of the EIR. Refer to Master Response 8 (Level of Detail in a Program EIR and Site-Specific Constraints) in Chapter 2 of this Final EIR. Also refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 8-72** The commenter states that the impact to biological resources will be significant because agriculture is exempt from oak woodland protection. The commenter states the TGPA-ZOU will also amend Policy 2.2.3.1 and exempt Residential Agriculture from a variety of zoning regulations.

Impacts resulting from the TGPA-ZOU are beyond the scope of this EIR; the TGPA-ZOU impacts are discussed in the TGPA-ZOU EIR, which is a separate environmental document. Refer to Master Response 5 in Chapter 2 (Master Responses) in this Final EIR regarding the agricultural exemption under the proposed project, including proposed limitations. Also refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR. As described in Chapter 4 (Methodology and Assumptions) of the Draft EIR, the growth projections used for this EIR analysis reflect changes to the General Plan made through adoption of the TGPA-ZOU, including policy revisions that may allow increased intensity of development relative to what was anticipated under the 2004 General Plan.

- 8-73** The commenter states that estimates of oak woodland acreage impacts are based on the 2004 General Plan, not on TGPA-ZOU policies. The comment states that Dudek's estimates will therefore be short-lived if the TGPA-ZOU is adopted.

The table referred to in this comment (Table 5, Oak Woodland Impact and Conservation Summary) was presented as background information in the Dudek memo for the February 23, 2015, meeting on Decision Point 6: Priority Conservation Area Update (for Oak Woodlands). The totals in that table were compiled using 2006 FRAP data. The analysis used in the Draft EIR includes the updated 2015 FRAP data and, as discussed in Responses to Comments 6-13 and 8-71 above in this section (Section 3.4, Individuals), reflects changes to the General Plan made through adoption of the TGPA-ZOU. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 8-74** The commenter requests a discussion of the impact on the proposed project if the TGPA-ZOU is approved, and whether a revision of the Draft EIR will be required after TGPA-ZOU adoption.

The TGPA-ZOU was adopted prior to the release of the Draft EIR, and a revision of this EIR will not be required. As discussed in Chapter 4 (Methodology and Assumptions) of the Draft EIR, the growth projections used for this analysis reflect changes to the General Plan made through adoption of the TGPA-ZOU, including policy revisions that may allow increased intensity of development relative to what was anticipated under the 2004 General Plan. Consistent with the 2004 General Plan EIR and the TGPA-ZOU EIR, the Draft EIR evaluates impacts from implementation of the proposed project under both a short-term (2025) and a long-term (2035) scenario using the same development projections developed by the County as part of the TGPA-ZOU process. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 8-75** This comment requests an explanation of how the proposed project can be separated from the TGPA-ZOU evaluation.

As stated in Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR, the Board of Supervisors elected to process the TGPA-ZOU and the proposed project separately because each was intended to satisfy different project objectives and each is independent of the other. Refer to Master Response 11 in Chapter 2 (Master Responses) and Responses to Comments 6-12 and 6-13 above in this section (Section 3.4, Individuals) in this Final EIR for additional discussion of the separate processing of the two projects.

8-76 The commenter questions whether the TGPA-ZOU EIR would be recirculated if the ORMP is adopted, because the TGPA-ZOU EIR was evaluated as if Option A, the INRMP, and several other mitigations were still viable.

The TGPA-ZOU EIR has already been adopted and there is no requirement for recirculation after project approval unless further discretionary actions are needed related to the project evaluated in that EIR. The Draft EIR for this project provides the necessary analysis of biological resource impacts consistent with the 2004 General Plan EIR and the TGPA-ZOU EIR. This EIR evaluates impacts from implementation of the proposed project under both a short-term (2025) and a long-term (2035) scenario using the same development projections developed by the County as part of the TGPA-ZOU process. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

8-77 The commenter requests information on the TGPA-ZOU's impact to oak woodlands.

Refer to Responses to Comments 6-12, 6-13, 8-74 above, and 8-76 below in this section (Section 3.4, Individuals).

8-78 The commenter requests an explanation for how Approaches A, B, and C were determined after the November 21, 2014, workshop.

The commenter is requesting information on documents presented to the Board of Supervisors at their November 21, 2014, workshop, in which a decision was made to proceed with Mitigation/Conservation Option for preparation of the ORMP. Information related to that Board of Supervisors hearing can be found here: <https://eldorado.legistar.com/LegislationDetail.aspx?ID=2860828&GUID=47A45C80-3F64-4C7F-8919-9F08B54B46B0>.

Dudek's memo describing four potential approaches to the project is included in Appendix E to the Draft EIR. The Board of Supervisors selected the approach that they determined would best meet the County's objectives for the proposed project as well as the County's overarching General Plan goals and objectives, as discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR. 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 Board of Supervisors in their deliberations on the proposed project.

8-79 This comment quotes *A Planner's Guide for Oak Woodlands*, and states that revegetation on or off site is a poor substitute for mature woodland, especially for wildlife habitat value. The commenter states that the loss of oak woodlands cannot be adequately mitigated under the ORMP, especially in the absence of the Option A retention requirement.

Refer to Response to Comment 8-49 above in this section (Section 3.4, Individuals).

8-80 This comment quotes *A Planner's Guide for Oak Woodlands* regarding goals for planting mitigations of tree establishment and long-term survival. The *Planner's Guide* further suggests that larger container sizes to expedite recovery of lost habitat, along with sparing use of off-site mitigation actions or mitigation banking, are substitute resources. The commenter states that mitigation options need to be redefined, with performance standards included.

Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR regarding oak mitigation monitoring.

8-81 This comment states that acorns are difficult to protect for a variety of reasons and are therefore not logistically feasible for remote planting sites.

The ORMP does include acorn planting as part of its mitigation strategy, but acorn planting would be limited to no more than 25% of mitigation for any individual project, with all planting (acorns and saplings) limited to no more than 50% of the mitigation for any individual project. The commenter expressed doubts regarding the effectiveness of the County's ability to adequately monitor and enforce its regulations and standards regarding oak tree/oak woodland mitigation, including the requirements of the Interim Interpretive Guidelines and the (now rescinded) OWMP. The County is allowed a presumption that it will comply with existing laws, including its own policies and ordinances (*Erven v. Board of Supervisors* (1975) 53 Cal.App.3d 1004). There is no reason to believe the County will not enforce its own regulations and standards. Additionally, many other jurisdictions allow acorn planting or have approved oak woodland mitigation plans that include acorn planting, including Sacramento County (whose General Plan Conservation Element also calls for amending the Tree Preservation Ordinance to allow for acorn planting), Nevada County, Placer County, Santa Barbara County, San Luis Obispo County, and Sonoma County. Refer to Master Response 4 in Chapter 2 (Master Responses) of this Final EIR for more details on acorn planting and oak mitigation and monitoring.

8-82 The commenter quotes *A Planner's Guide for Oak Woodlands*, and states that replacing oak woodlands with acorn plantings is a fragile, ineffective strategy. The

commenter requests that the EIR describe the success rate of other counties that use acorn planting for each species of oak.

Refer to Responses to Comments 5-7, 5-8, and 8-81 above in this section (Section 3.4, Individuals).

- 8-83** The commenter requests an explanation for why oak monitoring decreased from 15 years to 7 years.

Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR regarding the practices and adequacy of oak mitigation monitoring.

This comment pertains to the draft policies and ORMP. The Draft EIR evaluates the proposed ORMP and the General Plan biological resources policies revisions as described in the Project Description (Chapter 3 in the Draft EIR). As described in the Project Description, opportunities for public comment on the proposed policy changes occurred in 2014 and 2015, when 10 public meetings were held to address revisions to the biological resources policies. At these workshops, the public was invited to submit comments on the proposed revisions to the policy language, the Draft ORMP, and the content of the EIR. Because this comment does not address the accuracy or adequacy of the Draft EIR, no response is required. 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.

- 8-84** This comment states that the Interim Interpretive Guidelines indicate that maintenance and monitoring shall be required for 10 years after planting, and requests an explanation in the EIR why that period was reduced in the ORMP.

Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR regarding the requirements and adequacy of oak mitigation monitoring.

This comment pertains to the draft policies and ORMP. The Draft EIR evaluates the proposed ORMP and the General Plan biological resources policies revisions as described in the Project Description (Chapter 3 of the Draft EIR). As described in the Project Description, opportunities for public comment on the proposed policy changes occurred in 2014 and 2015, when 10 public meetings were held to address revisions to the biological resources policies. At these workshops, the public was invited to submit comments on the proposed revisions to the policy language, the Draft ORMP, and the content of the EIR. Because this comment does not address the accuracy or adequacy of the Draft EIR, no response is required. 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.

- 8-85** The commenter cites the *Oak Woodland Impact Decision Matrix* and states that although mitigation strategies are identified in the ORMP, their efficacy must be proven.

The commenter expressed doubts regarding the effectiveness of the County’s ability to adequately monitor and enforce its regulations and standards regarding oak tree/oak woodland mitigation, including the requirements of the Interim Interpretive Guidelines and the (now rescinded) OWMP. The County is allowed a presumption that it will comply with existing laws, including its own policies and ordinances (*Erven v. Board of Supervisors* (1975) 53 Cal.App.3d 1004). There is no reason to believe the County will not enforce its own regulations and standards. Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more details on oak mitigation and monitoring.

- 8-86** The commenter requests a discussion of mitigation efforts undertaken in the County, including successes and failures, and states that past performance is the best predictor of future performance. The comment also includes photos of tree shelters with no trees.

Refer to Responses to Comments 8-53 and 8-85 above in this section (Section 3.4, Individuals).

- 8-87** The commenter states that “oak woodland” needs to be redefined.

Refer to Response to Comment 8-64 above in this section (Section 3.4, Individuals).

- 8-88** This comment refers to the personal use exemption. The commenter requests an explanation for what deters a property owner from “pre-clearing” oaks, and requests a definition for “personal use,” as well as suggesting a time restriction.

Refer to Comments 1-15, 6-14, 8-37, and 8-39 above in this section (Section 3.4, Individuals), and to Master Response 6 in Chapter 2 (Master Responses) in this Final EIR regarding the personal use exemption.

- 8-89** This comment refers to the agricultural exemption, and requests an explanation for why it is necessary. The commenter states that El Dorado Irrigation District is already on the threshold of eliminating a reduction in water rates for agricultural operations, thus threatening their viability, yet the ORMP allows for the removal of oak resources without mitigation.

Refer to Master Response 5 in Chapter 2 (Master Responses) regarding the agricultural exemption and Response to Comment 8-26 above in this section (Section 3.4, Individuals) in this Final EIR.

- 8-90** This comment refers to commercial firewood cutting operations as described in the General Plan, and states that there are too few restrictions placed on commercial firewood cutting operations.

Refer to Response to Comment 8-41 above in this section (Section 3.4, Individuals).

- 8-91** This comment requests that the EIR include a discussion of thresholds and restrictions applied to limit removal activity to a level that precludes significant environmental impacts and that supports adequate regeneration, avoids soil erosion, and institutes sound management practices. The commenter states that there is no mention of minimum retention standards.

Refer to Response to Comment 8-42 above in this section (Section 3.4, Individuals).

- 8-92** This comment requests that the EIR describe exactly what the in-lieu fee will be used for and requests a change to the language in the ORMP related to the in-lieu fee.

Refer to Master Response 3 in Chapter 2 (Master Responses) regarding in-lieu fees, and to Responses to Comments 8-33, 8-34, 8-35, and 8-36 above in this section (Section 3.4, Individuals) in this Final EIR.

- 8-93** This comment requests the EIR to discuss how willing sellers in the Community Regions and Rural Centers could sell their properties into conservation easements.

