

ZA 11-20-2019
Item 4.a.
(45 pages)

Planning Department <planning@edcgov.us>



Sawmill Creek final letter

1 message

Mike Doran <mdoran3@yahoo.com>

Fri, Nov 15, 2019 at 3:21 PM


To: Tom Purciel <tom.purciel@edcgov.us>, Planning Department <planning@edcgov.us>

Cc: Bradley Pearson <bpearson@gmail.com>, Paul Cowdery <president@holidaylakecsd.org>, Marsha Burch <mburchlaw@gmail.com>

Hello Tom

Please confirm with a reply to this email you have received this into the public Record and it has been date stamped.

Thank you

 **Sawmill Creek Letter 11152019 final.pdf**
11985K

November 15, 2019

To: County of El Dorado
Planning Department
2850 Fairlane Court
Placerville, CA 95667

Attn: Tom Purciel, Associate Planner

From: Holiday Lake Community Services District
Holiday Hills Estates Homeowners Association
Holiday Lake Ranches Homeowners Association
Shingle Springs Neighbors for Quality Living

Re: P18-0004 (Sawmill Creek Tentative Map), Comments for
November 20, 2019 public hearing

Dear Mr. Purciel,

Please accept this as the Combined Agency Letter from the above referenced organizations regarding the public hearing on November 20, 2019 to consider and approve the subject Tentative Map and its associated CEQA compliance.

With all due respect, the County of El Dorado has mismanaged this project and grossly underestimated the magnitude and implications of this Minor Land Division. Whether this is intentional or not, the County has taken the position that this project is just a small, minor land division and as such is inconsequential to the county government, its residents and inconsequential to us, the next-door neighbors.

One result of this mismanagement and underestimation is that the local Holiday Lake community has been shut out of the process and given very little time (less than 30 days) to respond and prepare for the November 20, 2019 decision making public hearing. Our HOA's and CSD are not afforded by the county the time to meet and confer that the county affords itself.

Given this situation, we are forced to respond and establish an administrative record in a rushed manner. Because of these time restraints we are compiling our comments from four organizations into one document, this Combined Agency Letter.

As a forward, the reader should understand that a few years back the San Stino/Mill Creek Project was a substantial development proposal on the 653 acres that comprise the Sawmill Creek, Scheiber and White ranches which are contiguous properties just below and easterly of Holiday Lake. The Holiday Lake neighborhoods entered into a Memorandum of Understanding with the developer. That MOU gave the developer the support that he wanted and it gave our neighborhoods the mitigations and protections

we needed. It was a win-win situation for all parties. There is no reason why the property that is subject of this current subdivision application cannot be master planned along with the other 2 ranches. There is no reason why there cannot be another MOU.

Good planning and reasonable decision making can be achieved.

THIS PROJECT IS IMPROPERLY DESCRIBED AND AS SUCH CANNOT BE APPROVED IN ITS PRESENT FORM.

The Project is improperly described, and staff has failed to update public decision makers and citizens that P18-004 has undergone changes since its initial submittal on May 25, 2018. The fact that the project today is different than the original applied-for-project confuses and misleads public decision makers and county residents. The county CEQA process fails to note or describe these changes; there is no updating of the project description; there is no clear notice in the file that the original 2018 project is materially different from the 2019 project. There has been a failure to note publicly and to clearly re-describe the changed project; this is a flaw in the mandatory CEQA review and a flaw in the El Dorado County Subdivision approval process, thus rendering the CEQA review, proposed CEQA environmental clearance and the proposed County project approval to be defective under State of California Law and The El Dorado County Subdivision Ordinance.

In point of fact county staff outside the Planning Department, public decision makers and county residents do not know if this is the original May 25, 2018 project P18-0004 calling for a 140 +/- acre parcel to be subdivided into three parcels: Parcel 1 - 5.970 acres, Parcel 2 – 52.2 acres and Parcel 3 81.9 acres as describe in the original Project Application project narrative dated May 25, 2018 (which has never been revised or updated) OR is this the new but never formally acknowledged/changed project dated February, 2019 for the creation of a 140 acre subdivision consisting of an existing 5.970 acre subdivision, proposed parcels: Parcel 1- 22.992 acres, Parcel 2 - 90.534 acres and Parcel 3 – 20.639 acres.

Even though the overall project area remains the same at 140 +/- acres (in many places the project is described as being 134 acres), the number of new parcels created has increased form 2 parcels at 52.2 acres and 81.9 acres in 2018 to 3 parcels 22.992 acres, 90.534 acres and 20.639 acres in 2019. This becomes confusing to everyone when the project description in the Planning Department file and published on-line that originally applied to one project now applies to a substantively different project.

Case in point, the 2018 and current project description (Project Narrative) states: "Parcel 3 will take access from Holiday Lake Drive." and later states: "Parcel 3 would be subject to a fair share of the roadway maintenance cost" (for Holiday Lake Drive). The revised Tentative Parcel Map submittal, February, 2019, which is the current project map, shows new and revised Parcels 1 and 2 both having access to Holiday Lake

Drive. In addition, there is no mention of these two parcels being subject to fair share maintenance cost sharing.

This is just one example of inconsistency in this project's processing.

A fatal flaw in the county processing of this project is that while the actual tentative maps have changed substantively from 2018 to 2019, the official project description remains the same, unchanged and not updated. The result is inaccuracy and confusion.

Finally, this comment letter details numerous issues, controversies and facts that should be included in the project description and their omission render the project description as incomplete and inaccurate. The project description is intended to establish for the record, the whole project and it is intended to communicate that whole project description to decision makers and the public. This project description does neither.

The above issues are not negated by the fact that the County may have settled on a new, final project description in its staff report, findings, project conditions of approval and draft negative declaration. The fact remains that this project has had project descriptions in various versions on different documents published on the County's website, in the project file and in public mailings. It is highly likely that those 18 public agencies contacted for input on this project have a variety of differing project descriptions in front of them and truly don't have the final, accurate project description.

The above described failures to update and provide an accurate and complete project for approval renders the CEQA review, proposed CEQA environmental clearance and the subject County project approval to be defective under State of California Law and the El Dorado County Subdivision Ordinance.

**THE COUNTY OF EL DORADO FAILED TO NOTIFY AND INVOLVE
THE HOLIDAY LAKE COMMUNITY SERVICES DISTRICT
IN THE PROCESSING OF THIS PROJECT.**

The Holiday Lake Community Services District was never formally notified of this project, not in 2018 for the June 13, 2018 Initial Consultation (per Section 15063 of the State CEQA Guidelines) and the Technical Advisory Committee meeting and not in 2019 for the April 5, 2019 formal Initial Consultation for the revised, changed project. In addition, HLCSD was not notified in late October of 2019 that a CEQA Initial Study and draft Mitigated Negative Declaration had been prepared and circulated with a mandatory 30 day review and comment period. Finally the HLCSD was not notified that a public hearing would be held on November 20 to adopt the Negative Declaration, adopt formal findings and approve the subdivision.

On October 19, 2019 the HLCSD first heard of this project and its public hearing for the first time. The district found out second hand from a local resident.

Needless to say the Holiday Lake Community Services District is a governmental agency that must be consulted through proper notification of actions that affect the HLCSD's mission and operations.

The subject tentative map property shares a common property line for hundreds of feet with the Holiday Lake Community Services District. The Holiday Lake Dam is on this common property line. Sawmill Creek flows out of Holiday Lake onto the Sawmill Creek Ranch property proposed for subdivision (Proposed parcels 1 and 2). Sawmill Creek Ranch has filed numerous applications for subdivision over that last 30 years. The current landowner/subdivider (David Zweck) and his agent (CTA Engineering and Surveying) have been the same applicants on all these previous projects.

The County staff, applicant and his engineer have known for several decades that the HLCSD has been intimately involved in this development's prior applications and always involved in the formal Initial Consultations along with other public agencies.

The Staff Report on page 5 states: "The project was distributed to all applicable local, County and state agencies for review and comment". HLCSD was not listed as one of those agencies.

The Staff Report on page 6 states: "The project was distributed to more than 18 applicable County, local, state and federal agencies and departments for review and comment". HLCSD was not listed as one of those 18 agencies.

Why was the Holiday Lake Community Services District excluded from this public process with the current application?

For failure to notify and involve HLCSD the County needs to go back and follow proper State and County procedures in the processing of this project.

**THE COUNTY OF EL DORADO FAILED TO NOTIFY AND INVOLVE
THE HOLIDAY LAKE NEIGHBORHOODS IN A TIMELY MANNER.**

The Holiday Lake Ranches Homeowner's Association on the west side of Holiday Lake and The Holiday Hills Estates Homeowner's Association on the east side of Holiday Lake have never been notified of the existence of this project and its November 20, 2019 hearing.

On October 19, 2019, adjacent individual households and Shingle Springs Neighbors for Quality Living for the first time were notified of the existence of this project and its November 20, 2019 hearing. That notification provided a mere 30 days for neighbors to meet, confer and respond formally to this project.

Sawmill Creek Ranch and its developer has filed numerous applications for subdivision over that last 3 decades. The Holiday Lake Ranches Homeowner's Association, The Holiday Hills Estates Home Owner's Association and Shingle Springs Neighbors for Quality Living have always received sufficient notice and been able to participate. Indeed, with the San Stino/Mill Creek project, which included the entire Sawmill Creek Property, these neighborhood HOA's were able to enter into a Memorandum of Understanding. There was time to meet and negotiate to achieve that MOU.

