

Comments on the Draft EIR for the Draft Calaveras County General Plan



Submitted by
The Calaveras Planning Coalition
August 13, 2018

8-13-18

Dear Peter,

Together we can draft A
general plan to preserve housing
value and freedom of movement,
to protect the peace and safety
of communities; to defend our
forest, range, and recreational
lands, and to restore economic
opportunity. Call if you are
interested.

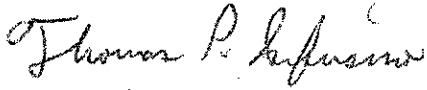
Sincerely,

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References

CHAPTER 1 - INTRODUCTION

1.2 Project Description

P. 1-1. The DEIR States that, "The Draft General Plan is intended to reflect the community's expression of quality of life and community values."

In the Final EIR please flesh out the purposes of the general plan. A general plan is expected to serve as an "effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan." (Government Code, sec. 65400.) Completing a general plan provides "an opportunity for each city and county to coordinate its local budget planning and local planning for federal and state program activities, such as community development, with the local land use planning process." (Gov. Code, sec. 65300.9.) In other words, a general plan is a chance for a County to grasp opportunities to improve the lives of its people, the productivity of its working landscapes, the integrity of its wildlife habitat, the efficiency of its resource use, and the vitality of its economy. A general plan is a time for a County government to look at what is not working as well as it could, and put in place the mechanisms to make it work better.

P. 1-1, paragraph 3. The DEIR makes statements about estimated buildout of the project, using descriptions and terms that are inaccurate and misleading. The terms below do not accurately represent the proposed land use map buildout and ensuing environmental impact. Please replace them in this section and throughout the final EIR.

1) "Accommodate" is not accurate, & is misleading. Use "allow" instead.

The DEIR says, "...estimated buildout...*could accommodate* a population of 117,045 persons..." The word "accommodate" is inaccurate and gives the wrong idea. "Accommodate" usually means "to have the room or capacity for" and "to hold comfortably without crowding." Calaveras County **does not** have the room and capacity in roads, water, or services for 117,000 people, and **cannot** hold that many comfortably without crowding. Accommodate is the wrong word. The Land Use Map might **allow** this amount of population on paper, but the county *could not accommodate* that population comfortably. An accurate phrase would be "...estimated buildout **could allow** a population of 117,045 persons..." **Please change "accommodate" to "allow."**

2) "Carrying capacity" is not accurate, & is misleading. Use "lot-yield analysis" or "build-out analysis" instead.

The DEIR states, "*The buildout estimate is known as "carrying capacity" and represents how much development could potentially occur within the County over the life of the Draft General Plan based on the...Land Use Map.*" Common usage of "carrying capacity" in ecology, geography, and biology **does not** mean the greatest number that "could potentially occur." That is "holding capacity." **"Carrying capacity" means the**

largest number the environment can support sustainably. It is the maximum number that a given environment can support indefinitely without detrimental effects or environmental degradation. The DEIR is clear *there will be detrimental effects if buildout of 117,045 persons occurs.* **Please do not say that this buildout estimate is the County's "carrying capacity"—it is not.** Use a term that is accurate, used commonly in urban and conservation planning, and appropriately represents that build-out is just an estimate of potential development the land use map could allow. See "Build-out" on Wikipedia <https://en.wikipedia.org/wiki/Build-out> and "Build-out Analysis" on ConservationTools.org <https://conservationtools.org/guides/42-build-out-analysis>.

Please replace "carrying capacity" with "lot-yield analysis" as in, "The build-out estimate is known as "lot-yield analysis" and represents how much development could potentially occur..." Or, simply use "build-out analysis" alone, as in "The build-out analysis represents how much development could potentially occur..." Please replace the inaccurate term "carrying capacity" with "lot-yield analysis" or "build-out analysis."

P. 1-1. The DEIR provides a buildout population of 117,045 people.

This population estimate is far lower than maximum buildout of the land use designations. Some land use designations are estimated to build out at 10%, 20%, 30% or 50%. (DEIR Table 3-1.) What is the basis for the buildout estimate? Has the County calculated the average buildout of past land use categories? What factors were used to reduce the maximum buildout under the land use designation to achieve this lower population estimate? What is the substantial evidence in the record that supports this buildout number? When making mathematical calculations in the Final EIR, please show your work in the FEIR appendices.

