

General Plan DEIR Talking Points for July 31 Public Meeting

(1) The DEIR is missing a list of controversies.

The Executive Summary is supposed to include a list of “Areas of controversy known to the lead agency including issues raised by agencies and the public.” (CEQA Guidelines, sec. 15123.) The DEIR does not include such a list.

The County must list the controversies that remain from the General Plan Update process; especially those relevant to the environmental impacts of the plan. This is a good list from which to start.

- The Planning Commission’s 2015 change of the 2008 overall plan objectives, to justify weakening or eliminating provisions to protect the environment, remains a controversy.

- The County’s refusal to include many quantified standards and measureable objectives that would reduce plan impacts remains a controversy. (See Calaveras Planning Coalition, *Comments on the Calaveras County 2014 Draft General Plan*, pp. CL-3 & CL-4.)

- The County leaving out community plans, especially the provisions that would implement the general plan and reduce its impacts, in the areas with the great development potential under the draft general plan including Valley Springs and Copperopolis, remains a controversy. Many people who submitted comments on the Draft General Plan in 2015 requested that community plans be included for Valley Springs, Copperopolis, and along the Highway 4 corridor.

- The County deferring developing impact mitigation indefinitely for many impacts remains a controversy. (See Calaveras Planning Coalition, *Comments on the Calaveras County 2014 Draft General Plan*, March 2015, p. CL-2; Calaveras Planning Coalition, *Scoping Comments in response to the Notice of Preparation for the Calaveras County General Plan Update Environmental Impact Report*, February 2107, p. 1-13.)

- The County eliminating the water element, the energy element, and the appendices to the Ag. Element that would implement the general plan and reduce its impacts remains a controversy. (See CPC, *Comments in Response to Request for General Plan Input*, August 2013, Section 5 ; Calaveras Planning Coalition, *Comments on the Calaveras County 2014 Draft General Plan*, March 2015, p. CL-3; CPC, *Scoping Comments*, February 2017, p. 2.1-11; and comments on the 2014 Draft General Plan by Bob Garamendi.)

- The County refusing public access to the Mintier Draft General Plan remains a controversy. (Calaveras Planning Coalition, *Scoping Comments in response to the Notice of Preparation for the Calaveras County General Plan Update Environmental Impact Report*, February 2107, p. 1-15 to 1-16.)

- The County refusing to consider any feasible policy alternative to reduce the impacts of the plan is now a controversy. (Calaveras Planning Coalition, *Scoping Comments in response to the Notice of Preparation for the Calaveras County General Plan Update Environmental Impact Report*, February 2107, p. 1-15 to 1-18.)

This is an important checklist for the Supervisors to use to ensure that stubborn issues do not get overlooked.

2) The DEIR is not highlighting the County's differences of opinion with agencies.

An EIR should summarize the main points of disagreement among experts. (CEQA Guidelines, sec. 15151.) This includes instances in which issues of controversy are raised by commenting agencies. (CEQA Guidelines, sec. 15123, subd. (b)(2); *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 940.) For example:

During comments on the Draft General Plan, Calaveras LAFCO suggested many measures to reduce what LAFCO considered as the potentially significant impacts of the general plan, to resources under LAFCO jurisdiction. LAFCO suggested broadly defining agricultural lands, and mitigating potential impacts to them using buffers and conservation easements. (John Benoit, Letter from LAFCO, March 18, 2105, pp. 1-2.) LAFCO suggested that the County adopt a public facility impact mitigation fee. (John Benoit, Letter from LAFCO, March 18, 2105, p. 3.) LAFCO recommended a policy to reduce pollution from septic systems. (John Benoit, Letter from LAFCO, March 18, 2105, p. 4.) LAFCO also had many recommendations to reduce the impacts of the general plan on public safety. (John Benoit, Letter from LAFCO, November 21, 2016.) The County did not accept all of these recommendations? Please disclose this and explain why in the Executive Summary of Final EIR, and in the relevant impact sections.

In addition, Calfire provided a critique of the Safety Element, and a list of tasks to reduce the impacts of the general plan on wildland fire safety. (Kevin Lindo, *Calaveras County Safety Element Assessment Review*, May 20, 2015.) The County did not agree with all of these tasks and did not complete some. Please disclose this and explain why in the Executive Summary of Final EIR, and in the section evaluating fire safety.

In addition, Zerrall McDaniel, President of the Board of Education for the Calaveras Unified School District, provided school-related policies to reduce the potential impacts of the general plan. (Zerrall McDaniel, Attachment to 3/20/15) Did the County fail to accept any of these suggestions? If the County did not accept some of these suggestion, please disclose this and explain why in the Executive Summary of the Final EIR, and in and the section on public facility impacts.

Has the County ignored the impact mitigation advice of other commenting agencies? If so, please disclose this and explain why in the Executive Summary of the Final EIR.

People deserve to know when the County is ignoring the advice of the experts, and why the County is ignoring the advice of the experts; to the detriment of the health, safety, and wellbeing of the good people of Calaveras County.

3) Policies that do not commit to reduce impacts are not mitigation measures.