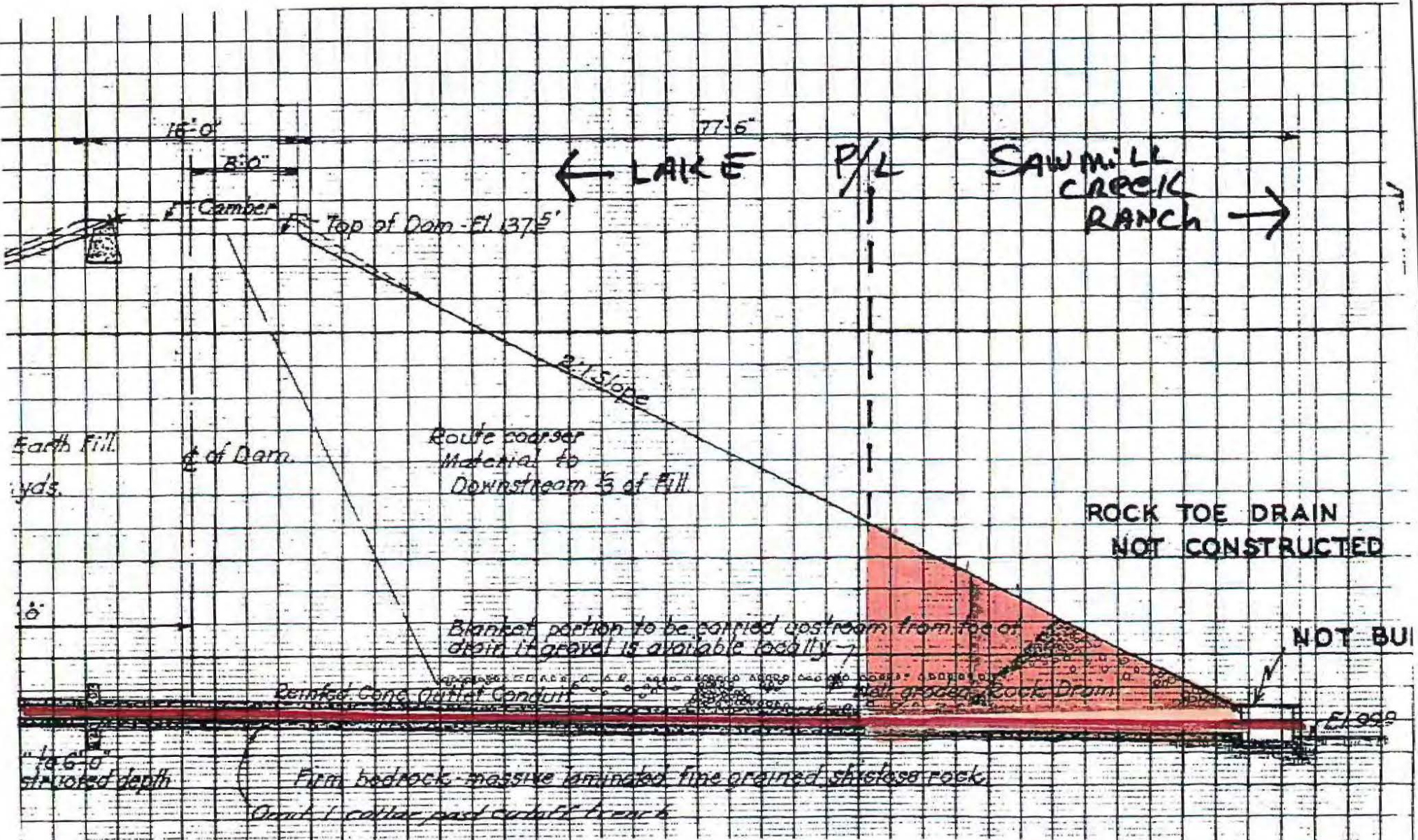
While these neighborhood organizations do not share the legal standing that the Holiday Lake Community Services District enjoys, we have always been afforded the opportunity to observe at T.A.C. meetings and properly communicate in a timely manner.

HOLIDAY LAKE DAM IS PARTIALLY ON SAWMILL CREEK RANCH PROPERTY

The subject parcel to be subdivided currently has its northerly property line running east – west for several hundred feet through the outboard southerly face of the Holiday Lake Dam about 20 feet up the sloping dam face from the toe of the dam. This we know from a survey done by CTA engineering (for the Mill Creek/San Stino development) several years ago. CTA is listed as the current applicant's agent for the subdivision.

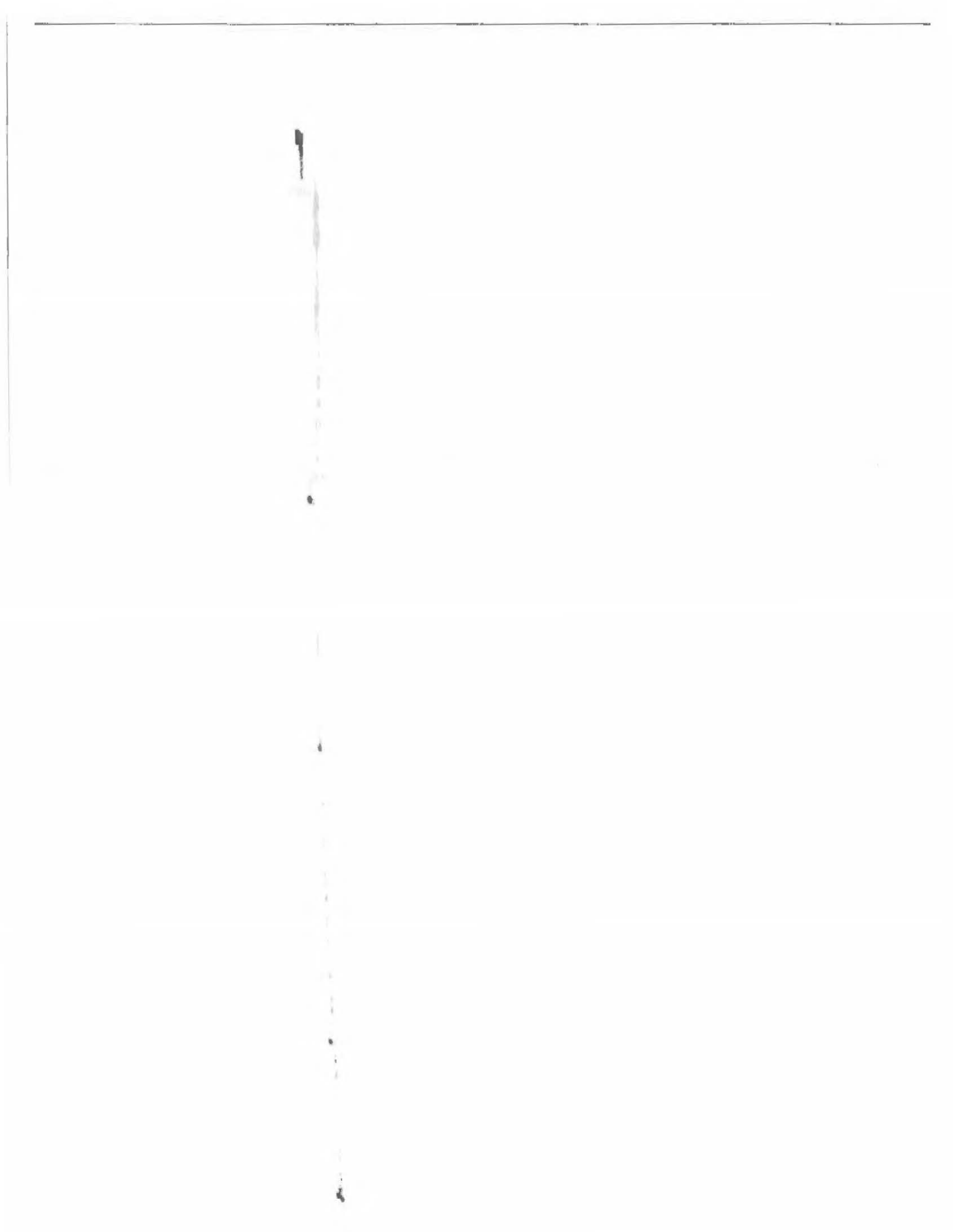
Attached is a cross section through the dam at the location of the 12" outlet pipe and valve on the Sawmill Creek Ranch property. We have placed the actual property line on that engineer's drawing to show just how much of the sloping, south facing dam is outside of HLCSD property.

It is untenable to have a public agency's critical facility, its lake's dam, partially on private property. The applicant needs to propose a solution to rectify this problem. In the meantime, until this situation is corrected, the county needs to analyze the environmental impact of the HLCSD's dam structure being partially on private property as proposed in the current subdivision project. We would maintain that creating a new subdivision of land that perpetuates private ownership of a portion of a dam can jeopardize the mission and the operations of the HLCSD to maintain a safe dam for Holiday Lake. This violates State of California law and policy that entrusts the HLCSD to protect the public health, safety and welfare. Such a situation constitutes in the determination of HLCSD, a potentially significant environmental impact under CEQA that needs to be fully explored in a draft environmental Impact report.



SS SECTION THRU DAM

Cross Section through Holiday Lake Dam at the location of the 12" drain pipe. Property Line between HLCSD and Sawmill Creek Ranch shows the shaded triangle of the dam that is on Sawmill Creek property



**THE PROJECT DOES NOT ANALYZE THE EFFECT OF INUNDATION OF THE
NEWLY SUBDIVIDED PARCELS FROM A
CATASTROPHIC FAILURE OF THE HOLIDAY LAKE DAM.**

The subject project for subdivision is directly contiguous with the entire length of the Holiday Lake Dam. Should there be a catastrophic failure of the Dam, it would cause inundation of the property to be subdivided.