Conservation easements are discussed in the ORMP, Appendix C of the Draft EIR. Although the PCAs are identified as the most likely or desirable locations for off-site conservation of oak woodlands and would be prioritized. Refer to Master Response 2 in Chapter 2 (Master Responses) in this Final EIR. The ORMP provides a mechanism by which areas outside PCAs could be assessed as off-site conservation areas. An oak resources technical report, as described in Section 2.5 (Oak Resources Technical Reports) of the ORMP, for a subject property would analyze the conservation value of proposed non-PCA conservation easement areas. Section 4.3 (Conservation Outside of PCAs) of the ORMP lays out the standards by which non-PCA conservation easements would be assessed.

- 8-94** This comment requests that the EIR include an evaluation of the viability/impact of site concurrence by CDFW in the process of establishing conservation easements, and how that may assist developers with identification of appropriate conservation zones.

Site concurrence by CDFW for mitigation lands was not included as a component of the project description evaluated in this EIR because the proposed biological resources policies and ORMP define specific criteria by which conservation sites shall be selected. This comment does not address the accuracy or adequacy of the Draft EIR. 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. Conservation easements are discussed in the ORMP (Appendix C of the Draft EIR). Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR regarding ORMP mitigation and monitoring for more details on documentation of monitoring, and roles and responsibilities of monitors. Nothing in the proposed project would interfere with or alter continued CDFW regulatory compliance efforts for individual projects, such as processing Streambed Alteration Agreements.

- 8-95** This comment requests that the EIR evaluate the establishment of an advisory body to review mitigation plans, mitigation implementation, and efficacy of mitigation.

The establishment of an advisory body to review mitigation plans was not included as a component of the project description evaluated in this EIR, and because an advisory body would have no authority to regulate projects, this suggestion would not reduce or avoid any of the project's significant effects. The components of the proposed project would not prohibit the establishment of such a body. 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 Board of Supervisors in their deliberations on the proposed project.

Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR regarding ORMP mitigation and monitoring.

- 8-96** This comment lists items that were addressed in the Initial Study and in the Draft EIR. It states that there is a contradiction in the Initial Study regarding whether a GHG analysis will be included in the Draft EIR. Further, the comment states that the Initial Study reports that the project would have no impact on air quality standards or violations, yet states that the project could contribute to adverse climate change effects.

The comment correctly indicates that GHG impacts were shown in the July 2015 Initial Study and NOP as an environmental issue to be evaluated in the Draft EIR and

also an environmental topic that would not be further evaluated. A correction was made in the November 2015 NOP showing that GHG impacts would be evaluated in the Draft EIR.

Climate change and GHG impacts rely on different thresholds from those used in an air quality analysis. Air quality impacts rely on local air quality district thresholds for air pollutants and odors. Those thresholds are not directly tied to analysis of climate change impacts, which entails evaluation of GHG emissions. Because the project would not involve construction that would emit pollutants, there would be no air quality impacts. However, that does not mean there would also be no GHG impacts. Rather, the proposed project would influence how impacts from future development projects to oak woodlands are evaluated and mitigated. The loss of oak woodlands that could result from future development projects could cause a one-time emission of GHGs as the carbon contained within the vegetation is returned to the atmosphere, and could reduce the amount of carbon sequestered in oak woodland annually in the County. Thus, analysis of the two resource topics resulted in different significance conclusions. Refer to the Air Quality section of the Initial Study and Chapter 8 (Greenhouse Gases) of the Draft EIR for more information.

8-97 The commenter requests that the EIR discuss the impact on air quality caused by the increase in development, suggesting that developers are now constrained under Option A but that without that option, development and growth would occur.

Refer to Response to Comment 8-96 above in this section (Section 3.4, Individuals) regarding air quality impacts. As concluded in the Initial Study, “The project proposes amendments to biological resources policies contained in the County’s General Plan and adoption of an ORMP. The project does not include new construction or land uses that would generate air pollutants or odors. The proposed General Plan amendments and ORMP would not increase the amount or intensity of land use development allowed within the County and therefore would not result in an increase in air pollutant emissions. The project would have no impact on air quality”(Draft EIR, Appendix A2, Initial Study, p. 10).

As described in Chapter 10 (Alternatives) of the Draft EIR, the No Project Alternative assumes continuation of Option A and could encourage development in rural areas. On-site canopy retention would ensure that greater amounts of oak canopy are maintained as future development projects are implemented, which would retain the natural elements that contribute to community character. However, as development intensity on individual lots is reduced to accommodate the minimum required oak canopy retention, this alternative may actually increase developmental pressure in

rural areas and thus lead to a greater loss of community character and oak resources in those areas. Further, due to the overall level of new development anticipated under the General Plan, the impact would remain significant and unavoidable, consistent with the prior analysis of the impacts associated with General Plan buildout.

- 8-98** The commenter requests an evaluation of the proposed project with regard to Assembly Bill (AB) 32 and summarizes the contents of AB 32.

Chapter 8 (Greenhouse Gases) of the Draft EIR describes impacts related to GHG emissions, including AB 32. The chapter includes calculations of carbon stocks by woodland type, and carbon sequestrations predicted under General Plan Buildout (2025 and 2035). Refer to Chapter 8 (Greenhouse Gases) of the Draft EIR for more details. Also refer to Responses to Comments 1-1 through 1-22 in Section 3.3 (Organizations) in this Final EIR.

- 8-99** The commenter requests a complete analysis as required under AB 32, and states that carbon dioxide (CO₂) emissions present a human health hazard.

Refer to Response to Comment 8-98 above in this section (Section 3.4, Individuals).

- 8-100** This comment states that many cultural resources are closely tied to oaks and oak woodlands, and this cultural significance needs to be evaluated in the EIR.

As described in the Initial Study, the proposed project does not include new construction or land disturbance that would potentially affect prehistoric, historic, or paleontological resources or disturb human remains. Although ongoing implementation of the General Plan could result in development that could adversely affect cultural resources, the proposed project would not increase the amount or intensity of land use development allowed within the County and therefore would not increase or decrease the potential for impacts to cultural resources to occur. The proposed project would have no impact on cultural resources. Refer to Master Response 8 (Level of Detail in a Program EIR and Site-Specific Constraints) in Chapter 2 (Master Responses) in this Final EIR.

- 8-101** This comment states that even though the Initial Study says there would be no geology or soils impacts, the removal of oaks, especially on slopes, can cause erosion and landslides.

As explained in the Initial Study, the proposed project does not include new construction or land disturbance that would potentially put people or buildings in areas subject to seismic events or that would be located on unstable soils. Although

ongoing implementation of the General Plan could result in development that could expose people and structures to seismic hazards and soil instability, the proposed project would not increase the amount or intensity of land use development allowed within the County and therefore would not increase or decrease the potential for impacts related to geology and soils to occur.

- 8-102** This comment states the removal of oaks and oak woodland can disturb layers of soil and rock containing asbestos.

The proposed project consists of amendments to biological resources policies contained in the County's General Plan and adoption of an ORMP. The proposed policies and ORMP would allow for the removal of oaks under certain conditions, but it not a development project that entails construction or land disturbance that would expose either workers or a new population to an existing hazardous condition such asbestos. Refer to Master Response 8 in Chapter 2 (Master Responses) in this Final EIR regarding the level of detail in a Program EIR.

- 8-103** This comment states that the EIR should discuss impacts on hydrology and water quality and provides material from the Napa County Voluntary Oak Woodlands Management Plan.

The proposed project involves amendments to biological resources policies contained in the County's General Plan and adoption of an ORMP. The 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. Although ongoing General Plan implementation would result in development of new land uses that could result in such effects, the proposed project would not increase the amount or intensity of land use development allowed within the County and therefore would not result in an increase in the potential for adverse effects to hydrologic conditions, including water quality. Additionally, although development that proceeds under the proposed project could result in alterations to natural vegetation communities, including oak woodlands, which could alter drainage patterns, volumes, and rates within a project site, all projects would be required to meet the applicable water quality and stormwater management requirements of the General Plan and the National Pollutant Discharge Elimination System. These requirements would not be altered as a result of the proposed project. Refer to Master Response 8 in Chapter 2 (Master Responses) in this Final EIR regarding the level of detail in a Program EIR.

8-104 This comment states that oak removal for woodcutting operations, planned development projects, and agricultural operations would have an impact on noise levels in the County.

As stated in the Initial Study, the proposed project consists of amendments to biological resources policies contained in the County’s General Plan and adoption of an ORMP. The proposed project does not include new construction or land disturbance that could generate short-term construction noise or long-term operational noise. Although ongoing implementation of the General Plan could result in development that could adversely affect noise conditions in a localized area, the proposed project would not increase the amount or intensity of land use development allowed within the County and therefore would not increase or decrease the potential for noise impacts to occur. Refer to Master Response 8 in Chapter 2 (Master Responses) in this Final EIR regarding the level of detail in a Program EIR.

8-105 This comment states that the project will lead to an increased amount of housing due to the removal of the Option A restrictions.

The proposed project does not entail any development or construction. Refer to Response to Comment 8-97 above in this section (Section 3.4, Individuals) regarding development allowed under Option A. Also refer to Master Response 8 in Chapter 2 (Master Responses) in this Final EIR regarding the level of detail in a Program EIR.

8-106 This comment states that the removal of oaks/woodland will impact hydrologic patterns such that new stormwater drainage facilities may need to be constructed.

The project does not include new construction or land uses that would adversely affect storm drainage. Additionally, although development that proceeds under the proposed project could result in alterations to natural vegetation communities, including oak woodlands, which could alter drainage patterns, volumes, and rates within a project site, all projects would be required to meet the applicable water quality and stormwater management requirements of the General Plan and the National Pollutant Discharge Elimination System.

8-107 This comment states that the Draft EIR should include an alternative in which the Option A retention requirements should be maintained and introduces the comment that follows (Comment 8-108).

The Option A retention requirements are analyzed under the No Project Alternative in Chapter 10 (Alternatives) of the Draft EIR. Please refer to this chapter for a detailed discussion of impacts under the current Option A policy. It is worth noting that even

with Option A implemented, significant and unavoidable impacts would still occur as a result of General Plan buildout. Refer to Response to Comment 8-97 above in this section (Section 3.4, Individuals) regarding development that could occur under Option A.

- 8-108** This comment cites a study, indicating that it was used in the development of Interim Interpretive Guidelines, and states that the study shows that planting is inadequate mitigation for the removal of oak woodlands due to their slow growth rate. The comment provides the Board of Supervisors' direction of June 2015 and highlights the need to include retention standards in the alternatives analysis. In addition, the commenter states that retention standards should be required, not incentivized, and that 100% removal of oaks should not be allowed. The commenter also states that an alternative requiring that "oak woodland" be redefined to include other associated tree and shrub species (understory) to maintain wildlife habitat value should be included in the Draft EIR.

As explained in the ORMP, replanting would be limited to no more than 50% of mitigation for any individual project. Table 4 in Appendix C of the Draft EIR, the Draft ORMP, discusses the replacement tree sizes and mitigation ratios. Replacement plantings shall be inspected, maintained, and documented consistent with the requirements for mitigation maintenance monitoring and reporting. Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR regarding ORMP mitigation and monitoring. Also refer to Response to Comment 8-64 above in this section (Section 3.4, Individuals) regarding the redefinition of oak woodland.

The No Project Alternative considers the environmental impacts of General Plan implementation under the existing policies, including the retention standards under Option A. Refer to Responses to Comments 6-8 and 6-16 above in this section (Section 3.4, Individuals) for additional information on the No Project Alternative. In addition, it was determined that a minimum retention standard alternative should also be evaluated as part of complying with CEQA's requirement to evaluate a reasonable range of alternatives and in consideration of public comments regarding oak woodland retention. Refer to Responses to Comments 6-2, 6-3, and 6-5 above in this section (Section 3.4, Individuals) for additional information on the minimum retention standard.

- 8-109** This comment requests that an alternative be included in the Draft EIR that redefines a Heritage Tree as 24 inches diameter at breast height. The comment further discusses the slow growth rate of blue oaks.

