



# RESOLUTION No. 205-98

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

WHEREAS, concurrently with this Resolution, the Board of Supervisors of El Dorado County is adopting Ordinance No. 4500, adding Chapter 17.71, "Ecological Preserves," to the El Dorado County Ordinance Code and establishing a Rare Plant Mitigation requirement or fee in lieu thereof for certain development projects in western El Dorado County;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of El Dorado hereby finds:

- A. **The ecological preserve fee for 1998 within Mitigation Area 1 shall be \$885 per dwelling unit equivalent**, as those terms are defined in Chapter 17.71 of the El Dorado County Ordinance Code.
- B. **The ecological preserve fee for 1998 within Mitigation Area 2, excluding those parcels served by wells, shall be \$386 per dwelling unit equivalent**, as those terms are defined in Chapter 17.71 of the El Dorado County Ordinance Code.
- C. The foregoing fee amounts are set in accordance with the calculations included in the memorandum dated March 16, 1998 to El Dorado County Board of Supervisors from Economic and Planning Systems, Inc., Walter Kieser and Sonia Jacques, attached hereto and incorporated herein by this reference.
- D. All fees shall be due and payable in full upon issuance of a building permit.
- E. This Resolution shall take effect and be effective upon the effective date of Ordinance No. 4500.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 28 day of JULY, 1998, by the following vote of said Board:

Ayes: SUPERVISORS: WILLIAM S. BRADLEY, JIM MARK  
NIELSEN, WALTER L. SHULTZ, JOHN E. UPTON

Noes: SUPERVISOR: RAYMOND J. NUTTING  
NONE

**ATTEST**

**DIXIE L. FOOTE**

Clerk of the Board of Supervisors

Absent:

By Margaret B. Moody  
Deputy Clerk

John E. Upton  
Chairman, Board of Supervisors

**I CERTIFY THAT:**

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

Date \_\_\_\_\_

ATTEST: DIXIE L. FOOTE, Clerk of the Board of Supervisors  
of the County of El Dorado, State of California.

By \_\_\_\_\_  
Deputy Clerk



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RECEIVED  
PLANNING DEPARTMENT

## MEMORANDUM

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To: El Dorado County Board of Supervisors  
cc: Conrad Montgomery, Steven Hust, and Tom Cumpston  
From: Walter Kieser and Sonia Jacques  
Subject: El Dorado County Ecological Preserve Fee Estimate; EPS #6170  
Date: March 16, 1998

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### BACKGROUND

In July 1997, Economic & Planning Systems (EPS) completed the *Addendum and Update to the Economic Feasibility Study for the El Dorado County Ecological Preserves* for the County of El Dorado. This report established a decision framework and presented five alternative cost sharing scenarios for the acquisition and management of between four and five ecological preserves in the County. On July 22, 1997, the El Dorado County Board of Supervisors (BOS) approved in concept the proposed funding *Scenario 5* - which protects all five preserves and agreed upon a local contribution towards the mitigation costs of acquiring and protecting the five preserves.

On October 21, 1997, the El Dorado County BOS approved the County's participation in the purchase of Phase I (117 acres) of the Cameron Park acquisition for purposes of rare plant habitat protection. Phase I of the purchase, a total of 315 acres in Cameron Park also known as the Fifth Preserve, required that the County contribute \$843,000 towards the purchase price. Additional acquisition funds are being contributed by the US Fish and Wildlife Service (USF&WS), the US Bureau of Reclamation (USBR), the El Dorado Irrigation District (EID), and the National Fish and Wildlife Foundation. Phase II of the acquisition of lands in the Cameron Park Preserve will require an additional contribution of \$500,000 from County funds. It is the intention of the El Dorado County BOS that the County's contribution towards the Cameron Park Preserve acquisition costs are an advance on mitigation costs that will be the responsibility of new development as it occurs and thus will be recovered from the development community through the payment of in-lieu fees.