There is no mention in the project narrative or in the CEQA Initial Study of this issue. The effect of such inundation is a potentially significant environmental impact. CEQA requires identified potentially significant impacts to be analyzed thoroughly in a draft environmental impact report.

**WELL DRILLING AND WELL WATER USAGE ON THE ADJACENT SAWMILL
CREEK SUBDIVISION COULD DRAW DOWN
THE HOLIDAY LAKE UNDERLYING AQUIFER**

As a condition of approval of the subdivision, the county is not requiring the subdivider to provide domestic water service from El Dorado Irrigation District, EID. The county is requiring the developers of the parcels to provide water service from onsite wells on each parcel and from wells on successor parcels as the land is split up into ever smaller pieces.

Currently Holiday Lake is down 54 inches from its spring time high water mark. This tends to happen every year. We do not know if the lake is spring fed but presume if it was, there would be little if any spring water coming in during the summer months. Holiday Lake loses its water to evaporation and exfiltration through the sides and bottom of the lake. That exfiltration seeps water into the soils below the lake and feeds the underground water table (the Holiday Lake Aquifer). Water tables or aquifers take up physical space in the subsurface soils. As water passes through an aquifer or is pumped out it leaves a void or a vacuum if you will. Nature abhors a vacuum as they say and so that water table or aquifer "wants" to replace lost water with new water and of course a lake directly above a drawn down water table is a perfect source for replacement water. It is estimated that the water table at Holiday Lake shoreline is less than 30' below the surface.

The use of nearby water wells could seriously draw down that high water table. This discharge by well pumping, especially during the high water demand irrigation months would tend to hydraulically suck water from Holiday Lake down into the underground aquifer and potentially draw the lake down to lower levels.

This is potentially a BIG DEAL for the future viability of Holiday Lake. Well water is much cheaper than EID water and so the 134 acre Sawmill Creek Ranch subdivision

and succeeding projects on the rest of the 653 acres will have an undoubtable impact of Lake levels.

The project's CEQA Initial Study fails to mention let alone analyze the environmental impact from the county's requirement for the subdivided parcels to obtain their water from onsite water wells. The project's CEQA Initial Study fails to analyze the environmental impact from the Holiday Lake Aquifer being drawn down by adjacent water well usage. Needless to say the resulting environmental impact is potentially significant and per CEQA guidelines this issue must be analyzed in a draft environmental impact report.

Let's show an example of what we are talking about here. The math used to calculate the following example is detailed in footnote at the end of this letter.

It is reasonable to assume that homes and their landscaping on large, exposed multiacre parcels could consume up to 5,000 gallons of water a day from May through October.

Since each of the three parcels could conceivably be subdivided further, wells could be multiplied substantially with the 134 acres being subdivided into +- 26 five acre lots.

26 wells at 5,000 gal. per day each results in 130,000 gpd (17,380 ft³) extracted from the Holiday Lake Aquifer. Holiday Lake has approximately 10 surface acres of water. If we were to assume a worst case scenario where the water extracted from the aquifer by wells was replenished down in the aquifer on a 1 for 1 basis by the water 30 feet above in the lake, then the lake would lose over ½ inch of lake depth per day.

This amounts to 15 inches of water depth lost per month, 90 inches during the high irrigation season of May through October.

It is further compounded by multiple wells on each 5 acre property. Second residential units (Granny units) up to 1600 sq. ft. in size are allowed on these lots. These are good size houses, each with landscaping needs on their portion of the 5 acre lot. If each has its own well, then the draw down of water in the aquifer and Holiday Lake multiplies. It could potentially double the ½ inch of lake depth lost daily to 1 inch, 15 inches to 30 inches per month, and 90 inches to 180 inches or 15 feet of lake level lost per irrigation season.

If that scenario were to happen, Holiday Lake would be sucked dry. Its average depth in the summer months is less than 10 feet. Impossible you say, tell that to the farmers in the central valley who have become all too accustomed to this sad story of the overuse of water well pumping.

This of course is compounded by the existing loss of 54 inches of drawdown the lake already naturally undergoes (already this year during the dry season) due to natural evaporation and exfiltration before even the first new well is drilled.

CEQA COMPLIANCE REQUIRES ANALYSIS AND DISCLOSURE OF IMPACTS ASSOCIATED WITH DRAW DOWN OF THE HOLIDAY LAKE AQUIFER

We know that California is a naturally dry state in constant need for agricultural and domestic water supply. Water is not an infinite resource and we see depleted underground aquifers happening all over the central valley due to the explosion and overuse of agricultural wells. Water tables are sinking lower and lower and drying up and it is not uncommon to read of complaints of one farmer's water well going dry because of the overuse of a newer, bigger adjacent water well on the neighbor's property.

A condition of approval by the county is that the new parcels obtain their water from new wells rather than from a municipal water supply, El Dorado Water District.

The previous section depicts a significant environmental impact on Holiday Lake if this project is approved with many multiple water wells drawing down the underlying Holiday Lake aquifer.

This scenario must be avoided at all costs and at the very least, this cumulative impact from cumulative water wells must be examined by means of an Environmental Impact Report due to the likely resulting potentially significant environmental impact on Holiday Lake and its CSD operations resulting from aquifer draw down.

SOLUTION TO IMPACTS ASSOCIATED WITH DRAW DOWN OF THE HOLIDAY LAKE AQUIFER

This impact to the Holiday Lake Aquifer can be avoided by imposing the following two conditions on the approval on this subdivision:

Condition 1.) "The parcels created by subdivision P18-0004 are required to obtain their domestic water from El Dorado Irrigation District." The 3 parcels to be created by P18-0004 have substantial portions of each currently within the EID service area, thus allowing this condition to be placed on each of the 3 proposed parcels.

The potentially significant environmental impact of multiple water well drawdown on the Holiday Lake aquifer can and will be avoided by means of recording the following deed restriction on the entire 140 acre Sawmill Creek Subdivision: Condition 2.) "this parcel and each of its successor subdivided parcels are restricted from drilling and or using

water wells on the parcel and must obtain their water from El Dorado Irrigation District or its successors."

Currently the northerly portions of the project area APN 090-380-19 (74.21 acres) and APN 090-380-07 (5.970 acres) are within the EID service area. The southerly portion of the project area, APN 090-190-02 (60.0 acres) is outside the EID service area. The approval of P18-0004 should contain the following condition of approval: "The southerly 60.0 acres of existing APN 090-190-02) must be annexed into the EID service area through the LAFCO Annexation Process so that the entire +/- 140 acre project area will receive domestic water service from EID.

PYRAMID SUBDIVISION OF LAND

The Minor Land Division ordinance of El Dorado County can be used to subdivide a large piece of land into 4 or fewer parcels and then subsequently take each of those 4 parcels and subdivide them each into another 4 or fewer parcels, and so on. In this manner 1 parcel becomes 4 that then divide into 16 and then into 32 and on and on.

This can legally be accomplished in compliance with the State of California Subdivision Map act of 1971 and the El Dorado County Subdivision Ordinance Chapter 130.36 if the following conditions are met:

The Minor Land Division (subdivision into 4 or fewer parcels) must:

- 1.) Result in parcels that conform in use and size to the local General Plan and Zoning ordinance.
- 2.) Comply with CEQA and meet basic development standards such as accessibility to public roadways, sewerage disposal, availability of potable water, grading standards, non-disturbance to cultural resources and wetlands, etc, – all almost ministerial requirements to be met prior to issuance of any building permit in the county, in any county in the state.

An example of this would be a hypothetical 160 acre parcel owned by "owner 1". The parcel has a General Plan land use designation and a Zoning designation that allows 5 acre parcels to obtain a building permit for a primary residence of any square footage and a second residential dwelling unit of up to 1600 square feet in size.

The original owner and first subdivider uses the Minor Land Division ordinance to subdivide the 160 acre parcel into 4 parcels, each 40 acres in size. Owner 1 then sells each 40 acre parcel off to buyers 2,3,4 and 5

New owners 2,3,4 and 5 then each individually use the Minor Land Division Ordinance to subdivide their 40 acre parcels into 4 parcels, each 10 acres in size. There are now 16 ten acre parcels.

owners 2,3,4 and 5 then each sell their four 10 acre parcels off to buyers 6 thru 21

New owners 6 thru 21 then repeat the process of subdividing their 10 acre parcel into two 5 acre parcels that they sell to buyers 22 thru 54 completing the subdivision.

In this manner the original 160 acre parcel which was capable of having one primary residence and a second residential unit now becomes 32 five acre parcels capable of having 64 homes, each home capable of being built simply upon application for a non-discretionary building permit, 64 homes being built without the need for General Plan changes or zoning changes, with no review or approvals needed from the planning department, department of transportation, Planning Commission or Board of Supervisors.