Per the CEQA Guidelines, EIRs are required to “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives” (14 CCR 15126.6(a)). The Draft EIR included an evaluation of two feasible alternatives and determined that seven other alternatives initially considered were to be eliminated from further consideration. The CEQA Guidelines (14 CCR 15000 et seq.) provide that reasons to eliminate potential alternatives from detailed consideration in an EIR can include (1) failure to meet most of the basic project objectives, (2) infeasibility, and (3) inability to avoid significant environmental impacts. An alternative that reduces the size of Heritage Trees would result in more trees being classified as Heritage Trees and would increase penalties for removal of such trees. There is no evidence that the redefinition of Heritage Trees would result in the removal of fewer trees and thereby reduce the impacts described in the EIR.

The ORMP did not introduce the 36-inch threshold for defining oak trees as Heritage Trees: the threshold was derived from existing General Plan Policy 7.4.5.2, which afforded greater protection to oaks measuring 36 inches and greater. A 36-inch oak tree is approximately 50 to 100 years old, as discussed by CDFW staff during the February 23, 2015, Board of Supervisors meeting. The Board of Supervisors has determined that keeping the definition of Heritage Trees at 36 inches, consistent with Policy 7.4.5.2, would best meet the County’s goals of balancing resource protection with economic development. The proposed ORMP requires inch-for-inch mitigation for all trees that are smaller than 36 inches; thus, loss of a 24-inch tree would require mitigation by planting 24 15-gallon trees, or 36 5-gallon trees, or 48 1-gallon/TreePot4 trees, 72 acorns, or some combination of the sizes, as recommended by a Qualified Professional. These mitigation ratios are sufficient to ensure that the habitat value of the 24-inch tree is replaced over time as the replacement trees grow, and is exceeded in the future when the replacement trees have matured Refer to Responses to Comments 6-43 and 6-54 above in this section (Section 3.4, Individuals).

- 8-110** This comment states that other oak species, such as (California) black oak (*Quercus kelloggii*) and interior live oak (*Q. wislizeni*), also exhibit slow growth rates and therefore all oaks would benefit from a redefinition of “Heritage Oak” to 24 inches diameter at breast height.

Refer to Responses to Comments 6-43, 6-54, and 8-109 above in this section (Section 3.4, Individuals).

- 8-111** This comment states that the Draft EIR should include an alternative requiring sapling/specimen tree replacement for oak mitigation and eliminating the option for acorn planting.

Refer to Response to Comment 8-108 above in this section (Section 3.4, Individuals). As described in Chapter 10 (Alternatives) of the Draft EIR, a Replacement Tree Sizes Alternative was considered for evaluation but was rejected from further analysis because it would not avoid or reduce any of the project’s significant impacts and would not improve the effectiveness of the proposed mitigation requirements.

- 8-112** This comment states that the Draft EIR should include an alternative establishing a minimum retention standard for commercial firewood cutting operations and defining standards for site protection.

Refer to Response to Comment 8-41 above in this section (Section 3.4, Individuals) regarding commercial firewood operations in oak woodlands.

- 8-113** This comment states that the Draft EIR should include an alternative with a more robust mitigation ratio and further states that this alternative would increase retention.

An alternative that would increase replacement mitigation ratios for tree removal could encourage on-site tree retention and would result in more tree replanting or payment on in-lieu fees. As discussed in several responses in this Final EIR, including Responses to Comments 4-30 and 4-31 in Section 3.2 (State and Local Agencies), and Master Response 2 in Chapter 2 (Master Responses) in this Final EIR, retention of smaller patches can lead to habitat fragmentation rather than providing valuable habitat blocks. These larger blocks have the potential to support higher wildlife diversity and abundance compared to smaller patches in developed areas. Therefore, this alternative is not expected to avoid significant impacts. Refer to Response to Comment 8-109 above in this section (Section 3.4, Individuals) regarding the CEQA Guidelines on project alternatives.

- 8-114** This comment requests a detailed map of the IBCs and PCAs.

A map of the IBCs and PCAs is included in Figure 2 of the ORMP (Appendix C to the Draft EIR).

- 8-115** This comment states that the EIR should clarify the “when necessary” text regarding undercrossings.

Proposed Policy 7.4.2.8 states that the analysis of wildlife movement impacts will take into account the conditions of the project site and surrounding property to determine whether wildlife undercrossings are warranted and, if so, the type, size, and locations that would best mitigate a project's impacts on wildlife movement and associated public safety. The analysis and recommendations for whether an undercrossing is necessary would be prepared by a Qualified Professional.

- 8-116** This comment states that certain ORMP measures must be overseen by a PAWTAC committee, and/or with CDFW concurrence, a land conservation organization, or a qualified arborist.

As stated in Response to Comment 8-67 above in this section (Section 3.4, Individuals), under the proposed project, the County would not be obligated to convene the PAWTAC but also would not be precluded from doing so when appropriate. The PAWTAC is an advisory body. A requirement to convene this body would have no influence on the environmental effects from General Plan implementation; therefore, it is not necessary for the EIR to consider such a requirement.

Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR regarding oak mitigation monitoring for more details on documentation of monitoring, and roles and responsibilities of monitors. Also refer to Master Response 3 in Chapter 2 (Master Responses) in this Final EIR regarding in-lieu fees.

- 8-117** This comment states that the project should not limit the in-lieu fee evaluation to the criteria in AB 1600.

As stated in Response to Comment 8-34 above in this section (Section 3.4, Individuals), the referenced language in the Nexus Study is required under the Mitigation Fee Act, Section 66001(d). The County is bound by the requirements of that act in adopting any in-lieu fee. Refer to Master Response 3 in Chapter 2 (Master Responses) in this Final EIR regarding in-lieu fees.

- 8-118** The commenter attached this June 29, 2015, letter from California Oaks to the California Board of Forestry and Fire Protection and the California Air Resources Board regarding consistency with AB 32.

Consistency with AB 32 and other GHG reduction regulations is evaluated in Chapter 8 (Greenhouse Gases) of the Draft EIR.

8-119 The commenter attached this July 6, 2015, letter from California Oaks to the Community Development Agency in response to the NOP for the proposed project; the letter is regarding GHG emissions and AB 32.

Chapter 8 (Greenhouse Gases) of the Draft EIR describes impacts related to GHG emissions, including AB 32. The chapter includes calculations of carbon stocks by woodland type, and carbon sequestrations predicted under General Plan Buildout (2025 and 2035). Refer to Chapter 8 (Greenhouse Gases) of the Draft EIR for more details. Also refer to Responses to Comments 1-1 through 1-22 in Section 3.3 (Organizations) in this Final EIR.

8-120 This comment introduces a December 23, 2015, letter containing the commenter's original comments on the revised NOP.

Refer to Responses to Comments 8-121 through 8-149 below in this section (Section 3.4, Individuals) for responses to each of the individual comments presented in the letter.

8-121 This comment states that Option A retention standards should be maintained and requests an equal-weight project alternatives analysis of Option A. The comment states that eliminating the INRMP, disbanding the PAWTAC, eliminating Option A, allowing reduced tree sizes for mitigation plantings, and expanding the type of projects that would be exempt from oak woodland regulations would reduce protections for oak resources. The comment asserts that retention of Option A would not impede development and therefore has been improperly characterized in the Draft EIR as infeasible.

Refer to Responses to Comments 6-3 and 6-23 above in this section (Section 3.4, Individuals), which discuss challenges the County has encountered in applying existing Policy 7.4.4.4 and Option A to development in the County. In developing the proposed project, the Board of Supervisors determined that the proposed mitigation standards, which incentivize but do not require retention, would better meet the County's overall General Plan and land use goals and objectives. Refer to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the Board of Supervisors' role in setting General Plan policy.

Also refer to Response to Comment 8-3 above in this section (Section 3.4, Individuals), which states that CEQA does not require an equal-weight analysis of project alternatives. As described in Chapter 10 (Alternatives) of the Draft EIR, the No Project Alternative is the Option A alternative. Per CEQA Guidelines Section 15126.6, an EIR shall describe a reasonable range of alternatives. Additionally, this CEQA Guidelines section states that an EIR shall include sufficient information about

each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. An equal-weight alternatives analysis is not required by CEQA. This EIR includes a reasonable range of alternatives and includes sufficient information for analysis.

Although the project would eliminate the requirement in the General Plan for the County to develop the INRMP, the project proposes new requirements that provide for comprehensive and long-term habitat protection in the County. Refer to Responses to Comments 8-14 and 8-16 above in this section (Section 3.4, Individuals), which discuss the Biological Resources Mitigation Program that would be created by the proposed project and demonstrates that the proposed project would provide the evaluation and mitigation requirements necessary to ensure effective conservation of the County's biological resources. Also refer to Responses to Comments 6-22 and 8-16 above in this section (Section 3.4, Individuals), which discuss the County's past efforts to implement the INRMP, reintroduction of the INRMP would not meet the project objectives and therefore would not be feasible as part of the proposed project.

Response to Comment 8-16 above in this section (Section 3.4, Individuals) also notes that under the proposed project, the County would not be obligated to convene the PAWTAC but also would not be precluded from doing so when appropriate. The PAWTAC is an advisory body. A requirement to convene this body would have no influence on the environmental effects from General Plan implementation; therefore, it is not necessary for the EIR to consider such a requirement.

Refer to Response to Comment 8-48 above in this section (Section 3.4, Individuals) regarding the proposed ORMP provisions for use of various tree container sizes for replanting. Also refer to Responses to Comments 8-47 and 8-50 above in this section (Section 3.4, Individuals), which note that Section 2.4 (Replacement Planting Guidelines) of the proposed ORMP includes specific criteria that must be achieved by any replanting effort. These criteria include requiring replanting to occur in accordance with a technical report prepared by a Qualified Professional and monitoring all replanted trees to ensure they survive or are replaced. The technical report must indicate which container sizes would be appropriate for the replanting based on the specific characteristics of the planting site. Further, as discussed in Master Response 4 in Chapter 2 (Master Responses) in this Final EIR, the ORMP requires monitoring of all replanting efforts undertaken in compliance with the ORMP and replacement of any planted trees that do not survive the monitoring period.

Also refer to Response to Comment 6-17 above in this section (Section 3.4, Individuals) regarding the Draft EIR analysis of the exemptions included in the proposed ORMP and how these exemptions relate to current County policy.

- 8-122** This comment states that the notion of oak regeneration is not mitigation, and that oaks will not replace themselves.

As discussed in Response to Comment 8-56 above in this section (Section 3.4, Individuals), the proposed ORMP does not rely on oak regeneration as mitigation. The mitigation options provided in the ORMP include on-site retention, off-site conservation, and tree planting/oak woodland restoration. The ORMP does include tree planting as part of its mitigation strategy, but replanting would be limited to no more than 50% of mitigation for any individual project and acorn planting would be limited to no more than 25% of the project's total replanting requirements. Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more details regarding the proposed oak mitigation and monitoring requirements.

- 8-123** This comment states that blue oak regeneration is inadequate, and cites a study by Swiecki et al.

Refer to Response to Comment 5-7 above in this section (Section 3.4, Individuals) for information on measures incorporated into the ORMP to retain and replant oaks. Also refer to Response to Comment 8-56 above in this section (Section 3.4, Individuals), which states that the proposed ORMP does not rely on blue oak regeneration as mitigation. Also refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more information on oak mitigation monitoring. This comment does not address the accuracy or adequacy of the Draft EIR; therefore, no further response is required. 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.

- 8-124** This comment states that individuals in proposed project meetings have said that there are more oaks now in El Dorado County than in the past due to oak regeneration. The commenter cites studies showing decreases in El Dorado County oaks, and asks why oak regeneration is being evaluated as mitigation.