Also on October 21, 1997, the El Dorado County BOS approved in concept adoption of a rare plant mitigation in-lieu fee that would include all new development within the EID Sphere of Influence (SOI) excluding the City of Placerville. The BOS also approved a financing scenario whereby the County funds contributing towards the purchase of the Cameron Park Preserve would be repaid within 20 years, plus six percent annual



interest, by collecting in-lieu fees from new development. The financing scenario approved was represented in Table 9 of the Memorandum *El Dorado County Ecological Preserve Fee Estimates - Alternative Financing Scenarios*, prepared on September 19, 1997, by EPS.

## FEE ASSUMPTIONS AND CALCULATION

### GEOGRAPHY AND NEXUS

In a previous study prepared for the California Department of Fish and Game (DFG), *Economic Feasibility Study for the El Dorado County Ecological Preserves* (by EPS, February 1997), a Rare Plant Overlay Zone and Ecological Preserve Fee was recommended as the principal financing method for protecting the rare plant habitat. The report recommended that a Rare Plant Overlay Zone be established over the entire area currently described as the Rare Soils Study Area. There are several geographic areas that will be responsible for contributing towards the cost of mitigating the loss of rare plant habitat (Mitigation Areas). These Mitigation Areas and their respective mitigation requirements are described below (Figure 1):

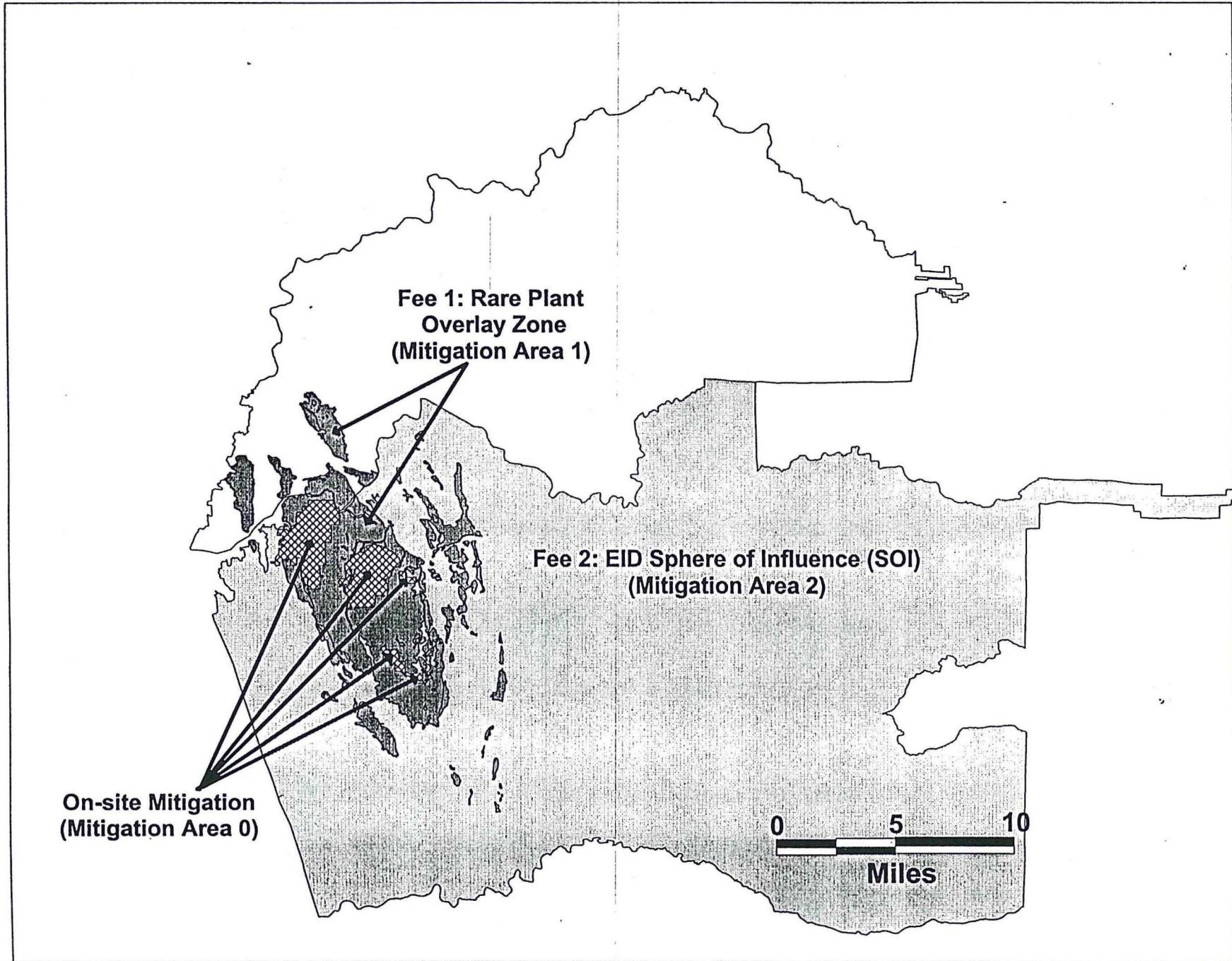
- The Five Designated Preserves (Ecological Preserve EP-Overlay Zones) (Mitigation Area 0)
- The Rare Soils Study Area (Proposed Rare Plant Overlay Zone) (Mitigation Area 1)
- The EID Service Area and Sphere of Influence (SOI) (Mitigation Area 2)