The attached diagram labeled PYRAMID SUBDIVISION shows clearly and concisely the above sequence of minor land divisions on this hypothetical 160 acre parcel

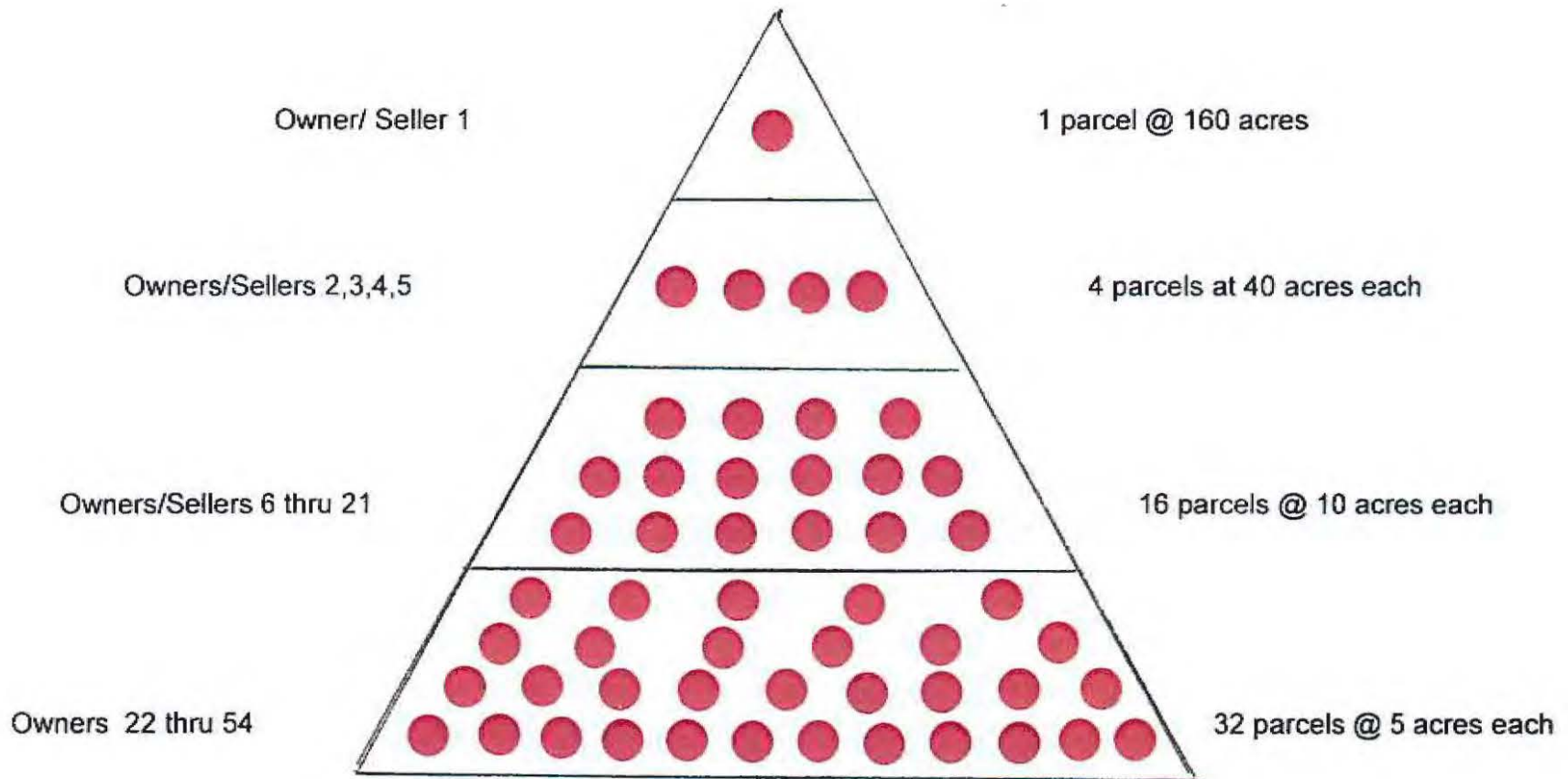
We show above that it CAN legally be done in El Dorado County following the El Dorado County Subdivision Ordinance Chapter 130.36. Below we address the prospect of WOULD it be done.

We can easily determine that it would be done if it was worth it. It would be worth it to create 64 dwelling units by Minor Land Divisions rather than create 64 dwelling units by a single Major Land Subdivision:

- 1.) If each 4 lot minor land division is less controversial than a single major, subdivision
- 2.) If each 4 lot minor land division is seen by the public and by county decision makers as small, inconsequential, not impactful to traffic and the environment because "it is only 4 lots being created".
- 3.) Next (and most importantly) if it is less expensive for the developers. A small 4 lot Minor Subdivision of 160 acres that results in 8 dwelling units on 40 acres each is not perceived by residents nearby, or public agencies, county staff and the county Board of Supervisors as a big deal, as IMPACTFUL as 32 five acre lots that result in 64 dwelling units from a Major Subdivision. It is just 2-4 more lots that are allowed with each separate project, each separate Minor Land Division. Therefor the single 4 lot subdivision is unlikely to be subject to as much scrutiny and as many onerous county restrictions and financial burdens as a major subdivision. The major subdivision however may be just large enough to reach a tipping point in traffic generation that would require the subdivider to participate in expensive traffic mitigation expenses. Such very expensive tipping points could be reached in numerous other areas of impact generation by a larger, major subdivision.

PYRAMID SUBDIVISION

Using the El Dorado County Minor Land Division Ordinance, Chapter 120.36



In the above manner a single 160 acre parcel gets divided into 32 smaller 5 acre parcels through just 3 layers of Minor Land Division.

One loop hole in the State of California Subdivision Map Act Section 66411.1 proves the above point. It states: " ...whenever a local ordinance requires improvements for a division of land which is not a subdivision of five or more lots, the regulations shall be limited to the dedication of rights-of-way, easements and the construction of reasonable offsite and onsite improvements **for the parcels being created**" bold print added for emphasis by this author. In this manner the state has created enabling legislation that restricts the placement of conditions of approval on the first 3 lot subdivision of the Sawmill Creek Ranch even though that small project may be the first stage of a larger, impactful project.

Each successive 4 lot subdivision would be regulated in the same manner, each one cumulatively adding to traffic impacts, underground water aquifer drawdown impacts etc, one minor land division at a time.

4.) "Here comes just another one." Once the first minor land division on this property is completed there is established a precedent for this property undergoing simple, successive 4 lot subdivisions and it becomes easier with each successive minor land division until all 32 lots are created. The county would be aware from the beginning that this "pyramid" could happen, that it is a legal process and it would be discriminatory and a denial of property rights if the county did not treat owners 6 thru16, the same way that it treated owner 1 and later owners 2,3,4,and 5.

Multiple Minor Land Divisions may be time consuming but, in the end, the same result can be achieved as a single Major Land Subdivision but perhaps at a substantially lower cost. You get to have your cake and eat it too!

USE OF PYRAMID SUBDIVISION ON THE SAWMILL CREEK RANCH, SCHEIBER RANCH AND WHITE RANCH PROPERTIES

The hypothetical 160 acre example above CAN be legally used for the subdivision of the 134 acre Sawmill Creek Ranch property P18-0004 and we believe that it WILL be used for the four reasons stated above.

Furthermore we believe that because it CAN be used and there are good reasons that it WILL be used, it is incumbent upon the county to analyze the application P18-0004 as a project of 26 five acre lots subdivision because it is foreseeable and it is predictable that this will happen. To not proceed as such invites the county approval to fly in the face of CEQA and invites a CEQA lawsuit because of the aforementioned CEQA concerns and:

- 1.) Purposeful obfuscation of a larger, more impactful project by clothing the project in the garments of small size and just a few parcels.

- 2.) Piecemealing a small project into a larger project of greater impact,
- 3.) Approving the first stage of a larger project without considering the sequential impact of the larger project and thus using piecemealing to compartmentalize small impacts without disclosure or consideration of those larger environmental impacts,
- 4.) Approving a project that will result in foreseeable and highly likely future cumulative impact and knowingly taking the first step in creating and approving a larger project of greater, cumulative environmental impact than the first approval without considering the impact of the resulting final project(s).

The County understands that there will be future subdivision of these large parcels and in fact lays the groundwork for that future subdivision down to 5 acre parcels.

In the staff report for this project's public hearing on November 20, 2019, under FINDINGS, 2.0 GENERAL PLAN FINDINGS, 2.1 The project is consistent with General Plan Policy 2.2.1.2, Rationale: we find the following statement at the end of the Rationale paragraph:

"Further, approval of this (large lot) parcel map would not preclude future subdivision to the ultimate potential density contemplated in the General Plan consistent with Policy 2.2.5.16 (Appropriate Level of Planning for Land Divisions).

Later on the next page, GENERAL PLAN FINDINGS, 2.3, The project is consistent with General Plan Policy 2.2.5.16 we find the following:

General Plan Policy 2.2.5.16 requires an appropriate level of planning for land divisions based on the land use designation of the subject parcel. Such planning shall include, but not be limited to, documentation that project approval will not preclude the ultimate potential density. Rationale: The proposed Tentative Parcel Map would create three lots of approximately 22.99, 90.54 and 20.64 acres in size. As noted in Finding 2.1 above, Policy 2.2.1.2 explains the purpose of the Low Density Residential (LDR) land use designation is to provide areas for single family residential development in a rural setting, including lands within Community Regions and Rural Centers where higher density serving infrastructure is not yet available. As the project would create significantly larger lots than the typical five to ten-acre parcel sizes advised by this policy, this project would allow for future subdivision of each lot up to the maximum densities provided in Policy 2.2.1.2. Therefore, the project would not preclude the ultimate potential density. The project is consistent with this policy.

Because of the above, this project is clearly seen by the County as the first stage of subsequent subdivision as provided for in the County General Plan and the County cannot under CEQA Guidelines avoid treating this minor land division as the first stage of a larger development. These General Plan policies clearly foresee future subdivision of this project. Under CEQA, the county would be guilty of "Piecemealing" if it approved

the subject parcel in a vacuum without considering the projects subsequent minor land division

We believe that this same piecemeal approach currently applied for in the case of the 134 acre Sawmill Creek Ranch will soon be used to piecemeal the development of the adjacent 227 acre White Ranch and adjacent 286 acre Scheiber Ranch. Because of past cooperation and joint application of the three ranches for County land use entitlements, such a scenario is highly foreseeable and highly likely and therefore should be analyzed by the county since the 4 aforementioned CEQA concerns apply also to the predictable and similar piecemeal development of White and Scheiber by means of sequential minor land division or other means.