Refer to Responses to Comments 3-2, 3-3, 3-4, and 8-122 above in this section (Section 3.4, Individuals). As stated in Response to Comment 3-2, natural regeneration is not capable of expanding oak woodland habitat enough to offset the impacts from General Plan implementation. This EIR does not evaluate an option or alternative that would include reliance on oak regeneration as mitigation.

- 8-125** This comment states that the poor natural regeneration of blue oak woodlands means that the viability of acorn plantings will also be problematic. The comment states that the ORMP should provide specific requirements for acorn planting and monitoring, as well as a performance standard for acorn and sapling plantings.

Refer to Responses to Comments 8-121 and 8-122 above in this section (Section 3.4, Individuals) regarding natural regeneration and acorn planting and Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for details on oak mitigation and monitoring.

- 8-126** This comment states that cattle grazing can impact oak woodlands and wildlife, and requests grazing regimes, property tax reductions for conservation easements, land rental fees, and a discussion of impacts from grazing livestock.

Refer to Responses to Comments 6-9, 6-10, and 8-28 above in this section (Section 3.4, Individuals) regarding impacts from cattle grazing.

- 8-127** This comment states that the proposed project includes a wider setback than the setbacks described under the TGPA-ZOU, and encourages that setbacks be developed under the proposed project rather than the TGPA-ZOU. The commenter also includes recommendations for riparian setbacks.

The proposed project does not define any required or recommended riparian setbacks. Refer to Responses to Comments 6-19, 6-27, and 8-32 above in this section (Section 3.4, Individuals), which explain that the Draft EIR evaluates the physical environmental impacts of the proposed project based on the growth and development assumptions developed for the County, which are not affected by stream setback regulations, consistent with the programmatic level of analysis in the EIR. Refer to Master Response 11 in Chapter 2 (Master Responses) in this Final EIR regarding the relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR.

- 8-128** This comment states that agriculture is not exempt from CEQA GHG emissions analysis. The comment states that the agricultural land was added in the TGPA-ZOU, so those impacts under the proposed agricultural exemption must be evaluated in this EIR. The commenter also requests that the EIR account for oak woodland conversion impacts related to GHG emissions.

Refer to Response to Comment 1-13 in Section 3.3 (Organizations) in this Final EIR regarding GHG impacts from agricultural activities. Also refer to Master Response 5 regarding the agricultural exemption, and Master Response 11 regarding the

relationship of the proposed project and this EIR to the TGPA-ZOU project and the TGPA-ZOU EIR, in Chapter 2 (Master Responses) in this Final EIR.

Chapter 8 (Greenhouse Gases) of the Draft EIR includes an analysis of impacts from oak woodland conversion related to GHG emissions. Chapter 8 has been revised to clarify the analysis of biogenic emissions associated with the proposed project, as discussed in Response to Comment 1-2 in Section 3.3 (Organizations) in this Final EIR.

- 8-129** This comment requests a discussion of valley oak (*Quercus lobata*) because it is a species of special concern. The comment also requests a discussion of mitigation available to protect this species and a quantification of the estimated decline of the species.

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 6-15 in Chapter 6 (Biological Resources) of the Draft EIR lists the maximum conversion of land cover types, including valley oak woodland, under the proposed project. Chapter 6 recognizes that of the oak woodland types in El Dorado County, only valley oak woodlands is identified as a sensitive habitat (El Dorado County 2004, Table 6-5). Per the ORMP, 183 acres of valley oak woodlands impacted under the General Plan buildout (2035) would be mitigated at no less than a 1:1 ratio. Depending on the extent of impacts at the project level, the mitigation ratio may reach 1.5:1 or 2:1. This could result in mitigation of up to 275 acres of valley oak woodlands (1.5:1 ratio) or 366 acres of valley oak woodlands (2:1 ratio). Refer to Chapter 6 (Biological Resources) of the Draft EIR for more information.

- 8-130** This comment pertains to container size requirements for tree planting as mitigation, and states that performance standards should dictate mitigation, not a formula.

Table 4 in Appendix C of the Draft EIR, the Draft ORMP, discusses the replacement tree sizes and mitigation ratios. Replacement plantings shall be inspected, maintained, and documented consistent with the requirements for mitigation maintenance monitoring and reporting. Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more information on mitigation monitoring.

- 8-131** This comment states that the tree-for-inch mitigation is not effective, and requests evidence of success.

The proposed project requires inch-for-inch mitigation, not tree-for-inch mitigation. Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more information on mitigation requirements in the proposed ORMP.

8-132 The comment states that the mitigation proposed appears ineffective, and that the most effective mitigation would be on-site retention or the purchase of conservation easements that already contain viable oak woodlands, so the EIR should evaluate the latter two options.

As described in the ORMP and in Chapter 6 (Biological Resources) of the Draft EIR, mitigation for oak woodlands impacts would occur at a ratio of 1:1, 1.5:1, or 2:1, depending on the extent of on-site impact. Oak woodlands mitigation would be achieved by one or more of the following options:

- Deed restriction or conservation easement acquisition (off site), and/or acquisition in fee title by a land conservation organization (off site)
- In-lieu fee payment
- Replacement planting on site within an area subject to a deed restriction or conservation easement
- Replacement planting off site within an area subject to a conservation easement

Consistent with California Public Resources Code, Section 21083.4, replacement planting would not account for more than 50% of the oak woodlands mitigation requirement. As described in the ORMP, the in-lieu fee for oak woodlands impacts has been calculated based on an approach that considers the actual costs to acquire and manage oak woodlands areas in El Dorado County. The County would use collected in-lieu fees to acquire and manage lands containing oak woodlands and/or conservation easements over existing oak woodlands in perpetuity and/or to undertake replacement planting efforts.

8-133 This comment requests clarification on whether replacement trees that do not survive the 7-year period are monitored and replaced annually, or are only replaced at the end of the 7-year period.

Appendix C of the Draft EIR, the Draft ORMP, specifies annual monitoring and maintenance of replacement trees during the 7-year period after planting, in which any trees that do not survive during this period are replaced as needed by the responsible party listed on the Oak Tree or Oak Woodland Removal Permit for a period of 7 years from the date of planting. Monitoring reports documenting the success of replacement tree planting shall be submitted to the County annually and at the conclusion of the 7-year period after planting for oak woodlands, and at the conclusion of the 7-year period after planting for individual native oak tree and Heritage Tree mitigation.

8-134 This comment states that County road and bridge exemptions are a significant impact to oak resources.

County road exemptions, including widening, are discussed in Chapter 6 (Biological Resources) of the Draft EIR under Impact BIO-1 and in Table 6-10.

8-135 This comment states that there is a constriction in the IBC/PCA map that appears to be artificial, and requests better maps.

Refer to Response to Comment 4-17 in Section 3.3 (Organizations) in this Final EIR, which provides a detailed discussion of the IBCs. The IBCs (Policy 7.4.2.9) were developed as part of the 2004 General Plan. They are not new to this proposed project. The IBC overlay includes 64,600 acres linking 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. In the areas of Shingle Springs, the IBC overlay does indicate a substantial narrowing; however, the overlay maintains sufficient connectivity at this point to facilitate wildlife movement.

8-136 This comment states that the ORMP represents a significant weakening of environmental protection policies that were developed under the 2004 General Plan.

As required under CEQA, the Draft EIR evaluates the effects of the proposed project compared to the physical environmental conditions at the time the NOP was circulated for public review. CEQA prohibits comparing the impacts of one plan to the impacts of another plan. The Draft EIR meets CEQA's requirements to provide a thorough analysis of the potential impacts of the proposed project and evaluate the feasibility and effectiveness of mitigation measures and a reasonable range of alternatives to the project that could avoid, reduce, or provide compensation for impacts that could result from General Plan implementation under the proposed project.

8-137 This comment urges the Board of Supervisors to keep the Option A retention standards. The Board of Supervisors received this comment in December 2015 and considered it along with other comments on the issues. The Board of Supervisors determined that the proposed mitigation standards, which incentivize but do not require retention, would better meet the County's overall General Plan and land use goals and objectives. Refer to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the Board of Supervisors' role in setting General Plan policy.

8-138 This comment states that blue oak regeneration is a problem throughout the state, and that there are not enough seedlings or saplings to replace the mature trees that die.

Refer to Response to Comment 5-7 above in this section (Section 3.4, Individuals) for information on measures incorporated into the ORMP to retain and replant oaks. Also refer to Response to Comment 8-56 above in this section (Section 3.4, Individuals), which states that the proposed ORMP does not rely on blue oak regeneration as mitigation. Also refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR for more information on oak mitigation monitoring. This comment does not address the accuracy or adequacy of the Draft EIR; therefore, no further response is required. 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.

- 8-139** This comment states that acorn planting is a fragile, ineffective mitigation strategy, and quotes *A Planner's Guide for Oak Woodlands* and McCreary.

Refer to Response to Comment 8-81 above in this section (Section 3.4, Individuals) regarding acorn planting.

- 8-140** This comment states that mitigation must include performance standards, and includes photos of mitigation plantings that are empty.

As discussed in Responses to Comments 8-47 and 8-50 above in this section (Section 3.4, Individual), Section 2.4 (Replacement Planting Guidelines) of the proposed ORMP includes performance standards that must be achieved by any replanting effort. Refer to Master Response 4 in Chapter 2 (Master Responses) in this Final EIR regarding oak mitigation monitoring.

- 8-141** This comment is the same as Comment 8-130.

Refer to Response to Comment 8-130 above in this section (Section 3.4, Individuals).

- 8-142** This comment suggests that the definition of “oak woodland” be expanded to include not only standing living oaks but also trees of other species, aging trees, and the shrubby layer beneath the canopy.

Refer to Response to Comment 8-64 above in this section (Section 3.4, Individuals) regarding the definition of oak woodland.

- 8-143** This comment states that the loss/removal of dead, dying, and diseased oaks should be mitigated, not exempt.

As stated in Chapter 6 (Biological Resources) of the Draft EIR, tree removal under such circumstances is intended to reduce risk to persons or property. Removal of diseased trees can help prevent the spread of disease to other trees in the stand.

Further, removal of individual dead, dying, diseased, or hazard trees would not result in loss of oak woodland habitat areas. Therefore, impacts associated with this exemption would be less than significant.

- 8-144** This comment requests that Heritage Trees be redefined as 24 inches – if not for all species, at least for blue oaks.

Refer to Response to Comment 6-54 above in this section (Section 3.4, Individuals) regarding the suggestion that Heritage Trees be defined as 24 inches rather than 36 inches. The ORMP did not introduce the 36-inch threshold for defining oak trees as Heritage Trees: the threshold was derived from existing General Plan Policy 7.4.5.2, which afforded greater protection to oaks measuring 36 inches and greater. A 36-inch oak tree is approximately 50 to 100 years old, as discussed by CDFW staff during the February 23, 2015, Board of Supervisors meeting.

- 8-145** This comment states that there is no minimum retention standard regarding firewood cutting operations, but states that other counties adopted resolutions for 30% crown cover retention following firewood harvest.

Refer to Response to Comment 8-41 above in this section (Section 3.4, Individuals).

- 8-146** This comment states that the personal use exemption must be better defined and that the exemption for non-commercial agricultural operations is excessive.

Refer to Responses to Comments 1-15, 6-14, 8-37, 8-39, and 8-40 above in this section (Section 3.4, Individuals). Also refer to Master Response 5 regarding the agricultural exemption and Master Response 6 regarding the personal use exemption in Chapter 2 (Master Responses) in this Final EIR.

- 8-147** This comment states that the establishment of an advisory body would be valuable. 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 Board of Supervisors in their deliberations on the proposed project. Response to Comment 8-16 also notes that under the proposed project, the County would not be obligated to convene the PAWTAC but also would not be precluded from doing so when appropriate. The PAWTAC is an advisory body. A requirement to convene this body would have no influence on the environmental effects from General Plan implementation; therefore, it is not necessary for the EIR to consider such a requirement.