#### **Five Designated Preserves (Ecological Preserve-EP Overlay Zones)- Mitigation Area 0**

Development within the designated Ecological Preserves would continue to address mitigation for impacts to rare plants on an individual basis. This does not represent a large proportion of development projects, but they are potentially more detrimental to the rare plant species because they are within the only remaining areas that contain unfragmented habitat and a greater concentration of rare species. Within the Ecological Preserves, on-site mitigation should be encouraged. Developers within the Ecological Preserves would have three choices:

- A. Set aside a part of the property and dedicate a perpetual conservation easement for habitat protection; or
- B. Cluster development in the least environmentally sensitive portion of the property according to the Implementation Strategy adopted by the County in March 1993 and receive a density bonus in return for dedication of a perpetual conservation easement over the remainder of the property (should apply only to properties greater than 5 acres); or

**Figure 1: Proposed Ecological Preserve Fee Mitigation Areas.  
El Dorado County Ecological Preserves**



- C. Provide an independent mitigation plan that meets California Environmental Quality Act (CEQA) requirements, such as the purchase and long-term protection of an amount of habitat in the same Ecological Preserve equal to at least 1.5 times the acreage developed.

**The Rare Soils Study Area Outside of EP Overlay Zones (Proposed Rare Plant Overlay Zone) - Mitigation Area 1**

It is proposed that a Rare Plant Overlay Zone be established over the entire area currently described as the Rare Soils Study Area. The Zone would include approximately 36,000 acres on gabbro and serpentine soils in western El Dorado County. The Rare Plant Overlay Zone would exclude the approximately 3,450 acres within the five designated Ecological Preserve sites.

Off-site mitigation through the payment of the Ecological Preserve Fee should be encouraged outside of the Ecological Preserves. If a landowner wishes to develop in the Rare Plant Overlay Zone, but not in a designated Ecological Preserve, the owner has two options to choose from.

- A. Pay the Ecological Preserve Fee as in-lieu mitigation for the impacts caused by development on the rare plant habitat; or
- B. Participate in the *El Dorado County Rare Plant Off-Site Mitigation Program* and in so doing reduce the impacts of development on rare plants and their habitat to a less than significant level. If mitigation for significant effects are not incorporated into the project description, an EIR must be prepared (CEQA Section 15063).

The El Dorado County Rare Plant Off-Site Mitigation Program

Off-site mitigation must be conducted according to the guidelines established by the County and the regulating agencies and will be subject to review by representatives of the USF&WS and the DFG. All off-site mitigation must be accomplished by acquiring and restoring rare plant habitat through the purchase of fee interests in habitat land or conservation easements within the designated Ecological Preserves. Acquisition and restoration of rare plant habitat must be equal to 1.5 times the number of acres developed within the Rare Plant Overlay Zone. The land or development rights purchased in the Ecological Preserves as off-site mitigation must be dedicated to a designated resource protection agency, such as the Bureau of Land Management, the DFG, or a designee of the agencies such as the American River Conservancy.

**The EID Service Area and Sphere of Influence (SOI) - Mitigation Area 2**

The findings supporting the proposed El Dorado County Ecological Preserve Fee indicate the following connections between the ongoing destruction of the eight rare plant species, known collectively as the "Pine Hill endemics" and the provision of water within the El Dorado Irrigation District (EID) Sphere of Influence (SOI).