THE PROPOSED PROJECT IS THE FIRST STAGE OF SUCCESSIVE PROJECTS LEADING UP TO A LARGE PROJECT WITH CUMULATIVE IMPACT.

This project, as explained below is the first stage of a larger project, achieved by pyramid subdivision. All the parcels achieved by this casual, piecemeal subdivision down to 5 acre parcel size will quickly lead to 52 homes on the 26 lots resulting from sequential minor land divisions of this 134 acre property. Those 52 homes at 11.1 average trips per day will result in a potential, additional 577 average vehicle trips per day . The project has no legal mechanism for preventing all the potential parcels to access Holiday Lake Drive.

Furthermore, the subject parcel has a reciprocal cross access agreement with the 280 acre Scheiber Ranch to the south and the 227 acre White ranch to the east. These agreements create the legal easements that allow vehicular traffic to cross the three ranches. They set the framework for the three properties to achieve General Plan land use density changes in the past and to form the foundation for the 653 acre San Stino and Mill creek projects of over 900 homes.

By using the piecemealing mechanism of Minor Land Divisions on the entire 653 acres creating 130 five acre parcels there will be potentially 260 homes and 2886 average daily vehicle trips onto Holiday Lake Drive and Ridge Drive at 11.1 ADT per D.U.

The reciprocal cross access easements allow for the use of French Creek Road and Motherlode Drive for access to the 134 acre Sawmill Creek Ranch project and later to a larger 653 acre project, with potentially 130 five acre parcels, 260 homes and 2886 daily automobile trips, many of which will find their way on Holiday Lake Drive, the shortest route to Buckeye school and the Highway 50 onramps.

This scenario of multiplication of small, 5 acre, sequential Minor Land Divisions is legal, foreseeable given the applicant's past applications for many parcels and a 653 acre project. It is also highly predictable. CEQA requires the County to analyze potential adverse environmental impacts that are possible, foreseeable and highly predictable.

The county would be found in violation of CEQA Policy by ignoring the potential environmental impacts of such scenarios of these traffic and other impacts.

Furthermore this scenario of multiplication of small, 5 acre, sequential Minor Land Divisions, which is spoken to in detail in the section entitled Pyramid Subdivision, speaks to the issue of the first Minor Land Division being the first stage of a larger project with cumulative environmental impact. This process is "piecemealing" and growth inducing which is a fatal flaw in any strategy used by a county to circumvent CEQA. The courts have routinely held that piecemealing and growth inducement is contrary to law and to CEQA policy.

The county purposely waived the need for a Transportation Impact Study and an On-Site Transportation Review, presumably because this was just a small 4 lot or less Minor Land Division, incapable of having impact.

Thus a succession of small 4 lot subdivisions achieve the same end as a Major Land Division of the 134 acre Sawmill Creek Ranch, with more work but less controversy, no expensive traffic signals, public road widenings, school impact fees etc.

This keeps the cumulative impacts under the radar by using the Minor Land Division ordinance, Chapter 120.36 of the El Dorado County Subdivision Ordinance, to slowly piecemeal a much larger development into existence.

The county and applicant's attitude that this is just a small project of 4 lots or less is a flagrant violation of law and CEQA policy and an invitation to an adverse lawsuit.

WE STRONGLY OBJECT TO THE PROPOSED USE OF HOLIDAY LAKE DRIVE AS ACCESS TO THIS PROJECT'S SUBDIVIDED PARCELS

Since 1989 the Sawmill Creek Ranch has unsuccessfully claimed vehicular access to the private roads of the Holiday Lake Ranches Homeowners Association.

We have strongly objected to this in the past and yet the County and the applicant continue to persist. We have strongly maintained that Holiday Lake Drive is a privately maintained, private road. Our attorneys have written the county as much as 20 years ago to state this case. The Attached two letters from our attorney clearly show that these streets are indeed private roads

We will continue to make this case and we intend to make this case in court if need be. We are fed up with the nonchalant and cavalier attitude of the applicant and the county toward the use of our private roads to serve this project, now and in the past.

The county in this proposed approval will require the subdivider to construct substantial widening and paving with fire truck turnarounds at two places on Holiday Lake Drive.

Section 120.44.120(P) of the County Subdivision Ordinance specifies that: "Off-site access required to serve the subdivision shall be improved to standards as specified in the Subdivision Design and Improvement Standard Manual."

Our attorney makes it clear in his letters attached that "the property owners (of HLRHOA) not the county, have the right to decide how and whether the roads will be improved and modified." The county cannot require, as conditions of approval, that a subdivider construct offsite improvements on adjacent property with out that property owner's approval.

The County staff report, Conditions of Approval, Page 4, El Dorado County Department of Transportation (DOT) states:

9. Holiday Lake Drive Road Maintenance: Prior to recordation of the final map, Proposed Parcels 1 and 3 shall join the Holiday Lake Homeowner's Association, or other equivalent private road maintenance entity established for the purpose of maintaining Holiday Lake Drive, to ensure each parcel owner contributes their fair share to annual roadway maintenance in perpetuity.

The county has neither the right nor the legal instrument to require such new membership from outside our HOA project boundaries nor the ability to require or enforce payment of maintenance fee payments from entities outside our association boundaries. This is a "feel good" condition that has no basis in law, is beyond the purview and authority of the County. It will not achieve its end of requiring the payment roadway maintenance fees from parcels to be created on the Sawmill Creek Ranch.

From a practical matter, HLRHOA has no assurance, no guarantee that only the Parcel 1 and 3 owners will use its road. As those parcels are split, successor smaller parcels will have no requirement to "join and pay" and will use Holiday Lake Drive for free. The two initial Parcels 1 and 3 in question will enjoy cross access across 90 acre Parcel 2 to use its access to Tulle Lane/ Ridge Road. Likewise by virtue of the same cross access easements, 90 acre Parcel 2 (and its successor smaller subdivided parcels down to 5 acre size) will all have legal access to Parcels 1 and 3 and thus be able to access and use Holiday Lake Drive which will end up being the preferred roadway to get to Buckeye school, Hwy 50 at Shingle Springs Drive and Hwy 50 at Ponderosa Road.

When the Pyramid Minor Land Division described below is complete, the 26 five acre parcels resulting on the Sawmill Ranch can result in 26 primary residences and 26 second residences each generating 11.1 average daily trips or up to 577 vehicle trips per day, much of which will be on Holiday Lake Drive. These 26 parcels will not be paying members of the Holiday Lake Ranches HOA, will use Holiday Lake Drive for free without any legal and enforceable requirement to pay for the private maintenance of Holiday Lake Drive.

Since the entire 653 acres of the White, Scheiber and Sawmill ranches have cross access agreements, Holiday Lake Drive gets opened up to potentially 130 acre parcels, 260 homes (primary and second residences) generating 11.1 average daily vehicle trips

or a total of 2886 daily vehicle trips with a good number of those using Holiday Lake Drive. Our neighborhood gets swamped and we have to pay for their wear and tear on our road.

In addition, the County staff report, Conditions of Approval, Page 6, California Department of Forestry and Fire Protection (CalFire) states:

23. Roads shall be constructed with an approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds.

While this condition is for new roads on the approved subdivision it is assumed that this 75,000 pound fire apparatus will access that road on Holiday Lake Drive, a 50 year old oil and screened road held together by band aids because of high cost of road maintenance and minimum use by personal vehicles that weigh 1/20th of a 75,000 pound fire apparatus! This excessive wear and tear on our road will be exacerbated by heavy construction equipment, concrete delivery trucks etc going to Sawmill Creek Ranch projects, construction equipment and heavy trucks that our built-out neighborhood was finished with years ago.

The County staff report, Conditions of Approval, Page 5 Office of the County Surveyor states:

11. Provide a Parcel Map Guarantee, issued by a title company, showing proof of access to a State of County Maintained Road as defined in 120.44.120(B)(2) of the County Subdivision Ordinance.

Section 120.44.120(B)(2) of the County Subdivision Ordinance specifies that the subject land division provides proof of access by means of "a recorded easement or court judgement as shown on a guarantee of record provided by a title company which provides for legal access to all parcels being created" (underlining provided by author).

In such a contentious issue for the last 30 years, why does the county wait until after the tentative map is approved to determine if the parcels created by the map are legally accessible from a public road?

The county could and should require that proof now rather than after the fact.

Finally, our attorneys have formally defended our community's claim of private road status in letters sent to the County in 1999 and 2008. Those letters are attached to the end of this comment letter.

WE STRONGLY OBJECT TO THE PROPOSED USE OF RIDGE DRIVE AND TULLE LANE AS ACCESS TO THIS PROJECT'S SUBDIVIDED PARCELS

Ridge Drive and Tulle Lane are publicly owned and publicly maintained roads.

They are however small streets not designed for the additional traffic share from either this project generating 577 daily trips nor the larger, multi ranch generation of 2886 daily vehicular trips.

Most of the opposition stated above to the use of the private road Holiday Lake Drive also applies to the project use of Ridge Drive and Tulle Lane. Those comments are incorporated here by reference.

The bottom line is it is inappropriate for this new subdivision and its successor minor land divisions and in fact the entire 653 acre combination of three ranches to dump their excessive traffic onto Ridge Drive and Tulle Lane.

The County has not done a traffic analysis of project plus successive subdivision(s) generated traffic on these three roads because the County is looking at what it determines to be a singular, isolated event of one small 3 lot minor land division.