8-148 This comment summarizes the commenter’s requests for revisions to the ORMP and requests that an equal-weight analysis of an alternative that retains Option A be included in the Draft EIR.

The variable retention standards currently identified in General Plan Policy 7.4.4.4 Option A are evaluated as part of the No Project Alternative in the Draft EIR. Please also refer Response to Comment 8-3 above in this section (Section 3.4, Individuals), which states that CEQA does not require an equal-weight analysis of project alternatives. This EIR includes a reasonable range of alternatives and includes sufficient analysis to foster informed decision making.

8-149 The commenter attached the July 22, 2016, comment letter from California Oaks on the Draft EIR for the proposed project.

The California Oaks letter is included in this Final EIR as Comment Letter 1 in Section 3.3 (Organizations) in this Final EIR. Responses to all of the comments raised in the California Oaks letter are provided in Responses to Comments 1-1 to 1-22 in Section 3.3 (Organizations) in this Final EIR.

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Comment Letter 9

Aug 11, 2016

Shawna Purvines, Principal Planner
Community Development Agency
Long Range Planning Division
2850 Fairlane Court
Placerville, CA 9567

15 AUG 15 AM 11:45
RECEIVED
PLANNING DEPARTMENT

Comment for DEIR on Biological Resources Policy Update

This project has the stench of wineries and developers behind it.

It's under the guise of managing oak trees, because everyone likes them, but it's coming in with county blessings to take out entire swaths of oak trees for profit making. We know developers' modus operandi, but wineries will destroy oaks also.

Wineries will clear cut oaks first, spray herbicides and who-knows-what to get started, smile, contribute to local nonprofits and supervisor campaigns, and are on their way to destroying ecosystems.

Once they get their innocuous "Wine Tasting" facility approved, all neighbors have to "WATCH OUT."

They spray the dickens out of their vineyards, pave over good food-growing soil so they can have [inadequate] parking for their ever-increasing events that should not be allowed. If Code Enforcement won't stop them, they get the Board of Supervisors to change the zoning! This Bio Resources Policy Update is just a fast track to approval. Oh, in the DEIR, it's even called "Streamlining" (Page 1-3). That's code word for loophole-laden, unenforceable or lax approaches to resource conservation, coupled with meaningless mitigation measures. As an objective, this one should be edited or stricken completely.

Second, after the oaks are gone, the wineries start holding many events—sometimes before their grapes are even producing because they buy grapes elsewhere. Later, when they buy non-EI Dorado County grapes, it's, "Oh, we had a bad year. To stay in business we had to buy grapes, or wine, or even bottled wine (and slap their label on it—you name it) from outside the appellation." They become nothing but retail liquor outlets and event centers with multiple disturbing events that disrupt neighbors. They obtain county blessings via zoning variances or amended ordinances, but only old timers remember the beautiful, healthy, ecosystem-supporting oak woodlands.

That is what this misguided, disastrous so-called Biological Resources Policy Update is all about. Do NOT be snookered or allow it to be approved. Save our oaks!

Pete Martingale
General Delivery
3045 Sacramento St
Placerville, CA 95667

9-1

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Response to Comment Letter 9

Pete Martingale
August 11, 2016

9-1 This comment states that the Biological Resources Policy Update is designed to streamline development of wineries and should not be approved.

This comment does not address the accuracy or adequacy of the Draft Environmental Impact Report (EIR); therefore, no response is required. 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.

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Comment Letter 10

8/16/2016

Edcgov.us Mail - General Plan Biological Resources Policy



Shawna Purvines <shawna.purvines@edcgov.us>

General Plan Biological Resources Policy

1 message

Jeannette Maynard <jeannette.maynard@yahoo.com> Mon, Aug 15, 2016 at 4:37 PM
Reply-To: Jeannette Maynard <jeannette.maynard@yahoo.com>
To: "shawna.purvines@edcgov.us" <shawna.purvines@edcgov.us>, Shiva Frentzen <bostwo@edcgov.us>, Supervisor Mikulaco <bosome@edcgov.us>, Supervisor Novasel <bosfive@edcgov.us>, Supervisor Veerkamp <bosthree@edcgov.us>, The BOSFOUR <bosfour@edcgov.us>, EDC COB <edc.cob@edcgov.us>

Dear Shawna Purvines and Board of Supervisors,

The proposed changes to the General Plan Biological Resources Policies threaten the biological diversity and natural beauty of El Dorado County. The changes, as proposed, will also add to the dense development of the Hwy 50 corridor -- increasing traffic on an already congested freeway.

For these reasons, I am vehemently opposed to the proposed changes.

I urge you to adopt the Center for Sierra Nevada Conservation's Conservation Alternative. This plan will help to protect our oak woodlands, our wildlife corridors, and the natural beauty which makes El Dorado County so unique.

I thank you, in advance, for doing everything you can to protect the beauty and biological diversity of our county.

The Center for Sierra Nevada Conservation's plan is the way to go! Please study if carefully. Please adopt it!

Respectfully,

Jeannette Maynard
Shingle Springs resident

10-1

<https://mail.google.com/mail/u/0/?ui=2&ik=150a3325ea&view=pt&cat=Bio%20Policy%20Update%2FBIO%20EIR%2FPublic-Agency%20Comments%20...> 1/1

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Response to Comment Letter 10

Jeannette Maynard

August 15, 2016

10-1 This comment states that the commenter is opposed to the proposed project and urges the Board of Supervisors to adopt the Center for Sierra Nevada Conservation’s Conservation Alternative.

This comment does not question the accuracy or the adequacy of the Draft Environmental Impact Report (EIR); therefore, no response is required. Refer to Master Response 7 in Chapter 2 (Master Responses) in this Final EIR regarding the Center for Sierra Nevada Conservation Alternative. 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.

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Comment Letter 11

8/16/2016 Edcgov.us Mail - Fwd: Comments to the DEIR for The Oak Resources Management Plan ("ORMP") and The Oak Resources Conservation Ordinance (...)



Shawna Purvines <shawna.purvines@edcgov.us>

Fwd: Comments to the DEIR for The Oak Resources Management Plan ("ORMP") and The Oak Resources Conservation Ordinance ("ORCO").

1 message

Timothy White <tjwhite510@aol.com> Mon, Aug 15, 2016 at 4:57 PM
To: Shawna Purvines <shawna.purvines@edcgov.us>

A revised copy with corrected typos.

Tim

Begin forwarded message:

From: Timothy White <tjwhite510@aol.com>
Date: August 15, 2016 at 4:50:28 PM PDT
To: shawna.purvines@edcgov.us
Subject: Comments to the DEIR for The Oak Resources Management Plan ("ORMP") and The Oak Resources Conservation Ordinance ("ORCO").

Ms. Shawna Purvines
EDC COMMUNITY DEVELOPMENT AGENCY
LONG RANGE PLANNING DIVISION
2850 Fairlane Court, Bldg. C
Placerville, CA 95667

Dear Ms. Purvines :

As I stated in my comments to the EDC Planning Commission last week, the ORMP and the ORCO are a good starting point, but they can and should be better, with the goal of having the best in class plan and ordinance that can be used as a template in other California cities and counties as they amend and/or establish their own plans and ordinances dealing with oak resources. In the estimated build-out scenario for 2025 and 2035, EDC is facing the loss of oak woodlands totaling 4009 and 2433 acres respectively, a staggering total loss of 6442 acres. The total number of oak trees that will be lost to construction in the oak woodlands does not include individual trees, including Heritage Trees, that are not covered by the definition of Oak Woodlands. Such trees could easily number in the thousands. My comments are as follows:

1. Section 130.39.070 F. of the ORCO requires a security deposit "in an amount not less than ten thousand dollars" for on-site oak tree or oak woodland retention. As a floor this is a de minimis amount and should be raised to at least \$50,000. The difference in cost for a surety bond or a performance bond between those two amounts is not that great - the higher minimum amount will provide the assurance that the necessary funds are available to complete the required mitigation efforts if the developer fails to do so. A developer with a good track record of successful mitigation will pay less for a bond, a developer who fails to mitigate properly and in compliance will pay more.
2. Section 130.39.050 A. Exemption for Single-Family Parcels. I question the need for this exemption. Oak trees may be removed during construction of a single family residence - I understand the rationale for the exemption, but believe that a modicum of mitigation should be required.
3. Section 130.39.050 D. Exemption for County Road Projects. EDC is exempting itself from paying mitigation fees that it requires from others !! It should be a requirement that road widening and realignment projects pay mitigation fees as the fees paid do to the Oak Woodland Conservation Fund- a dedicated specialized fund with specific uses. If a road project is out sourced by EDC, then the cost of the required mitigation fees will be built into the bids made for the work.
4. Section 130.39.060 B. 1. As it stands, a developer can select a Qualified Professional of her choosing to prepare the required Oak Resources Technical Report. No matter the qualifications of the Qualified Professional, and her professional experience and standing, there will almost always be a perception that a developer has "paid" for a desired result. Let's bring a little transparency to this. EDC staff already has pre-approved outside experts and consultants it can request to submit bids to prepare DEIRS, EIRS and



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8/16/2016 Edogov.us Mail - Fwd: Comments to the DEIR for The Oak Resources Management Plan ("ORMP") and The Oak Resources Conservation Ordinance (...)

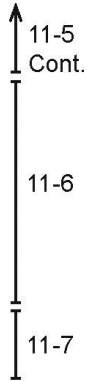
similar reports. EDC should provide developers with a pre-approved, pre-authorized list of Qualified Professionals to prepare the Technical Report. The developer can then choose from that list. The public will have some assurance that process is more transparent than it currently is.

5. Mitigation Ratios. The purpose of mitigation is to lessen, to make less severe, to reduce the impact caused by an action- in this case the loss of oak trees and oak woodlands. You really can't fully mitigate for the loss of Heritage Oak Trees- those with a trunk of 36 inches dbh or more- those trees are likely 200 years old or more. These are the trees that the Miwok, Maidu and Nisenan tribal members gathered acorns from in the 1840's, the trees that provided shade to forty-niners and other miners in 1849 and subsequent years, the trees whose amazing silhouettes against a blazingly bright blue sky we admire daily as we drive along the roads of EDC. However, you can increase the required ratios of mitigation so that it is more likely than not that an increased number of replacement trees will be planted and survive so that in 2216 there will be Heritage Trees that our great-great-great-great-great-great-great-great-great grandchildren will sit under to enjoy the shade and admire from the roads. I strongly suggest that Tables 1 and 2, set forth in Section 130.39.070 C.2. be revised to double the recommended mitigation and replacement ratios. For example, the planting of 3 acorns is recommended to replace 1 inch of tree diameter removed - make it 6 or even 10.

6. Section 130.39.090. Bi-Annual Reporting - Oak Woodland Conservation Fund Fees. The use and documentation of the mitigation fees collected, as well as any recommended fee adjustments, should be made to the PC and the BOS on an ANNUAL basis, not every other year. This information is collected and accounted for annually, and should be reported and thus available to the public on an annual basis.

Thank you.

Timothy White



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Response to Comment Letter 11

Timothy White
August 15, 2016

- 11-1** This comment states that the Oak Resources Management Plan (ORMP) and the Oak Resources Conservation Ordinance (Implementing Ordinance) are good starting points but that they should be improved upon; the comment also states that in the 2035 buildout scenario, 6,442 acres of oak woodlands could be lost as well as possibly thousands of individual trees, including Heritage Trees.

This comment does not address the accuracy or adequacy of the Draft Environmental Impact Report (EIR); therefore, no response is required. As discussed in Master Response 9 in Chapter 2 (Master Responses) in this Final EIR, during preparation of the Final EIR, it was determined that the calculations of the extent of oak woodland impacts double-counted several parcels. The revised total potential impact area calculations indicate that the maximum oak woodland loss would be 4,848 acres. This comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed Biological Resources Policy Update and Oak Resources Management Plan (project).