- Development projects in western El Dorado County are all associated with land uses that require water. Those water demands are expected to be satisfied via public water service from El Dorado Irrigation District (EID).
- EID plans to supply a substantial amount of future water demand from proposed water supply contracts between El Dorado County Water Agency (EDCWA) and the USBR for water from the Folsom Reservoir Unit and the Sly Park Reservoir Unit of the Central Valley Project (CVP).
- The USF&WS have determined that the past and ongoing destruction Pine Hill endemics and their habitats are an adverse environmental impact of the CVP. The EDCWA/USBR contract is authorized by federal legislation and subject to completion of environmental studies and review. Therefore, the CVP impacts on the Pine Hill endemics have direct consequences for the maintenance and expansion of EID's existing water supplies.

Based on these findings therefore, it is expected that all future development using EID water, or with the right to use EID water, will need to share the cost of mitigating for impacts on rare plant habitat. All future development within the EID Sphere of Influence (SOI) can be assumed to have either direct or secondary impacts on rare plant habitat in western El Dorado County. Additional secondary impacts on the Pine Hill endemics and their habitat are expected to result from development in the EID SOI. Future development and resulting changes in land use are expected to have adverse impacts on traffic congestion, air quality, and open space uses.

In summary, a landowner wishing to develop in unincorporated El Dorado County may fall into three different habitat categories and two different water service categories depending on whether they will receive water (or have the future right to receive water) from EID, or will receive water from another water service provider. Depending on a landowner's/developer's location he or she will have the following options described below (Table 1).

**Table 1**  
**Ecological Preserve Fee Mitigation Areas**  
**El Dorado County Ecological Preserves**

Habitat Status / Mitigation Areas	In EID SOI	Outside EID
Mitigation Area 0 In an Ecological Preserve (EP) Overlay Zone	On-site mitigation	On-site mitigation
Mitigation Area 1 In Rare Plant Overlay Zone and outside an EP Overlay Zone	Pay in-lieu Fee 1 or off-site mitigation* inside designated Ecological Preserves	Pay in-lieu Fee 1 or off-site mitigation* inside designated Ecological Preserves
Mitigation Area 2 Outside the Rare Plant Overlay Zone and an EP Overlay Zone	Pay in-lieu Fee 2 or off-site mitigation* inside designated Ecological Preserves	N/A

\* Off-site mitigation must be conducted to the specifications described in the *El Dorado County Rare Plant Off-Site Mitigation Program*.

**ECOLOGICAL PRESERVE MITIGATION COST ALLOCATION**

Since it is reasonable to expect development within Mitigation Area 1 - the Rare Plant Overlay Zone to have a greater impact on the rare plant habitat than development in Mitigation Area 2 - EID SOI a two tiered Ecological Preserve Fee is recommended. It is probable that at least 50 percent of the total adverse impact of development on rare plant habitat in Western El Dorado County will be caused by future development within Mitigation Area 1. Therefore, Mitigation Area 1 and Mitigation Area 2 are each assigned 50 percent of the total local cost of the rare plant mitigation program. Fee 1, paid by future development in Mitigation Area 1, will be higher than Fee 2 paid by future development in Mitigation 2, because the same amount of costs are spread over fewer Dwelling Unit Equivalents (D.U.E.s). This cost allocation is illustrated in Table 2 below.

**Table 2**  
**Ecological Preserve Cost Allocation**  
**El Dorado County Ecological Preserves**

Use of Funds	Cost Type	Cost Allocation Fee 1	Cost Allocation Fee 2
Cameron Park Preserve Acquisition	Debt-funded over 20 years at 6% annual interest	50%	50%
Martel Creek and Pine Hill Acquisitions	Pay-as-you-go	50%	50%
Administrative Fee 3% of capita costs	Pay-as-you-go	50%	50%
Maintenance Endowment Fund?	Pay-as-you-go	50%	50%

**FEE CALCULATION**

Over the past year the County has reached an agreement with several participating agencies regarding a cost sharing of the acquisition and protection of the Ecological Preserves (mitigation costs). The EID, the Water Agency, and several state and federal agencies and foundations are sharing the cost of acquiring Cameron Park. The remaining mitigation costs must be made up by local contributions from new development through the payment of in-lieu fees (the Ecological Preserve Fee) see Table 3 below.