Once again we reiterate, the County needs to require that the Sawmill Creek Ranch, Scheiber Ranch and the White Ranch create an acceptable master plan for subdivision and development that takes its access off French Creek Road and Mother Lode Drive and does not adversely impact the adjacent Holiday Lake neighborhoods. This was done before with the San Stino/Mill Creek Project; it can be done again.

CEQA ANALYSIS AND DETERMINATION

In addition to above comments that touch on issues relevant to the California Environmental Quality Act, we have the following CEQA specific comments.

The project file states that an initial CEQA study has been performed and staff has determined that a mitigated Negative Declaration will be issued on this project. None of the mitigation proposed is triggered by or relative to the following issues.

That initial study does not include a traffic analysis. There has been no initial study of Piecemealing, Growth Inducement, Cumulative Impact study that analyzes this project as the foreseeable and predictable first stage of a larger project, i.e. a subsequent series of small subdivisions cumulatively resulting in the subdivision of the entire property into many smaller parcels.

We have spoken of these issues in our comment letters to the county on former development applications for this property. These development proposals go as far back as 1989. That is 30 years, 3 decades. CEQA and modern planning techniques have existed throughout this period. There is no reason why this County project processing has been so incomplete, so deficient.

We find that this project requires an Environmental Impact Report that analyzes potentially significant cumulative traffic impact, growth inducement and the intentional use of piecemealing to slow walk a small project into a much larger, more impactful project or series of projects while keeping cumulative impacts under the public radar.

We find that this is the first stage of a larger project that could indeed have significant effect on the environment and therefore an Environmental Impact Report must be prepared to analyze this impact.

We find that this project's traffic impacts on Holiday Lake Drive, Tulle Lane and Ridge Drive could have significant environmental impact on those minor roads and on Mother Lode Drive and therefore an Environmental Impact Report must be prepared to analyze these impacts.

We find that this project's physical property line encroachment under the Holiday Lake Dam could have significant environmental impact upon lake and dam operations of the Holiday Lake Community Services District. There needs to be a complete analysis of this potentially significant impact from the private operation of the subdivided lands on the public lake and dam operations of the Holiday Lake Community Services District. An Environmental Impact Report must be prepared to analyze this impact.

Furthermore, CEQA requires an initial study and environmental analysis of the proposed project. The proposed project does in fact have property underlying the Holiday Lake Dam. The county cannot arbitrarily change the project by stating that there will in the future be a "lot line adjustment" that will remove the problem by forcing the encroaching private property onto the ownership of HLCSD. The county does not have the authority to force the encroaching private property onto HLCSD. Until there is a resolution of this problem between HLCSD and Sawmill Creek Ranch, the project remains with private property encroaching under Holiday Lake Dam and the CEQA analysis must be limited to the existing project with its existing property lines, not a hypothetical situation that is out of the county's control.

We find that the subject subdivided lands obtaining domestic water supply from on-site wells will potentially result in substantial draw down of the aquifer that underlies Holiday Lake and hydrologically plays a key role in maintaining water levels in Holiday Lake. Because of potential for significant environmental impact, an Environmental Impact Report must be prepared to analyze this impact.

The subject project for subdivision is directly contiguous with the entire length of the Holiday Lake Dam. Should there be a catastrophic failure of the Dam, it would cause inundation of the property to be subdivided.

There is no mention in the project narrative or in the CEQA Initial Study of this issue.

The effect of such inundation is a potentially significant environmental impact. CEQA requires identified potentially significant impacts to be analyzed thoroughly in a draft environmental impact report.

FINDINGS REQUIRING DISAPPROVAL

Section 120.44.030 of the El Dorado County Subdivision Ordinance stipulates: "The approving authority shall not approve a tentative map if the approving authority makes any of the following findings.

We maintain that listed below are two findings that the approving authority must make:

Finding E. "That the design of the division or the proposed improvements are likely to cause substantial environmental damage or substantial and avoidable injury to fish or wildlife or their habitat."

We have shown above that the project's reliance on and requirement to use water wells for domestic water supply will have catastrophic consequences on water levels in Holiday Lake with the potential to de-water the lake and cause "substantial and avoidable injury to fish or wildlife or their habitat".

Finding F. "That the design of the division or the type of improvements is likely to cause serious public health hazards".

We have shown that the partial ownership of a public agency dam by the private land to be subdivided is dangerous to the safe operation of the dam by its public agency owner, HLCSD. Creating a new subdivision of land that perpetuates private ownership of a portion of a dam can jeopardize the mission and the operations of the HLCSD to maintain a safe dam for Holiday Lake. This violates State of California law and policy that entrusts the HLCSD to protect the public health, safety and welfare.

In addition to the above two examples, we cite numerous instances through out this comment letter where project related impacts would precipitate the required disapproval because of applicability of these findings.

CONCLUSION

In Summary, this subdivision of 3 parcels of 20, 23 and 90 acres will not remain at that size forever. They will be broken down into ever smaller sized parcels through pyramid subdivision by means of sequential minor land division using the Minor Land Division Ordinance of El Dorado County. To think otherwise is to ignore the obvious.

This technique of sequential minor Land division will spread to the nearby White and Scheiber Ranches. In the process of piecemealing these large tracts into smaller parcels, cumulative impacts to the environment and traffic are not acknowledged and not properly mitigated.

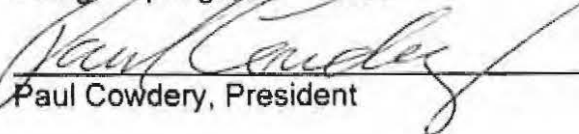
The county, the applicant and the Scheiber and White ranches need to return to master planning the development of the entire 653 acres. The property owners could arrive at a subdivision of 5 to 10 acre parcels with access off Mother Lode Drive and French Creek Road that provides the mitigations and protections of our former San Stino/Mill Creek Project Memorandum of Understanding. Such a scaled down project on the 653 acres of the three ranches can result in reduced traffic impacts to the entire Shingle Springs area while protecting and insulating the Holiday Lake neighborhoods from the additional growth to our south and east.

It is not our intention to deny these property owners their right to reasonably develop their ranches. A happy medium can be reached that is acceptable to all parties and protects everyone's rights.

Thank you for the opportunity to comment on this project that is so important to our neighborhood.

Yours truly,

Holiday Lake Community Services District
P.O. Box 2382
Shingle Springs, CA 95682


Paul Cowdery, President

Holiday Hills Estates Homeowners Association
4650 Foothill Drive
Shingle Springs, CA 95682



Mike Doran, President

Holiday Lake Ranches Homeowners Association
P.O. Box 238
Shingle Springs, CA 95682



Ximena Ortiz Pearson, President

Shingle Springs Neighbors for Quality Living
4521 Holiday Hill Court
Shingle Springs, CA 95682


Bradley R. Pearson, President

Attachments

- Petition from HLRHOA residents
- Letters from HLRHOA attorneys regarding status of Holiday Lake Drive as a private road.
- Past letters from Holiday Lake CSD
- Letters from HHEHOA residents

* The following are the calculations used to arrive at the drawdown of the Holiday Lake Aquifer and Holiday Lake water levels as described on page 8.

26 wells, 26 x 5,000 gpd = 130,000 gpd, 17,380 cubic feet of water per day at 7.48 FT³ per gal.

Holiday lake has a surface area of approximately 10 acres; at 43,560 sq. ft. per acre
 $10 \times 43,560 = 435,600$ sq. ft.

$435,600$ sq. ft. x 144 sq. inches in a sq. ft. = a lake surface area of 62,726,400 sq. inches.

If we take the 17,380 cubic feet of water extracted from the aquifer by 26 wells and convert it to cubic inches we get 1728 cubic inches in a cubic ft. x 17,380 = 30,032,640 cubic inches of water extracted from the aquifer by the 26 wells each day (at 5,000 gal. per day per household).

That is the equivalent to a loss of $\frac{1}{2}$ inch of lake depth per day. If we were to assume a worst case scenario where that very shallow 30 foot deep aquifer below Holiday Lake edges was drawn down 30,032,640 cubic inches per day and that aquifer were to be replenished on a 1 to 1 basis by Holiday Lake, then those 26 wells at a capacity of 5,000 gal per day could conceivably draw down the lake by $\frac{1}{2}$ " per day or 15 inches per month, 90 inches during 6 months of irrigation demand.

Since the 26 lots could each have separate wells for the primary residence and for the 1600 sq. ft. second residence (so called Gannny Flats) allowed by right, there could be a resulting 52 wells on the 134 acres resulting in a draw down of Holiday Lake of 1" of water surface daily over the 6 month irrigation season. That equates to over 180 inches of water depth or 15 feet.

Attachments follow here:



Holiday Lake

Community Service District
P.O. Box 2382
Shingle Springs, CA 95682

February 25, 2008

Helen Baumann
El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667

Dear Ms. Baumann:

Thank you for making the arrangements to have all the appropriate County staff in the meeting with us on the 6th of February. Having everyone involved in one meeting did allow us to confirm that neither the county staff nor you and your office have any intention of treating the Sawmill Creek project as the first phase of a much larger development planned by the land owners, their developers and consultants. No new revelation was offered to sway our position. We stand as we have from the beginning that simply because the other projects have not officially filed does not change their combined intent to develop a single large development. The fact that they are filed separately is the essence of a piecemeal project. So we remain at odds.

During the course of the meeting the issue of the 1996 agreements between the owners was mentioned and you made a note to confirm that those agreements are part of the public record. I also got the impression that a decision by county staff to grant the request for a Developers Agreement (DA) for the Zweck project was not final. There was some doubt about the necessity of a DA given the fact that this project is a simple development of 47 homes. Larry Appel and Jim Ware described the effect of the DA to be such that if granted would enable the Zweck project to essentially remain as a tentative map for up to 20 years rather than the usual 3 years plus two more years with extensions. I may not understand all the subtleties of development, but it seems abundantly obvious to an outsider that granting that request enables the Zweck project to act as Phase I of an anticipated larger project.