CEQA requires that mitigation measures be enforceable commitments to reduce or avoid significant environmental impacts. (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 445; CEQA Guidelines, sec. 15126.4, subd. (a)(2).) The County proposes as mitigation measures, a number of policies and programs that do not commit the County to reduce or avoid significant environmental impacts. The following list of such policies and programs do not qualify as mitigation measures.

Policy COS 4.10 Should proposed developments within the County be anticipated to result in potential impacts related to the emission of criteria air pollutants, the County shall consider imposing mitigation measures provided in the CCAPCD's Guidelines for Assessing and Mitigating Air Quality Impacts of Land Use Projects.

Policy COS 4.14 The County shall investigate the potential use of woody biomass generated through forest management, such as thinning and defensible space clearing, for the generation of renewable energy.

IM COS-4I At the County's discretion, for development that is subject to a discretionary entitlement and subject to environmental review under the CEQA, the County shall require project applicants to enlist the services of a qualified biologist to evaluate a proposed project's impact on special status species as defined above and determine what avoidance measures or mitigation measures are warranted to offset or mitigate these impacts to the extent feasible.

IM COS-4J At the County's discretion, development that is subject to a discretionary entitlement and subject to CEQA review shall be required to evaluate potential impacts to sensitive and significant communities using the methodologies identified below and shall require mitigation for potentially significant and significant impacts.

Policy COS 3.9 Encourage development to be compatible with wildlife movement.

IM COS-4L The County shall work with applicants to encourage preservation or enhancement of upland habitat for wildlife species to the maximum extent feasible on parcels slated for development containing suitable habitat (e.g. areas used for foraging, breeding, dispersal, etc.). Habitat preservation and enhancement shall be encouraged throughout the County in a way that promotes regional connectivity of open space habitats. The County shall work with applicants to encourage development to be compatible with wildlife movement. Mitigation measures may include installing wildlife

friendly fencing or lighting to minimize interference with wildlife movement. Creek corridors should be preserved in undeveloped open spaces or under conservation easements as creek corridors provide linear wildlife corridors through the County. Similarly, if open spaces are to be preserved within developed areas, they should have connectivity to/with other dedicated or undevelopable open space lands to the extent possible.

IM PF-1D Facilitate Joint Use and Facility Co-Location. Coordinate with facility and service providers to facilitate colocation of parks, schools, police, fire, libraries, community centers and other community facilities to support community interaction, enhance neighborhood identity, support joint use, and leverage resources. The County shall consider the environmental benefits of facilitating joint use and facility co-location when evaluating the expansion of public service facilities.

Similarly, many implementation measures (IM's) in the plan identify mitigation tasks, but provide no time frame within which the task is to be accomplished. Since the County can defer these IM's indefinitely, these IM's are not enforceable and do not qualify as mitigation measures.

The good people of Calaveras County deserve straight talk. When it comes to impact mitigation measures, the County needs to say yes when it means yes, and no when it means no. People deserve to know when the County will protect the environment, and when the County will not protect the environment. Only then can people take the appropriate action on Election Day.

4) The discussion of alternatives does not explain why proposed alternatives were not evaluated in the DEIR.

An EIR should “identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency’s determination.” (CEQA Guidelines, sec. 15126.6, subd. (c).)

The County spent nearly a million dollars and six years coming up with the Mintier Draft General Plan, yet the County did not consider it as a policy alternative to the General Plan Update in the DEIR, and did not explain why. In addition, the CPC proposed the Success Through Accountability alternative during scoping, yet the County did not consider it in the DEIR, and the County did not explain why. On June 1, 2010, the Board of Supervisors voted to include the COG version of the Valley Springs Community Plan in a general plan alternative, yet the DEIR did not do so, and did not explain why. In fact, the DEIR only considered alternative land use designation conceptual maps. The DEIR did not consider an action alternative with any policy options.

The County calls the General Plan DEIR a program EIR. A program EIR is supposed to allow “the lead agency to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts.” (CEQA Guidelines, sec. 15168; *In re Bay-Delta* (2008) 43 Cal.4th 1143, 1169-1170.)

In sharp contrast to this guideline, the County has absolutely refused to consider any policy variation among the action alternatives in its Program DEIR.

This suppression of alternative views is contrary to the CEQA requirement to evaluate the comparative merits of a range of reasonable alternatives, to foster informed decisionmaking and public participation. (CEQA Guidelines, sec. 151265.6, subd. (a).) Moreover, this suppression of views is contrary to the notions of a free society, where ideas rise or fall based, not upon the autocratic determination of a government official, but upon their success competing in that marketplace of ideas known as the informed public debate.

5) The County is missing its opportunity for improvements.

The County is treating the general plan as a set of regulations that a conservative County must destroy with non-committal language and subjective standards. The result is a plan that the DEIR says will make the county significantly worse in 25 different ways. Instead, the County should treat the general plan as an opportunity to participate in regional, state, and federal programs to **improve** the county's communities, economy, and environment. In Calaveras County, the glass is only half full. Now is not the time to find another 25 ways to drain the glass. Now is the time to fill the glass.