- 11-2** This comment states that the required security deposit identified in the ORMP's Implementing Ordinance should be raised from \$10,000 to \$50,000 in order to either ensure developer compliance or ensure that the funds are there to complete mitigation if the developer fails to do so.

Section 130.39.070.F (Oak Tree and Oak Woodland Removal Permits – Discretionary Development Projects, Security Deposit for On-Site Oak Tree/Oak Woodland Retention) of the proposed Oak Resources Conservation Ordinance (Appendix D to the Draft EIR) requires that “a bond or other security instrument in an amount not less than ten thousand dollars shall be required” as a condition of approval for projects subject to discretionary review and that propose to retain oak resources on site. The security instrument functions as a guarantee that the on-site retention will occur during project construction. This section of the proposed ordinance also states that “the form and amount of the security instrument shall be specified by the permit issuing body and approved by County Counsel.” This allows the County of El Dorado (County) to require a higher security amount when warranted by the site-specific conditions, such as where \$10,000 may be deemed insufficient to assure protection of retained oak resources and/or to fully cover any potential oak tree replacement costs. However, the minimum amount of \$10,000 was selected as a level that would be appropriate for

many types of projects, such as small projects, projects with small areas of on-site retention, and projects where the construction areas are well removed from the oak resources that would be retained on site. Further, this amount is consistent with amounts used in jurisdictions with similar codes and/or ordinances (e.g., the City of Rocklin, California).

- 11-3** This comment states that a modicum of mitigation should be required even for single-family parcels.

County staff used current language found throughout the General Plan that suggested exemptions for 1-acre parcels as justification for the exemption. During the February 23, 2015, Board of Supervisors meeting, the Board of Supervisors provided direction to staff for the creation of a two-tiered mitigation approach as well as helping define various exemptions, one of which was the exemption for 1-acre or smaller single-family residential parcels that cannot be further subdivided. As discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR, the Board of Supervisors has the authority to develop and interpret the County's General Plan and to ensure that the General Plan and County Code reflect the County's goals and objectives. As stated on page 6-51 of the Draft EIR:

“The Single-Family Lot Exemption could therefore result in impacts to approximately 290 acres of oak woodlands which would not require mitigation. This figure, however, is considered a conservative estimate as 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.”

- 11-4** This comment states that by exempting County road projects, the County is exempting itself from its own requirements. This comment suggests that the County should still pay for mitigation because it goes to a specific fund for specific purposes; in the event that a project is outsourced, the cost of mitigation should be included in the bid.

The proposed ORMP defines the County road projects exemption as applying only to “road widening and realignment projects necessary to increase capacity, protect public health, and improve safe movement of people and goods.” The exemption does not apply to construction of new roads. As stated on page 6-56 of the Draft EIR:

“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, dependent upon the improvement proposed.

The effect of this exemption is expected to remove a potential of 312 acres of 246,806 acres [of] oak woodlands (0.1% of the total oak woodlands acreage in the ORMP Area). The loss of this small amount of habitat is considered less than significant.”

This comment does not address the accuracy or adequacy of the Draft EIR and does not provide evidence that contradicts this conclusion. 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.

- 11-5** This comment suggests that, in order to combat the perception that a developer-hired Qualified Professional is influenced in her or his evaluation, the County should provide developers with a pre-approved, pre-authorized list of Qualified Professionals to prepare a technical report.

County establishment and use of a list of pre-qualified biologists, or other qualified professionals, could help ensure preparation of objective, professional, high-quality reports through a standardized selection and vetting process, which could include minimum professional qualifications to place a consultant/firm on the list. However, establishing and maintaining such a list would require regular updates and maintenance in order to keep the list current. The County would need to develop a standardized process for accepting, editing, or removing qualified professionals from such a list as conditions change. Further, if the County elects to use such a list, the County would need to ensure public access to all information. Nothing in the proposed Biological Resources Policy Updates, ORMP, or its Implementing Ordinance preclude the County from establishing a list of pre-qualified professionals should it become necessary and feasible to do so. However, at this time there is no evidence that reliance on the definition in the proposed ORMP of “Qualified Professionals,” which is “an arborist certified by the International Society of Arboriculture (ISA), a qualified wildlife biologist, or a Registered Professional Forester (RPF)” would result in technical analyses that are biased or skewed in favor of a developer.

- 11-6** This comment notes that it is impossible to fully mitigate for the loss of a Heritage Tree because these trees are over 200 years old. The comment suggests that the mitigation ratios should be increased in order to increase the likelihood that there will be Heritage Trees in the future.

The proposed ORMP requires greater mitigation for loss of Heritage Trees than for the loss of individual oak trees. The proposed mitigation for loss of non-Heritage

Trees is an “inch-for-inch” standard, which requires planting two TreePot 40 or 1-gallon-pot size oak tree or planting three acorns for each inch of oak tree removed. The proposed mitigation for loss of Heritage Trees is a 3:1 ratio, requiring planting of six TreePot 40 or 1-gallon-pot size oak trees or planting nine acorns for each inch of Heritage Tree removed. All planted trees and acorns must be monitored for 7 years following planting, and any trees that do not survive the 7-year monitoring period must be replanted. Thus, the proposed project requires planting many more trees than would be lost, and ensuring their survival for 7 years. This provides reasonable assurances that there will be oak trees in El Dorado County in the future. It is also noted that none of the mitigation exemptions within the proposed ORMP can be applied to Heritage Trees; therefore, mitigation would be required for any loss of Heritage Trees.

- 11-7** This comment states that the Oak Woodland Conservation Fund Fees documentation should be made to the Planning Commission and the Board of Supervisors on an annual basis, not every other year, and should be accounted for and reported to the public annually.

The proposed ORMP requires that a report documenting collection of in-lieu mitigation fees be presented to the Planning Commission and the Board of Supervisors every other March, including recommended fee adjustment(s), as appropriate. The County deemed a mitigation fee reporting period of 2 years most appropriate in order to allow for a reasonable period of time to assemble required data regarding collection and usage of in-lieu mitigation fees. The reporting requirements of Section 130.39.090.B (Bi-Annual Reporting) of the Draft Implementing Ordinance far exceed the requirements of state law ((California Government Code, Section 6600.d (1)), which requires local agencies to provide mitigation fee accounting reports every 5 years. This comment does not address the adequacy or accuracy of the Draft EIR. The comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the project.

Comment Letter 12

8/16/2016 Edc.gov.us Mail - Legistar File 12-1203 General Plan Biological Resources Policy Update and Oak Resources Management Plan DEIR



Shawna Purvines <shawna.purvines@edc.gov.us>

Legistar File 12-1203 General Plan Biological Resources Policy Update and Oak Resources Management Plan DEIR

1 message

monique.w@comcast.net <monique.w@comcast.net> Mon, Aug 15, 2016 at 4:14 PM
To: shawna.purvines@edc.gov.us
Cc: bosone@edc.gov.us, bostwo@edc.gov.us, bosthree@edc.gov.us, bosfour@edc.gov.us, bosfive@edc.gov.us, edc.coh@edc.gov.us

Dear Ms. Purvines;

Thank you for the opportunity to comment on the General Plan Biological Resources Update and Oak Resources Management Plan Draft EIR.

I have the following concerns:

1. Policies that are being eliminated or changed are the MITIGATION for development, approved by the voters in the 2004 General Plan, via that document's Environmental Impact Report (EIR). The policies were to be the vehicle to implement the mitigation for development. Many of the policies that are being eliminated or changed were NEVER implemented, in violation of CEQA. El Dorado County has been in violation of CEQA for twelve years. Please explain how El Dorado County will address the violations of CEQA that have occurred, and how the preferred alternative is not a continuation of these CEQA violations of failure to mitigate for development.

12-1

The 2008 Oak Woodland Management Plan was sued for various reasons, and the County lost the lawsuit. The 2008 Oak Woodland Management Plan's In-Lieu Fee was changed significantly by the Planning Commission and the Board of Supervisors in response to Developer, Agriculture, and Chamber of Commerce pressure. The same developers and agriculturalists who exerted political pressure to decrease the fee arbitrarily, then were appointed to the Community Economic Development Advisory Committee (CEDAC) and in particular, the Regulatory Reform Subcommittee, which did not conform to the Brown Act (and included a current sitting Supervisor). CEDAC and the Regulatory Reform Subcommittee have had the opportunity to provide unlimited input to the Board of Supervisors and actually crafted much of the TGPA/ZOU, rezoning many properties without proper notice, resulting in another lawsuit.

12-2

For this DEIR to state that there are significant impacts that are unavoidable, and not "feasible" to mitigate, suggests that the County has never had the intention to mitigate impacts on oak woodlands and biological resources or to conform to the Settlement Agreement on the 2004 General Plan (GP).

2. Please explain why it is not "feasible" to mitigate for the significant and unavoidable impacts, due to "likely increase costs of development in the El Dorado Hills and Cameron Park communities." Please provide evidence (via specific parcels and written documentation) that developers have chosen not to develop due to the Interim Oak Woodland Guidelines, which require no net loss of oak woodlands. Please provide evidence, and not speculation (LIKELY increase costs of development - pg 10-4,5). The interim guidelines allow conservation easements on other parcels; payment into the County oak woodland mitigation fund; and replanting. Are the

12-3

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costs unreasonable because the developers do not want the costs associated with mitigation, and they won't make as much profit or it won't pencil out?

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12-3
Cont.

Such is the risk inherent in land development, that developers choose to take, and their risky financial decisions should not be assigned higher priorities in the DEIR than the policies (MITIGATION FOR DEVELOPMENT) voters and residents of the county chose in choosing the 2004 General Plan.

3. Please explain why the "No Net Loss of Oak Woodlands Alternative" was rejected as the reasons given are not adequate. The Alternative states: "It is expected that this alternative would require greater amounts of on-site retention for all future development projects that affect oak woodland and a focused effort on woodland restoration and creation." Please refer to the Interim Guidelines which refers to No Net Loss. It does not require greater amounts of on-site retention. It offers options to on-site retention (see #2 above).

12-4

4. The same section regarding "No Net Loss of Oak Woodlands Alternative" (page 10-4) states: "Achieving a no net loss standard would require extensive restoration programs and replanting to offset the temporal loss of oak woodlands. I would remind you that the 2004 EDC GP EIR on page 5.12-31 states that "Standiford et al. (2002), using a modeling approach to evaluate blue oak plantation development, found that average blue oaks were still quite small and that canopy cover was relatively low 50 years after being planted, even with a fairly aggressive restoration effort." A 1:1 mitigation results in habitat loss, as documented by many studies. Please explain the logic of why it is acceptable that it is unreasonable to require from developers, the restoration or replanting to offset the 50 plus years of loss of oak woodlands? Why do developer's needs to profit on their development project become more important than the will of the voters of the 2004 General Plan?

12-5

Is not the quality of life of the County residents, as well as the ecosystem services provided by oak woodlands, worthy of being mitigated? Or is the oak plan and biological resources policy update solely to benefit the developers?

5. The same section regarding "No Net Loss of Oak Woodlands Alternative" (page 10-4) states: "Although this alternative would avoid the project's significant impacts related to habitat loss and greenhouse gas (GHG) emissions, this alternative was rejected as infeasible 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." Please explain the logic rejecting infeasibility, further. Given the real climate change implications due to GHG, and the great loss of carbon sequestration that would occur under the preferred alternative, how is the No Net Loss of Oak Woodlands Alternative infeasible, other than developers having to profit less in order to conform with required mitigation? Please explain the logic that the No Net Loss of Oak Woodlands Alternative is infeasible because it "constrains development." Please provide evidence. Has the current Interim Guidelines constrained development? Please provide evidence, not speculation, which developers have chosen not to develop parcels because of oak woodland mitigation currently in force under the Interim Guidelines, which is a No Net Loss policy. Please explain why individual developer's "constraints" on development due to a lesser financial profit outplays the will of the voters in the 2004 General Plan?