**Table 3**  
**Local Share of Ecological Preserve Costs**  
**El Dorado County Ecological Preserves**

Use of Funds	Local Share
Cameron Park Phase I	\$843,000 paid in October 1997
Cameron Park Phase II	\$500,000 to be paid in July 1998
Cameron Park Phase III (1)	\$0
Martel Creek and Pine Hill (50% of costs)	\$1,754,000
<b>Total Local Share (2)</b>	<b>\$3,097,000</b>

- (1) It is assumed that Phase III of the Cameron Park purchase will be accomplished by BLM land exchanges.  
(2) Total cost before interest and administrative fees.



Some of the mitigation requirements, specifically the acquisition of conservation easements in the Martel Creek and Pine Hill Preserves, can be funded on a pay-as-you-go basis as Ecological Preserve Fees are collected and funds become available. Other mitigation requirements, specifically the purchase of the core properties in the Cameron Park Preserve, are tied to a phased purchase option agreement with legally binding payment dates. The County has already advanced significant funds for Phase I of the Cameron Park purchase and has agreed to fund Phase II, which will require another payment in July 1998.

The Cameron Park mitigation costs, because they are advanced from County reserves, are treated as debt funding which must be repaid over a 20-year period at six percent interest. It is the responsibility of future development in the Mitigation Areas to reimburse the County's contribution towards the mitigation costs and pay the local contribution of the pay-as-you-go portion. The estimated total mitigation costs will then be spread over projected future development through 2017 in each Mitigation Area as described in Table 4 below.

**Table 4**  
**Ecological Preserve Fee Calculation**  
**El Dorado County Ecological Preserves**

<b>Fee Type</b>	<b>Who Pays?</b>	<b>Fee Formula</b>
<b>Fee 1</b>	Future development in Rare Plant Overlay Zone excluding development in the designated Ecological Preserves	Allocated cost divided by projected future development through 2017 in Mitigation Area 1.
<b>Fee 2</b>	Future development in the EID Sphere of Influence (SOI) outside Rare Plant and EP Overlay Zones	Allocated cost divided by projected future development through 2017 in Mitigation Area 2.

#### **Ecological Preserve Fee Amounts**

The Ecological Preserve Fee will be calculated by summing the County's contribution towards the local share of the cost, plus interest, of acquiring Cameron Park Preserve (315 acres) with the local share of the cost of acquiring conservation easements in the Martel Creek and Pine Hill Ecological Preserves; then adding a three percent

administrative fee<sup>1</sup> and applying the appropriate cost allocation factor as described above. Ecological Preserve Fee 1 to be paid by all future development within Mitigation Area 1 is estimated to be \$518 per D.U.E. and Ecological Preserve Fee 2 to be paid by all future development in Mitigation Area 2 is estimated to be \$226 per D.U.E. (see Table 5 and Table 6).

### Operating and Maintenance Endowment Option

At this point it is uncertain how the preserves will be maintained and which agency will be responsible for their ongoing operations. The Wildlife Conservation Board (WCB) has recently expressed a willingness to make a significant grant towards the purchase of Phase II of the Cameron Park Preserve with the condition that the County provide a maintenance and operations plan for the Preserve which identifies specific funding sources. It is estimated that the annual cost of maintaining the Cameron Park Preserve (all 315 acres) will be about \$43,000 annually.<sup>2</sup> Assuming an annual interest rate of six percent, it would require an endowment fund equal to about \$717,000 to generate annual interest income equal to \$43,000 annually. The American River Conservancy has agreed to contribute about \$70,000 towards an endowment fund for Cameron Park, therefore, the net endowment amount would be about \$647,000. If this amount were added to the other rare plant mitigation costs and included in the Ecological Preserve Fee this would result in a revised Ecological Preserve Fee 1 of \$623 per D.U.E and a revised Ecological Preserve Fee 2 of \$272 per D.U.E. Under this scenario, the operating and maintenance costs for the Martel Creek, Pine Hill, and Salmon Falls Preserves would need to be financed on a pay-as-you-go basis from annual operation budgets.