As an agency within the County of El Dorado we challenge you and the county staff to be consistent in your message; if you truly believe that this is NOT a piecemeal project then deny the request for the DA. Because to formally grant that type of unusual extension on what should be a simple subdivision seems more than a tacit acceptance on the part of the county that the Sawmill Creek project is the beginning of a piecemeal project.

We appreciate the continued open dialogue as this process continues.

Paul Cowdery
President HLCSD



Holiday Lake

Community Service District
P.O. Box 2382
Shingle Springs, CA 95682

January 7, 2007

Karen J. Massey
Planning Manager
CTA Engineering & Surveying
3223 Monier Circle
Rancho Cordova, CA 95742

RE: Sawmill Creek Ranch
TM 98-1350R

Dear Karen:

Thank you for your response to my letter. I appreciate that you considered our view of this project to be objective. HLCSD has a desire to be a part of the solution and not a problem for the project but the apparent deliberate attempt to exclude HLCSD from having a voice at the table in the early development stages has forced us to be on the defensive. The CSD is not an alarmist organization but our responsibility to maintain and preserve the lake which has been the center of this community for almost half a century will always guide our decision making.

As stated in the last letter, the board members and residents of the district are aware that the time has come for these parcels to be developed and that their development will open development further south. We also recognize that this development will involve change to our current lifestyle. However, it is abundantly obvious to anyone including the council we have retained, that these three (Zweck, Shreibner and White) parcels form a single project and that Holiday Lake Community Service District being bounded on both sides by this project is not simply an affected agency but is THE affected agency. Furthermore, anyone looking at a map would notice that the most significant environmental feature in the immediate vicinity of the proposed development is Holiday Lake. To continue to pretend that Holiday Lake and the Community Service District with the responsibility to maintain and preserve it do not exist and that some 500 new homes will have no significant impact on both is disingenuous at best.

Karen, we believe our position is the objective perspective on this project and we look forward to participating with the county planning staff, the developers and the land owners because we are neighbors. However if the message we receive is that expedience and personal inconvenience are the only reasons to pursue this project in piecemeal fashion, Holiday Lake Community Service District will engage any and all legal means possible to ensure rational, responsible development.

Sincerely,

Paul Cowdery
President, Holiday Lake Community Service District

Paul Cowdery 4620 Scenic Dr. Shingle Springs CA 95682 holidaylakecsd@yahoo.com

MONTAGUE, COCHRANE & VIGLIONE

Attorneys at Law

1500 River Park Drive, Suite 110
Sacramento, California 95815
Telephone: (916) 929-5018

J. MICHAEL COCHRANE
JOHN D. MONTAGUE
DENNIS L. VIGLIONE

June 4, 1999

Mark Nielsen
Chairman of the Board
El Dorado County Board of Supervisors
330 Fair Lane, Building A
Placerville, California 95667

Re: Holiday Lake Drive

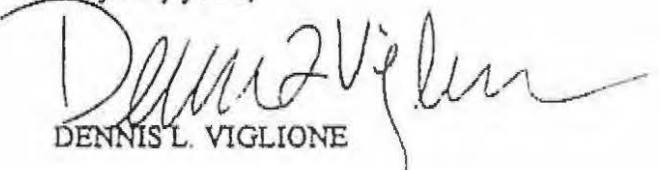
Dear Mr. Nielsen:

We have been retained by the Holiday Lake Ranches Homeowners Association (the "Association") regarding attempts to utilize Holiday Lake Drive as a public access to a neighboring property, the proposed Sawmill Creek Subdivision.

The history of this street, the 1970 deed from the original subdivider to the Association, and the 1970 California Department of Real Estate Public Report establish without question that Holiday Lake Drive is, and for almost 30 years has been, privately owned by the Association. This letter again puts El Dorado County on notice of that fact.

Any action by El Dorado county which purports to approve, authorize or allow the use of Holiday Lake Drive by anyone other than its owners will be a compensable interference by the County with private property rights. If any such action is taken by the County, the Association will pursue all legal remedies available to it, including an inverse condemnation action, and under CCP § 1036, reimbursement for all attorney's fees, appraisal fees, engineering fees and all other costs and expenses incurred in protecting their property interests.

Very truly yours,


DENNIS L. VIGLIONE

CC: Holiday Lake Homeowners Association

MONTAGUE & VIGLIONE

Attorneys at Law

1500 River Park Drive, Suite 110
Sacramento, California 95815
Telephone (916) 929-5018
Facsimile: (916) 929-8967

JOHN D. MONTAGUE
DENNIS L. VIGLIONE

February 28, 2008

El Dorado County Board of Supervisors
330 Fair Lane, Building A
Placerville, CA 95667

Re: Holiday Lake Ranches Homeowners Association

Dear Board Members:

Almost nine years ago, I wrote to Mark Nielsen, the then chairman of the El Dorado County Board of Supervisors, to relay concerns of the Holiday Lake Ranches Homeowners Association regarding the possible use of the Association's private roads for access to a residential subdivision proposed nearby. For your convenience a copy of my June 4, 1999 letter to Mr. Nielsen is attached.

Nine years later, the Association remains concerned that such a use of its roads may yet be attempted - so concerned that the Association has asked me to review again the pertinent facts and documentation, and to reevaluate the opinions I stated in my 1999 letter. I have completed that second look, and my opinions remain as stated in my 1999 letter. Attached is a summary of facts establishing without question that these roads are, and have always been, private.

However, I have reached two additional conclusions. First, while I continue to believe a judge would determine that the roads within Holiday Lake Ranches are clearly private, I do not believe a contrary finding changes the rights and obligations of the Association with respect to these roads. Even if the roads were found to be public, it is still the Association which has both the obligation and the right to maintain and improve (or not improve) these roadways. In particular, the title instruments make it very clear that the property owners, not the County, have the right to decide how and whether the roads will be improved or modified.

Second, while the County may be able to take the roadways through eminent domain, the property owners would certainly assert numerous right to take objections. And, even if those were overruled, such a taking would result in substantial severance damage to the properties within Holiday Lake Ranches.

The Association members want to work with, not litigate with, El Dorado County. They ask that they be kept timely informed of development plans that could affect their property, their roadways, their quality of life, and their property values. They further ask that the County explore alternative plans that would allow for development but would not adversely impact Holiday Lake Ranches.

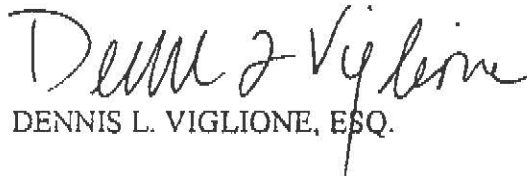
Re: Holiday Lake Ranches Homeowners Association
February 28, 2008
Page 2 of 2

One such alternative is created by the Scheiber Ranch emerging from Williamson Act coverage. The last time that the developer of the Sawmill Ranch Subdivision proposed the use of Holiday Lake Drive as one of two ingress and egress routes to his subdivision, he did so because the county denied his original submittal of access coming off of French Creek Road across the Scheiber Ranch. He has recorded access for this road but at that time (1999) the Scheiber Ranch was under Williamson Act Contract which would have prevented the use of said land for anything other than agricultural purposes. A street accessing a residential development, even a public street, was prohibited by the agricultural restrictions of the act and thus the developer fell back on the alternative of the use of Holiday Lake Drive, an alternative he had unsuccessfully tried as far back as 1989. The project was then shelved in 1999 because of the General Plan moratorium.

The Scheiber Ranch rolled out of its Williamson Act contract in January of 2006 and the prohibition against ingress and egress across the Scheiber Ranch onto French Creek Road no longer exists. This point of access could now be used by the developer of Sawmill Creek as he had proposed in 1998-1999. The County could require him to go back to this original proposal and would not be "taking" from Sawmill Creek a right of access nor land locking him. In addition, very recently there has been installed full signalization of the intersection of French Creek Road and Mother Lode Drive, thus easing the burden of additional traffic from Sawmill Creek Ranch on French Creek road.

If the County, its planning department, or its staff wish any additional information, or further explanation of the Association's position, please let me know.

Very truly yours


DENNIS L. VIGLIONE, ESQ.

DLV/sdp
Enclosures

cc: El Dorado County Planning Department
El Dorado County Counsel
Holiday Lake Homeowners Association

The following is a summary of some of the reasons why the roads in Holiday Lake Ranches Subdivision are and should continue to be considered private:

The real property of the roads was formally conveyed by grant deed to Holiday Lake Ranches Homeowner's Association:

Prior to the selling of lots, the subdivision's owner, Western Title Insurance Company, granted in a grant deed (Book 1021, Page 32) to Holiday Lake Ranches Homeowner's Association five parcels of land (not including any of the 26 parcels designated as lots for home development). Western Title Insurance Company granted "all that real property" consisting of five parcels including Parcel Five described as follows:

PARCEL FIVE:

Scenic Drive, Howard Court, Holiday Lake Drive and Beatrice Court as said drives and courts are designated on the map of Holiday Lake Ranches filed October 27, 1970 in Book E of Maps at page 76."

The owner of the property, Western Title Insurance Company, had to have firmly believed at the time that these streets' real property was privately owned and capable of being deeded to the HOA.

The 1970's CC&R's for the Holiday Lake Ranches Subdivision state that the streets are private.