12-6

6. The same section regarding "No Net Loss of Oak Woodlands Alternative" (page 10-4,5) states: "Further, it would likely increase costs of development in the El Dorado Hills and Cameron Park communities, where the majority of the oak woodland impacts are anticipated to occur. This would drive more development into the County's rural areas, particularly those at higher elevations where oaks are less common. This would increase development intensity and habitat loss in those areas and require residents to drive further to reach the commercial and employment opportunities in the community regions, thus increasing air pollution and GHG emissions." Please explain the logic of

12-7
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this statement, as there cannot be higher density or "more development" in more rural areas, as that is protected by zoning and land use – there can only be the amount of development that is allowed in the rural regions.

12-7
Cont.

7. The same section regarding "No Net Loss of Oak Woodlands Alternative" (page 10-4,5) states: "Further, this would be incompatible with the General Plan's goals for arranging land uses by intensity, with higher-intensity, more urban and suburban uses in the community Regions of El Dorado Hills and Cameron Park, which allows for the more rural communities to support lower-intensity land uses and retain their rural character. Specifically, this alternative would conflict with General Plan policies that encourage concentration of high-intensity uses in Community Regions and Rural Centers to preserve the remaining Rural Regions as open space and natural resource areas (including agriculture and timber)." Please explain the logic of this statement, as there cannot be higher density or "more development" in more rural areas, as that is protected by zoning and land use – there can only be the amount of development that is allowed.

12-8

Again, No Net Loss oak woodland policies can work, and create an aesthetically pleasing quality of life, higher neighborhood and land values, and provide ecosystem services in the Community Region areas, albeit not to the profit advantage of the developers. Therefore, the No Net Loss of Oak Woodlands Alternative should not be rejected due to loss of developer profit (aka "infeasible"). Also, please explain the use of the word, "urban." There is no "urban" development in El Dorado County. "Urban": 1. Of, relating to, or located in a city 2. Characteristic of the city or city life (American Heritage® Dictionary of the English Language, Fifth Edition, 2011). The most compact of our communities, El Dorado Hills and Cameron Park, would likely consider themselves suburban, not urban.

12-9

I would also comment that some communities, such as Shingle Springs, identifies as "rural" although the County is targeting the Shingle Springs area as a Community Region. As a Shingle Springs resident, I identify and value my quality of life especially as defined by the oak woodland in my community. I do not want to see Shingle Springs scraped bare of all oak trees as the preferred alternative suggests will be possible as a "Community Region." With the "urban" wording above, it appears that there is a disconnect between the County Board of Supervisors, Planning Commission, and Long-Range Planning staff with county residents as to what is envisioned for El Dorado County.

12-10

8. Please explain how mitigation monitoring will be implemented. Mitigation monitoring, required by CEQA, is not required of County staff. Please explain how mitigation on the 2004 GP was monitored. Please address the success rate of acorn planting and oak tree planting from 2004 to 2016. Please address follow-up that was conducted for parcels with projects that preserved or had a conservation easement placed for rare plants and oak trees, to be sure the oak trees were not removed, from 2004 to 2016. Please explain how many reports were collected from property owners and provided to the County as required by the OWMP and the Oak Woodlands Interim Guidelines. If monitoring was not conducted during those twelve years, please explain how monitoring will be different and enforced this time. Have annual reports been received from property owners and reviewed by staff, to conform to CEQA? What is the measurable ratio of success of replanting? The Oak Woodland Interim Guidelines require that property owners submit reports on health and survivability of oak tree mitigation. Where are these reports housed? Who on staff is assigned to follow-up with oak woodland mitigation? What is the net loss of oak woodland based on these performance standards that were instituted? Has the County mapped parcels that have removed oak woodland? All of this information constitutes a baseline which will support the County's preferred alternative. Without implementation, there is non-compliance with CEQA, and it is not mitigation at all. Will the County self-monitor? There seems to be a lack of success by the County in self-monitoring.

12-11

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9. The significant and unavoidable impacts, after mitigation, are unacceptable. Impacts listed on Table 1-1 include: Have a substantial adverse effect on special-status species; have a substantial adverse effect on wildlife movement; result in the removal, degradation, and fragmentation of sensitive habitats; conversion of farm land; generate greenhouse gas emissions; **substantially degrade the existing visual character or quality of the area or region.** While these significant and unavoidable impacts that will occur in our communities are unacceptable, to "substantially degrade the existing visual character or quality of the area or region" will impact most residents of the County. Most residents live in the County because of the visual character and quality of the area and region they live in. Explain why priority is given to developers to clear to bare soil and scrape away oak woodlands in preference to the QUALITY OF LIFE of residents? Houses and commercial development can be built in harmony with the environment, avoiding oak woodland, and mitigating for it, although it may cost developers more.

12-12

12-13

This General Plan Biological Resources Policy Update and Oak Resources Management Plan violates the California Environmental Quality Act (CEQA), and constitutional protections for procedural due process, substantive due process, and equal protection.

12-14

This General Plan Biological Resources Policy Update and Oak Resources Management Plan does not properly examine its adverse environmental impacts as required by CEQA, does not adequately analyze the other alternatives (such as the No Net Loss Alternative) to the project outlined in the EIR, and offers insufficient or unclear mitigation measures to these impacts.

12-15

This General Plan Biological Resources Policy Update and Oak Resources Management Plan does not adequately address the plan's cumulative impacts or account for the regional impacts on wildlife habitat or the effects on the quality of life and aesthetic and visual character for residents.

12-16

This DEIR is not an objective document, but was conceived and engineered to promote a specific outcome rather than to inform the decision-making process.

12-17

Monique Wilber

Shingle Springs resident

<https://mail.google.com/mail/b/219/U/0/?ui=2&ik=150a3325ea&view=pt&cat=Bi%20Policy%20Update%2FBIO%20EIR%2FPublic-Agency%20Comments%20...> 4/5

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No Net Loss of Oak Woodlands Alternative: This alternative would modify the ORMP to require that mitigation for loss of oak woodlands achieve a “no net loss” standard. This would require preservation of existing woodlands and restoration of degraded woodland habitat and areas that historically supported woodlands, so that the total acreage of woodlands in the County does not decrease, but remains constant or increases. It is expected that this alternative would require greater amounts of on-site retention for all future development projects that affect oak woodland and a focused effort on woodland restoration and creation. Achieving a no net loss standard would require extensive restoration programs and replanting to offset the temporal loss of oak woodlands. Although this alternative would avoid the project’s significant impacts related to habitat loss and greenhouse gas (GHG) emissions, this alternative was rejected as infeasible 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. Further, it would

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likely increase costs of development in the El Dorado Hills and Cameron Park communities, where the majority of the oak woodland impacts are anticipated to occur. This would drive more development into the County’s rural areas, particularly those at higher elevations where oaks are less common. This would increase development intensity and habitat loss in those areas and require residents to drive further to reach the commercial and employment opportunities in the community regions, thus increasing air pollution and GHG emissions. Further, this would be incompatible with the General Plan’s goals for arranging land uses by intensity, with higher-intensity, more urban and suburban uses in the Community Regions of El Dorado Hills and Cameron Park, which allows for the more rural communities to support lower-intensity land uses and retain their rural character. Specifically, this alternative would conflict with General Plan policies that encourage concentration of high-intensity uses in Community Regions and Rural Centers to preserve the remaining Rural Regions as open space and natural resource areas (including agriculture and timber).

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Response to Comment Letter 12

Monique Wilber

August 15, 2016

12-1 This comment introduces the comment letter and expresses concern that the policies that are being eliminated or changed are the mitigation for development. The comment stresses that the policies were approved by the voters in the 2004 General Plan but many of them were never implemented. The comment further states that the lack of implementation means that the County of El Dorado (County) has been in violation of the California Environmental Quality Act (CEQA) for the past 12 years and requests explanation from the County as to how it will address the violations and how the proposed Biological Resources Policy Update and Oak Resources Management Plan (project) will not simply be a continuation of the failure to mitigate.

The commenter states that many of the General Plan biological resources policies that are being eliminated or changed were never implemented, in violation of CEQA. Section 15097(a) of the CEQA Guidelines states:

“In order to ensure that the mitigation measures and project revisions identified in the EIR [Environmental Impact Report] or negative declaration are implemented, the public agency [County] shall adopt a program for monitoring or reporting on the revision which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects (14 CCR 15097(a)).”

The County has fulfilled this requirement by incorporating adopted mitigation measures for biological resources, including oaks, from the 2004 General Plan EIR, including monitoring and reporting requirements, into the General Plan Implementation Plan (Implementation Plan) as discrete implementation measures. Although progress has been made to fully implement the biological resource components of the Implementation Plan, “responsibility assignments and time frames for each implementation measure are advisory only” (El Dorado County 2004, Introduction, p. 7). The implementation Plan sets out an ambitious list of regulations and standards that will need to be prepared in order to fully implement the General Plan, including the standards proposed in association with the proposed project. Since adoption of the 2004 General Plan, the County has been diligently progressing toward completing the list. Both budget and staff limitations preclude the County from preparing and adopting all of the items identified in the Implementation Plan at the same time. In addition, the varying levels of public interest and controversy over

different aspects of the Implementation Plan have resulted in some proposed programs, such as the proposed oak woodlands preservation fee program (which was the subject of litigation), taking much longer than expected.

The remainder of this comment is related to the commenter's opinions regarding the County's intent to mitigate impacts on oak woodlands/biological resources and the County's intention to conform to the Settlement Agreement on the 2004 General Plan. It does not address the adequacy of the Draft EIR or other environmentally related topics. CEQA Guidelines Section 15132(d) requires the Final EIR to contain "the response of the Lead Agency to significant environmental points raised in the review and consultation process." This comment does not address the adequacy or accuracy of the Draft EIR. The comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the project.

- 12-2** This comment states that, due to lawsuits on the 2008 Oak Woodlands Management Plan (OWMP), developers, agriculturalists, and the Chamber of Commerce were allowed to have unlimited input to the Board of Supervisors and the Targeted General Plan Amendment and Zoning Ordinance Update through the Community Economic Development Advisory Committee. Additionally, due to the fact that the EIR has significant unavoidable impacts that are not feasible to mitigate for, the comment suggests that the County never intended to mitigate impacts on oak woodlands and biological resources.

This EIR meets the requirement of CEQA to evaluate the physical environmental effects of the project as proposed. As described in Chapter 3 (Project Description) of the Draft EIR, opportunities for public comment on the proposed policy changes occurred in 2014 and 2015, when 10 public meetings were held to address revisions to the biological resource policies. At these workshops, the public was invited to submit comments on the proposed revisions to the policy language, the draft Oak Resources Management Plan (ORMP), and the content of the EIR. Because this comment does not address the accuracy or adequacy of the Draft EIR, no response is required. 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.

- 12-3** This comment requests explanation as to why it is not feasible to mitigate for the significant and unavoidable impacts, and requests evidence (not speculation) that specific developers have chosen not to develop due to the Interim Oak Woodland Guidelines, which require no net loss of oak woodlands.

The comment refers to the No Net Loss of Oak Woodlands Alternative, which was rejected as infeasible 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. Refer to the discussion of this alternative on pages 10-4 and 10-5 in the Draft EIR and a detailed analysis of the alternative and its feasibility in Master Response 10 in Chapter 2 (Master Responses) in this Final EIR. The alternative does not conclude that mitigation is not feasible. As explained, General Plan policies encourage concentration of high-intensity uses in designated Community Regions and Rural Centers, and this alternative would require greater amounts of on-site retention for all future development projects that affect oak woodland and would require a focused effort on woodland restoration and creation. It is expected that this alternative would drive more development into the County's rural areas, conflicting with General Plan policies that encourage development in Community Regions and Rural Centers to preserve the remaining Rural Regions as open space and natural resource areas. Refer to Master Response 8 (Level of Detail in a Program EIR and Site-Specific Constraints) in Chapter 2 (Master Responses) in this Final EIR.