Alternatively, the County could choose to ensure that there would be sufficient funds available for covering the ongoing operations and maintenance of all the Ecological Preserves by creating a full endowment fund. It is estimated that the ongoing annual costs of operating and maintaining all four preserves (excluding the Penny Lane Ridge Preserve which is managed by the BLM) will be about \$140,000 annually after all the targeted acres have been acquired.<sup>3</sup> Assuming an annual interest rate of six percent, it would require an endowment fund equal to \$2.3 million to generate annual interest income equal to \$140,000 annually. If this amount were added to the other rare plant mitigation costs and included in the Ecological Preserve Fee this would result in a revised Ecological Preserve Fee 1 of \$885 per D.U.E and a revised Ecological Preserve Fee 2 of \$386 per D.U.E. While adding an operations and maintenance endowment increases the Ecological Preserve Fee quite significantly, it is the most prudent method for ensuring that the Ecological Preserves are adequately maintained in the future.

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<sup>1</sup> A three percent administrative fee is deemed adequate to cover the County's costs in collecting and monitoring the Ecological Preserve Fee Program. However, this fee amount does not include funds for a Land Manager role. Subsequent negotiations between the County, the DFG, the USF&WS, the BLM and other appropriate agencies and entities, will need to determine who has the responsibility implementing the rare plant mitigation program by negotiating acquisitions and managing future habitat lands.

<sup>2</sup> Telephone conversation with Alan Erghott, American River Conservancy, March 12, 1998.

<sup>3</sup> *Economic Feasibility Study for the El Dorado County Ecological Preserves Final Report*, February 1997, by Economic & Planning Systems, page VII-19.

**Table 5**  
**Estimated Ecological Preserve Fee 1**  
**El Dorado County Ecological Preserves**

Item	Units/ Sq. Ft. (1)	D.U.E.s (2)	Pay-as- You-Go	Debt-Funded Amount	Total
Estimated Land Costs (for Martel Creek/Pine Hill and Cameron Park) (3)			\$1,754,000	\$1,343,000	\$3,097,000
Administration Fee of 3% (4)			\$52,620	\$40,290	\$92,910
Amount to be funded over 20 Years			\$789,300	\$1,343,000	\$2,132,300
Administration Fee of 3% (4)			\$23,679	\$40,290	\$63,969
Interest @ 6% over 20 years (5)			\$0	\$998,777	\$998,777
Endowment Fund for O&M			\$0	\$0	\$0
<b>Total Costs for First 20 Years of Program</b>			<b>\$812,979</b>	<b>\$2,382,067</b>	<b>\$3,195,046</b>
Costs Allocated to Mitigation Area 1			\$406,490	\$1,191,034	\$1,597,523
Proj. New Single Family Units in Mitigation Area 1 @ Buildout (6)	3,933	3,933			
Proj. New Multi-Family Units in Mitigation Area 1 @ Buildout (6)	2,070	1,553			
Proj. New Commercial Square Feet in Mitigation Area 1 @ Buildout (6)	2,976,567	1,984			
Total D.U.E.s. at Buildout		7,470			
In-lieu Fee 1 per D.U.E. at Buildout					na
Estimated D.U.E.s at 2017 (7), (8)		3,084			
In-lieu Fee 1 per D.U.E. at 2017					\$518

(1) Based on the El Dorado County General Plan, adopted January 23, 1996.

(2) One single-family unit = one Dwelling Unit Equivalent (D.U.E.)

One multi-family unit = 0.75 D.U.E.

1,500 square feet of commercial space = one D.U.E.

(3) Assumes that Salmons Falls habitat land is acquired using on-site mitigation and external funding sources. Assumes that 50% of costs for Preserves 1:4 are covered by EID (water connection fees). Assumes that approximately 62% of Cameron Park costs are covered by private, State and federal Grants. The remaining 38% of the \$7.5 million acquisition price is split equally between the County and EID.

(4) Administrative fee revenues will be used to cover the cost of collecting and administering the Ecological Preserve Fee.