The CC& R's, County Records Book 1024, Page 610 refer to "private roads". These CC&R's were written and recorded by Western Title Insurance Company, a company in the business of (and liable for) getting its facts straight.

The State of California, as early as 1971, assured homebuyers that they were the owners of private streets within their subdivision:

The following statement in the State of California Final Subdivision Public Report that still comes after 38 years with each homeowner's title report states:

"Streets and Roads: The roads in this subdivision are private."

The privately owned streets are de-facto considered by the County of El Dorado Department of Transportation to be "privately owned:

A number of homeowners, including one homeowner who is also a contractor who has built several homes in this subdivision, and one home owner who built the last home constructed in the subdivision in 2005 attest that the DOT has not required encroachment permits as a condition of building permit. In every instance, where a property fronts on a public street or public road, the El Dorado Department of Transportation will require an encroachment permit for that property to ingress or egress onto that street or road with motor vehicles. That has never been a requirement within this subdivision, yet it was a requirement of one homeowner, who is also a contractor who has built several homes in this subdivision, when he built the first home on Scenic Drive just outside of Holiday Lake Ranches subdivision, at the easterly boundary of the subdivision. This is a portion of Scenic Drive which has historically been indisputably a public road.

The county DOT was quick to recognize one portion of Scenic Drive as public road but not adjacent portions as public, those portions within the boundaries of Holiday Lake Ranches subdivision.

Furthermore, the El Dorado County Department of Transportation has never questioned the private maintenance or repaving of the association's roads over the 37 years, never questioned that the HOA has maintained the roads, never given performance standards for that private maintenance or repaving of the association's roads nor has it ever inspected the conditions of said roads or inspected repairs to said roads.

Clearly the El Dorado County Department of Transportation does not consider the roads within Holiday Lake Ranches Homeowner's Association to be under the jurisdiction of the county. If the "keeper of the public roads" does not consider these roads to be public, then who in the county has more authority to claim public ownership or jurisdiction.

The county of El Dorado has never informed the property owners or the HOA that these streets are public streets.

When the developer has attempted in numerous times in the past (as far back as 1989) to use the association's roads as public streets to access the Sawmill Creek subdivision, the HOA and its attorney's have written the county to protest and further the claim that he has no right to do so. The County has never responded that the roads are public or could be used as through access to a neighboring development.

The HOA has insured these roads for liability purposes

For 37 Years the homeowners and Holiday Lake Home Owners Association have firmly believed these roads to be private and insured these roads for liability purposes. No private party insures the public streets in front of their home.

The privately owned streets have had their speed limits established and posted by the association and not by the county

Signage on Holiday Lakes Ranches Homeowner's Association roads include speed limit signage with speed limits established only by the association. Said limits are more restrictive than the county uses on public streets in residential neighborhoods. On no public road does any county in the State of California allow private parties to establish speed limits.

All road signage within the subdivision is distinctly different from standard El Dorado County road signage. In several places, over the past 37 years, PRIVATE ROAD signs are distinctly displayed.

El Dorado County has never questioned any of this speed limiting or signage.

The privately owned streets are privately named:

It should be noted that while the final subdivision map notes two street names as Howard Court and Beatrice Court; those street names were later changed by the homeowners. That name change was not done by the County of El Dorado nor ever challenged by the County of El Dorado.

This name change could only have taken place if these were private and not public streets. In no jurisdiction in the State of California are private citizens or private homeowners associations allowed to unilaterally change the name of an official, publicly owned street or road.

HOLIDAY LAKE RANCHES HOMEOWNERS ASSOCIATION

PO BOX 238

SHINGLE SPRINGS, CA 95682

October 30, 2019

To: El Dorado County Board of Supervisors, Planning Commission and Planning Department

Re: Proposal to subdivide 140 acres at Sawmill Creek Ranch, P18-0004

We, the residents/owners of HLRHOA very much oppose this proposal for the following reasons:

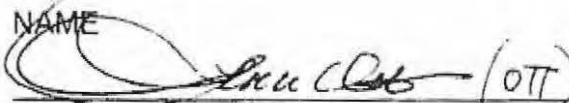
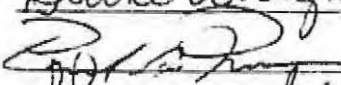
Background: This is the latest in a more than 20 year series of attempts to subdivide Sawmill Creek Ranch as well as the White Ranch (253.5 ac) and the Scheiber Ranch (286.6 ac). For more than 2 decades we have fought this project's attempts to use our private road, Holiday Lake Drive, as ingress and egress. We will continue this fight, in court if necessary.

We see this as the first stage of more subdivision to come and since all three ranches have planned for a combined development in the past and years ago have recorded cross access easements, potentially several hundred more dwelling units could be using Holiday Lake Drive several times a day for ingress and egress.

Previously we supported a proposal for a subdivision of these properties that had a masterplan for development and for roadway access off Motherlode Dr and French Creek Road that did not use Holiday Lake Drive, Tulle Lane or Ridge Rd.

We request that a similar masterplan for development of large parcels and a perimeter roadway be developed for the entire 680 acre Sawmill Creek, White and Scheiber ranches.

Respectfully yours,

NAME	ADDRESS
 (OTT)	4521 LANGUNONG COURT
Ximena Ortiz Pearson	4521 Holiday Hill Ct
Robert Dacy	41660 Hol. Enj Lake Dr, S Spring, CA
Sheryl Baldwin	BALDWIN 4590 Holiday Lake, SS 9
Jan Thompson	4540 Holiday Lake Dr 95682
Diane Wright	4501 Holiday Lake Dr.
	4517 Holiday Hill Ct, Shingle Springs, 956
John Wright	4501 Holiday Lake Dr

HLRHOA Petition (cont.)

NAME	ADDRESS
Mike Wilke	4601 Holiday Lake Drive
Christina Wilke	4601 Holiday Lake Dr.
John Eldridge	4681 Holiday Lake Dr
Kimberly L. Pearson	4521 Holiday Hill Ct
Mike Lowless	4620 Holiday Lake Dr.
Darlyn Lowless	4620 Holiday Lake Dr
Sandra K. Young	4526 Seaside Dr.
Ann Peterson	4530 Scenic Dr.
Phil & Lucille Michael	4541 Scenic Dr
Douglas - Debbie Fields	4571 Scenic Dr
Patricia - Starla Elwood	4520 Holiday Lake Dr
Maureen Perry	4671 Holiday Lake Dr.
Kimberly Baker	4643 Holiday Lake Dr.
Cathy Wagner	4700 Holiday Lake Dr
Cousine Fields	4514 Holiday Hill Ct
Jack B. Blum	4701 Holiday Lake Dr
Don	4570 Scenic Dr.
Beverly Roddeback	4560 Holiday Lake

Holiday Hills Estates Homeowners Association

11/11/2019

To: El Dorado County Board of Supervisors, Planning Commission and Planning Department

Re: Proposal to subdivide 140 acres at Sawmill Creek Ranch, P18-0004

We the residents/ owners of Holiday Hills Estates Homeowners Association very much oppose this proposal for the following reasons:

Background: This is the latest in a more than 20 year series of attempts to subdivide Sawmill Creek Ranch as well as the White Ranch (253.5 ac) and the Scheiber Ranch (286.6 ac). For more than 2 decades we have fought this project's attempts to use our Private Road, Holiday Lake Drive as Ingress and egress. We will continue this fight, in court if necessary.

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Respectfully yours,

NAME

CURTIS TATE
BRENDA TATE

ADDRESS

1680 RIDGE DR.
SHINGLE SPRINGS, CA
95682

Holiday Hills Homeowners Association

11/11/2019

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Respectfully yours,

NAME

Mike Negrete
Acacidalupoa Negrete
Nolan Negrete
Robert H. Negrete

ADDRESS

4580 Ridge Drive
Shingle Springs, CA
95682

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Respectfully yours,

NAME

William E. McCarty
WILLIAM E. MCCARTY

ADDRESS

4556 FOOTHILL DR
SLINGERS SPRINGS, CA
95687

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Respectfully yours,

NAME

Janis McCarty

JANIS McCARTY

ADDRESS

4556 FOOTHILL DR
SHINGLE SPRINGS
CA 95782

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Respectfully yours,

NAME

Wilbur J Switzer

Kathleen M Switzer

ADDRESS

4650 Foothill Drive

Shingle Springs, CA 95682

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NAME

Victoria Roberts

ADDRESS

4564 RIDGE DR.

SAN JOSE SPAINES, CA

95052

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NAME

ADDRESS

Jean & Bill Meyer
Jean Meyer

4590 Ridge Dr.
Shingle Springs Ca

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NAME



Michael Doran

ADDRESS

4655 Foothill Dr.

Shingle Springs, CA 95682

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NAME

Clyde F. Wisblou
Lidia J. Wisblou

ADDRESS

4621 TULLE LANE
SHINGLE SPRINGS
CA. 95682

ZA 11-20-2019
Item 4.9.
(3 pages)



Planning Department <planning@edcgov.us>

additional comments to P18-0004 Sawmill Creek

1 message

Kelly Rains <kellyrasco@gmail.com>


Fri, Nov 15, 2019 at 3:49 PM

To: planning@edcgov.us

Please find additional comments to P18-0004 Sawmill Creek. Please add to the record.

Best regards,

Kelly Rasco

 **Cordova Response to Sawmill Creek project.pdf**
47K

Holiday Hills Estates Homeowners Association

11/11/2019

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NAME Dan Cardenas

ADDRESS
4656 FOOTHILL DRIVE
SHINGLE SPRINGS, CA
95682

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NAME

Kerry Cordova

ADDRESS

4656 FEOTHILL DR
SHINGLE SPRINGS, CA
95682