- 12-4** This comment requests explanation as to why the No Net Loss of Oak Woodlands Alternative was rejected and states that the reasons given were not adequate.

The comment requests information as to why the No Net Loss of Oak Woodlands Alternative (Draft EIR, Chapter 10, Alternatives, pp. 10-4 and 10-5) is infeasible due to increased costs of development in the El Dorado Hills and Cameron Park communities. The Draft EIR and Master Response 10 in Chapter 2 (Master Responses) in this Final EIR explain that this alternative would be infeasible because the increased development costs in Community Regions resulting from regulations to achieve this standard could be substantial as a result of extensive restoration programs and replanting to offset the temporal loss of oak woodlands. The increased costs would be most pronounced in the communities of El Dorado Hills and Cameron Park, which have a much higher concentration of oak woodlands than many outlying areas. These increased costs would discourage development in Community Regions and instead direct it into the County's rural areas, especially those at higher elevations where oaks are less common and otherwise less likely to be impacted by development. Although increased development in the rural areas would have fewer impacts on oak resources, this alternative would be inconsistent with General Plan goals to direct growth into Community Regions with existing sewer and water infrastructure. Therefore, this alternative was rejected as infeasible specifically because "it would conflict with General Plan policies that encourage concentration of high-intensity uses in Community Regions and Rural Centers to preserve the

remaining Rural Regions as open space and natural resource areas (including agriculture and timber)” (Draft EIR, p. 10-5). Refer to Master Response 10 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of this alternative and its feasibility.

- 12-5** This comment refers to the 2004 General Plan, which cited a Standiford et al. study that showed that 50 years after replanting, average blue oaks (*Quercus douglasii*) were still small and canopy cover was relatively low. The comment uses this study (and therefore the 2004 General Plan) to support the argument that a 1:1 mitigation ratio results in habitat loss, stating that it should not be unreasonable to require more from a developer because the habitat loss affects the community as well as the ecosystem services provided by oak woodlands.

The mitigation options outlined in the ORMP and evaluated in the Draft EIR identify replacement planting as one mitigation option for impacts to oak woodlands. Oak woodland mitigation ratios would range from 1:1 to 2:1, depending on project-level oak woodland impacts. As identified in the ORMP, for projects to qualify for a 1:1 oak woodland mitigation ratio, at least 50% of the oak woodlands on the site must be retained and conserved. Mitigation for oak woodland impacts may include replacement planting; however, replacement planting may not exceed 50% of the oak woodland mitigation requirement. The remaining mitigation would be required to be met via conservation or in-lieu fee payment (to be used to purchase conservation lands or easements). Therefore, for a project qualifying for a 1:1 mitigation ratio, no more than 25% of a site’s initial oak woodland area would mitigated via planting. As presented in the Draft EIR, which has been edited to reflect revised calculations of the total loss of oak woodland habitat as described in Master Response 9 in Chapter 2 (Master Responses) in this Final EIR, up to 2,181 acres of oak woodland would require mitigation under the 1:1 ratio scenario. Based on replacement planting restrictions, only half of this acreage (1,091 acres) may be mitigated via replacement planting.

The article referenced by the commenter (Standiford et al. 2002) is based on modeling extrapolated from young tree plantings, rather than a direct evaluation of blue oak mitigation sites. The study’s modeling results reveal that blue oak size and associated canopy cover is smaller than existing stand conditions 50 years following planting; however, the model presented in the article also states that wildlife habitat quality is not greatly affected over the modeling period. The article also acknowledges that tree planting is an important conservation tool. This acknowledgment supports the inclusion of replacement tree planting as an oak woodland mitigation option in the ORMP. Refer to Responses to Comments 12-3

and 12-4 above in this section (Section 3.4, Individuals) regarding the feasibility of a no net loss policy for oak woodlands. Also refer to Master Response 10 in Chapter 2 (Master Responses) in this Final EIR regarding the No Net Loss of Oak Woodlands Alternative.

The remainder of this comment provides the commenter's opinions on the costs of development versus the 2004 General Plan. This comment does not address the adequacy or accuracy of the Draft EIR. The comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the project.

- 12-6** This comment requests further explanation as to why the No Net Loss of Oak Woodlands Alternative is infeasible outside of reducing developer profits. The comment again requests evidence, not speculation.

Refer to Master Response 10 in Chapter 2 (Master Responses) in this Final EIR regarding the No Net Loss of Oak Woodlands Alternative. Also refer to Responses to Comments 12-3 and 12-4 above in this section (Section 3.4, Individuals) for a discussion of the feasibility of this alternative. The remainder of this comment provides the commenter's opinions on the costs of development versus the 2004 General Plan. This comment does not address the adequacy or accuracy of the Draft EIR. The comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the project.

- 12-7** This comment states that the argument stating that the No Net Loss of Oak Woodlands Alternative would increase development at higher elevations and in more rural areas is invalid due to the fact that zoning and land use restricts the amount of development.

Refer to Master Response 10 in Chapter 2 (Master Responses) in this Final EIR regarding the No Net Loss of Oak Woodlands Alternative. Also refer to Responses to Comments 12-3 and 12-4 above in this section (Section 3.4, Individuals) for a discussion of the feasibility of this alternative. There is a significant amount of residentially zoned land that is outside of Community Regions and Rural Centers. Increased development outside of these areas would conflict with the County's stated goal of encouraging and incentivizing growth near existing resources within Community Regions and Rural Centers. Site development limitations, such as those associated with an oak woodland no-net-loss strategy, within areas planned for higher-intensity uses (Community Regions and Rural Centers) could result in increased development pressure and changes to land use and zoning designations in

more rural areas. Refer to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR for Policy Actions by the Board of Supervisors.

- 12-8** This comment states that the No Net Loss of Oak Woodlands Alternative would not conflict with the General Plan’s goals of arranging land uses by intensity due to the fact that there cannot be higher density or more development in more rural areas, because that is protected by zoning and land use.

As discussed in Master Response 10 in Chapter 2 (Master Responses) in this Final EIR, the Draft EIR impact analysis is based on the growth projections for the County. These development projections are assumed to remain constant across all project alternatives. Under a No Net Loss of Oak Woodlands Alternative, costs to develop in areas that support substantial amounts of oak woodland would increase substantially, as explained in Master Response 10. Thus, development pressure in the county’s rural areas, particularly those at higher elevations where oaks are less common, would increase. Therefore, it is reasonable to expect that the overall level of development in the rural areas would increase, contrary to the County’s General Plan, as discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR.

- 12-9** This comment states that the No Net Loss of Oak Woodlands Alternative is possible and should not be rejected due to loss of developer profit.

Refer to Master Response 10 in Chapter 2 (Master Responses) and Responses to Comments 12-7 and 12-8 above in this section (Section 3.4, Individuals) in this Final EIR.

- 12-10** This comment states there may be a disconnect between the County Board of Supervisors, Planning Commission, and Long-Range Planning staff and County residents regarding what is envisioned for El Dorado County; this is characterized by the fact that Shingle Springs identifies as rural but has been named as an urban Community Region. The commenter also objects to the use of the term “urban.”

The comment expresses an opinion on the General Plan land use designations and policies. The proposed project does not entail changes to the land use designations. This comment does not address the adequacy or accuracy of the Draft EIR. Refer to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR regarding the County’s General Plan goals and objectives. The comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the project.

- 12-11** This comment requests more information on how mitigation monitoring will be implemented under CEQA, how mitigation monitoring was done for the 2004

General Plan, what the success rate of acorn planting and oak tree planting was, and what the follow-up was for parcels with projects that preserved or had conservation easements placed for rare plants and oak trees. This comment also expresses concerns about the seeming lack of success by the County in self-monitoring.

On November 9, 2006, the Planning Commission adopted the Interim Interpretive Guidelines for El Dorado County General Plan Policy 7.4.4.4 (Option A) (Interim Interpretive Guidelines). From that date, new development was to be subject to the Interim Interpretive Guidelines, including minor amendments made to the Interim Interpretive Guidelines in the following year. In accordance with the Interim Interpretive Guidelines, monitoring and reporting documentation was incorporated into all development projects meeting specified criteria, both ministerial and discretionary. Ministerial projects incorporated all mitigation/monitoring documentation, including any follow-up actions/studies/reports, into the building permit record. Similarly, discretionary projects incorporated all required mitigation/monitoring documentation into the respective discretionary project record(s), with site-specific mitigation/monitoring requirements incorporated as Conditions of Approval. After adoption of the 2008 OWMP and its implementing Oak Resources Conservation Ordinance, mitigation monitoring reports were submitted to the Board of Supervisors on an annual basis. Reports were submitted in 2009, 2010, and 2011 (Legistar Files No. 09-1103, 10-1167, and 11-1040, respectively). As the result of a lawsuit, the 2008 OWMP was rescinded in 2012; therefore, development is once again subject to the Interim Interpretive Guidelines.

The commenter expressed doubts regarding the County's ability to adequately monitor and enforce its regulations and standards regarding oak tree/oak woodland mitigation, including the requirements of the Interim Interpretive Guidelines and the (now rescinded) OWMP. The County is allowed a presumption that it will comply with existing laws, including its own policies and ordinances (*Erven v. Board of Supervisors* (1975) 53 Cal.App.3d 1004). There is no reason to believe the County will not enforce its own regulations and standards. Refer to Master Response 4 (ORMP Mitigation and Monitoring) in Chapter 2 (Master Responses) in this Final EIR.

12-12 This comment states that the significant and unavoidable impacts are unacceptable.

This comment expresses the commenter's personal point of view. 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 Board of Supervisors in their deliberations on the proposed project.

12-13 This comment suggests that housing and commercial development can occur in harmony with the environment, avoiding oak woodlands and mitigating for their losses, although it may cost developers more.

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 Board of Supervisors in their deliberations on the proposed project.

12-14 This comment states that the proposed project violates CEQA and constitutional protections for procedural due process, substantive due process, and equal protection.

This comment does not give evidence to support the claim that the proposed project violates CEQA and constitutional protections for procedural due process, substantive due process, and equal protection. This comment expresses the commenter’s personal point of view. No response is required. 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.

12-15 This comment states that the proposed project does not properly examine its adverse environmental impacts as required by CEQA, does not adequately analyze the other alternatives, and offers insufficient or unclear mitigation measures for impacts.

This comment does not give evidence to support the claim that the proposed project does not properly examine its adverse environmental impacts as required by CEQA, does not adequately analyze the other alternatives, and offers insufficient or unclear mitigation measures for impacts, with the exception of the No Net Loss Alternative (which is addressed in Responses to Comments 12-3, 12-4, and 12-6 through 12-9). No response is required. 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.

12-16 This comment states that the proposed project does not adequately address the plan’s cumulative impacts or account for the regional impact on wildlife habitat or the effect on the quality of life for residents.

This comment does not give evidence to support the claim that the proposed project’s cumulative impacts were not adequately addressed. As stated on pages 11-5 and 11-6 in the Draft EIR (Chapter 11, Other CEQA Considerations), “In the context of the proposed General Plan Biological Resources Policy update, ORMP, and Oak Resources Conservation Ordinance, the impact analysis presented in Chapters 5 through 9 in the Draft EIR considers the impacts from the past, present, and planned future developments in the County at the planning horizon years of 2025 and 2035.

By its nature, the impact analysis throughout this EIR provides a cumulative impact analysis.” An evaluation of cumulative impacts in the Draft EIR begins on page 11-5, and includes an evaluation of cumulative impacts on visual resources. This comment expresses the commenter’s personal point of view. No response is required. 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.

- 12-17** This comment states that the Draft EIR is not an objective document but rather was written to promote a specific outcome rather than to inform the decision-making process.

This comment expresses the commenter’s personal point of view. 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 Board of Supervisors in their deliberations on the proposed project.

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