(5) A finance charge is included for the Cameron Park acquisition. The Martel Creek and Pine Hill conservation easement acquisitions are assumed to occur on a pay-as-you go basis.

(6) Mitigation Area 1 includes all of the Rare Plan Overlay Zone excluding the five designated Ecological Preserves (EP Overlay Zone).

(7) Assumes that approximately 45% of the projected new residential development and 31% of the projected new commercial development will occur by 2017.

(8) Excludes new development in the Ecological Preserve Overlay Zone.

Sources: Economic & Planning Systems, Inc., El Dorado County Planning Department.

**Table 6**  
**Estimated Ecological Preserve Fee 2**  
**El Dorado County Ecological Preserves**

Item	Units/ Sq. Ft. (1)	D.U.E.s (2)	Pay-as- You-Go	Debt-Funded Amount	Total
Estimated Land Costs (for Martel Creek/Pine Hill and Cameron Park) (3)			\$1,754,000	\$1,343,000	\$3,097,000
Administration Fee of 3% (4)			\$52,620	\$40,290	\$92,910
Amount to be funded over 20 Years			\$789,300	\$1,343,000	\$2,132,300
Administration Fee of 3% (4)			\$23,679	\$40,290	\$63,969
Interest @ 6% over 20 years (5)			\$0	\$998,777	\$998,777
Endowment Fund for O&M			\$0	\$0	\$0
<b>Total Costs for First 20 Years of Program</b>			<b>\$812,979</b>	<b>\$2,382,067</b>	<b>\$3,195,046</b>
Costs Allocated to Mitigation Area 2			\$406,490	\$1,191,034	\$1,597,523
Proj. New Single Family Units in Mitigation Area 2 @ Buildout (6)	7,266	7,266			
Proj. New Multi-Family Units in Mitigation Area 2 @ Buildout (6)	4,314	3,236			
Proj. New Commercial Square Feet in Mitigation Area 2 @ Buildout (6)	11,358,845	7,573			
Total D.U.Es. at Buildout		18,074			
In-lieu Fee 2 per D.U.E. at Buildout					na
Estimated D.U.Es at 2017 (7), (8)		7,073			
In-lieu Fee 2 per D.U.E. at 2017					\$226

(1) Based on the El Dorado County General Plan, adopted January 23, 1996.

(2) One single-family unit = one Dwelling Unit Equivalent (D.U.E)

One multi-family unit = 0.75 D.U.E.

1,500 square feet of commercial space = one D.U.E.

(3) Assumes that Salmons Falls habitat land is acquired using on-site mitigation and external funding sources. Assumes that 50% of costs for Preserves 1:4 are covered by EID (water connection fees). Assumes that approximately 62% of Cameron Park costs are covered by private, State and federal Grants. The remaining 38% of the \$7.5 million acquisition price is split equally between the County and EID.

(4) Administrative fee revenues will be used to cover the cost of collecting and administering the Ecological Preserve Fee.

(5) A finance charge is included for the Cameron Park acquisition. The Martel Creek and Pine Hill conservation easement acquisitions are assumed to occur on a pay-as-you go basis.

(6) Mitigation Area 2 is equal to the EID Sphere of Influence (SOI) excluding Mitigation Area 1. However, in order to be conservative the fee is estimated using only projected development within the EID Service Area.

(7) Assumes that approximately 45% of the projected new residential development and 31% of the projected new commercial development will occur by 2017.

(8) Excludes new development in the Ecological Preserve Overlay Zone and incorporated Placerville.

Sources: Economic & Planning Systems, Inc., El Dorado County Planning Department.

Ideally, the operations and maintenance of the Ecological Preserves could be shared between several local, state, and federal agencies, including the EDCWA, EID, DFG, BLM, and possibly the USF&WS. In particular some of the local costs could be covered by the local fire prevention districts. As noted in previous reports, the Pine Hill endemic plant species require periodic controlled burning in order to regenerate. It would be advisable to incorporate the rare plant habitat maintenance with fire prevention efforts in Western El Dorado County such as through controlled brush burns conducted and monitored by the local fire prevention districts and possibly the California Department of Forestry. This approach would achieve two public policy goals in one, by reducing the risk of uncontrolled wildfires in Western El Dorado County, and promoting the healthy regeneration of the rare plants.

## NEXT STEPS/IMPLEMENTING AGREEMENT

After the adoption of the Ecological Preserve Fee Ordinance (the Ordinance) and the General Plan Amendment (GPA), which expands the Ecological Preserve -EP overlay zone to include the Cameron Park as the fifth preserve, an "implementing agreement" involving all the participating jurisdictions will need to be negotiated. The County will need to adopt an implementing agreement and maintain the habitat mitigation efforts over time consistent with the implementing agreement. If it is decided later to prepare a comprehensive countywide Habitat Conservation Plan (HCP) the implementing agreement prepared for the rare plant mitigation program could serve as the basis for a subsequent HCP implementing agreement.

The rare plant mitigation program implementing agreement will most likely be drafted as a Memorandum Of Understanding (MOU) between the participating agencies (including the County of El Dorado, the EID, the County Water Agency, the DFG, the USF&WS, the Bureau of Reclamation, and the Bureau of Land Management) and should contain the following elements:

- A Recitals Section. Recitals will describe the intention and the purposes of the Agreement.
- A Definitions Section. Definitions will be provided for the key terms used in the Agreement.
- Term and Renewal Section. The life span of the agreement will be defined and provisions for extending it provided.
- Obligations of the Parties Section. The responsibilities of the County as an urban development permittee in requiring mitigation for loss of rare plant habitat must be described. This section includes the definition of the El Dorado County Rare Plant Off-Site Mitigation Program, the mitigation ratio, the Ecological Preserve In-lieu Fee which includes components for habitat acquisitions (conservation easements), fee administration, and mechanisms for fee adjustments.

- Habitat Management and Protection Section. This section describes how the rare plant mitigation program will be administered; how mitigation conservation easements will be selected and acquired; how the Ecological Preserves will be managed and operated (the Land Manager role); how habitat enhancement, if required, will be conducted; and how all these management and operations functions will be funded. This section will describe the responsibilities of the regulating and resource agencies in implementing the rare plant mitigation program.
- Mutual Assurances Section. This section describes what the agreement does and does not assure the parties regarding compliance with the provisions of the Federal Endangered Species Act (FESA), California Endangered Species Act (CESA), and CEQA.



BOARD OF SUPERVISORS HEARING  
SUBJECT: FINANCING FOR RARE PLANT PRESERVE  
June 9, 1998

My name is Kathye Russell, representing the El Dorado Builders Exchange. In the past we have come before you on this matter and urged your support of establishing the rare plant preserve now being discussed. Although we recognized that a great many of our members were opposed to this effort – the Board of Directors and I have stayed informed about local water issues and various efforts to obtain more water for our community. When it became apparent that our county would never see additional supplies of water, and that even our *existing* water supplies were being threatened by our county's failure to give Fish & Game and Fish & Wildlife what they wanted, we felt it was critical to establish this preserve. That was the essence of our earlier testimony before you.

According to state and federal agencies, the gabbro soils and the plants they host are of substantial significance to everyone. Yet once again the cost of mitigating this public benefit rests solely on the heels of the development community and therefore new people coming into this county. That is not fair and not legal. This funding proposal fails to establish mitigation for existing residents' impacts on the plants, which involves one-half the gabbro soils overlay area, which is required by law. To our knowledge you have no nexus study that identifies funding sources for existing deficiency burdens – also required by law.

The Builders Exchange Board has also expressed grave concerns that we still have no guarantee that Fish & Game and Fish & Wildlife will support our county's water needs once we establish and fund this preserve. Supervisor Shultz has been adamant that we have a binding agreement with Fish & Game *prior* to agreeing to fund the preserve, and we support that position. The need for such an agreement is strengthened by the fact that a Fish & Game staff person recently indicated that establishing this preserve does NOT fully mitigate their concerns over water! **Thus we strongly urge you to obtain some kind of guarantee from these agencies that satisfying their demand for this preserve will truly free us from their involvement in lawsuits against our county over water issues.** If you fail to obtain this guarantee and the agencies continue to challenge our rights to water – then you will have sold out the citizens of El Dorado County!

read and sbmtd by Kathye Russell 6/9/98