This is a critical issue. Many of the impacts of the general plan at buildout will be a function of the number of people and their activities (e.g. driving, consuming water, making sewage, making noise, living in homes, etc.) If the buildout population is underestimated, then the impacts will be underestimated throughout the DEIR, making it a useless document to inform the public and decisionmakers. An accurate project description is essential in an EIR, and is an accurate impact baseline. "When an EIR omits relevant baseline environmental information, the agency cannot make an informed assessment of the project's impacts. (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 952 [91 Cal.Rptr.2d 66].) Due to these errors, the EIR failed its informational purpose under CEQA." (*Communities for a Better Environment v City of Richmond*, (2010) 184 Cal.App.4th 70, 89.) "This failure to clearly and conspicuously identify the baseline assumptions for purposes of describing the existing environmental setting further degraded the usefulness of the EIR and contributed to its inadequacy as an informational document. Accordingly, we hold that in any new EIR prepared in connection with this proposed Project, the baseline must not be obscured, but must be plainly identified in the EIR." (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 659.)

1.3 Purpose of the EIR

P. 1-2. The DEIR states, “As provided in the CEQA Guidelines, public agencies are charged with the duty to avoid or minimize environmental damage where feasible. The public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social issues.”

This paragraph confuses the issues by putting two CEQA functions together that do not belong together. As written, this paragraph makes it sound like the County can balance competing public objectives when deciding whether or not to adopt feasible mitigation measures. This is not the case.

Any determination that a mitigation measure or alternative is infeasible must be supported by substantial evidence in the record. As we stated in our scoping comment, please do not waste our tax dollars trying to prove that mitigation measures successfully implemented in similar County’s throughout California are mysteriously infeasible in Calaveras County. Instead, overcome any barriers to feasibility (real or imagined) and make Calaveras County a better place to live. That would comply with both the letter and the spirit of CEQA.

A mitigation measure is feasible if it is “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” (CEQA Guidelines, sec. 15364.)

Once the mitigation measures is determined to be feasible, then the County must adopt it to reduce a significant impact of the project. The County has an absolute duty to avoid or minimize the general plan updates potential for significant environmental damage wherever feasible. (CEQA Guidelines, sec. 15091-15092.) There may be some economic costs, and some of the objectives of the project may not be fully realized. It does not matter. If the mitigation is feasible, it must be done. The dominant political party may not like doing the mitigation. It does not matter. If the mitigation is feasible, it must be done. By passing CEQA, California chose to make some sacrifices so that the future will have economic prosperity, ecological diversity, and environmental health. Any local government that abrogates its mitigation responsibility is abusing its discretion by not proceeding in accord with the law.

It is essential to make this clear to the decisionmakers when they review the general plan update again. When the Planning Commission reviewed the 2014 Draft General Plan, it repeatedly deleted feasible mandatory policies designed to protect the environment, or converted them into optional policies. The Commission clearly believed it had the discretion to avoid mandatory impact mitigation by balancing “a variety of public objectives, including economic, environmental, and social issues.” Neither planning staff nor the general plan consultant made it clear to the Planning Commission that they do not have this discretion under CEQA. The result is a plan that lacks the feasible measures to reduce significant impacts. The result is now a DEIR that is improperly claiming that optional policies in the general plan count as mitigation. They do not. (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 199 [A mitigation measure is inadequate when it does not commit the agency to mitigate the impact].)

This error in judgment cannot be repeated, and must be corrected. It is paramount that the FEIR make it clear to the Planning Commission and the Board of Supervisors that they must adopt feasible mitigation measures, and that those measures must commit the county to take action to reduce potentially significant impacts.

Only AFTER the adoption of the feasible mitigation measures can a public agency balance the residual harm to the environment against a variety of public objectives, when deciding whether or not to approve the project. (CEQA Guidelines, sec. 15093.) Only after all the least harmful feasible alternative has been selected, and the feasible measures to mitigate significant impacts to a level of insignificance have been adopted; only then can the County weigh the residual impacts against the benefits of the projects to determine whether or not to adopt the project. First we protect the environment as much as feasible, then the balancing takes place.

In the Final EIR, please modify this paragraph to correct the ambiguity.

P. 1-2. Note that an EIR is not merely an informational document to be considered by decisionmakers, which does not limit their discretion to adopt the project. CEQA does dictate the County's decision in part. CEQA requires that the County adopt feasible mitigation measures to avoid or reduce potentially significant impacts. The County cannot adopt the project if there is another feasible alternative that can accomplish most of the project goals while substantially reducing the impacts. Please note this in this section of the Final EIR. While it is noted elsewhere in the DEIR, not mentioning it here implies that the County has more authority to ignore mitigation measures and alternatives than it does.

P. 1-2. The fact that the EIR is a program level document is not an excuse for subjective analyses based upon conjecture, without reference to maps and data. (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 200 [Use of a Program EIR and tiering "does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects of the projects and does not justify deferring such analysis to a later tier EIR or negative declaration"]; *Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 426 [All EIS, including program EIRs, "must cover the same general content" and provide "decisionmakers with sufficient analysis to intelligently consider the environmental consequences of the project"].)

Throughout our comments we identify instances in which the analyses do not identify necessary evidence to substantiate the conclusions. In the Final EIR, please provide this information necessary for decisionmakers and the public to effectively participate in this process.

The County has gone to great expense to develop a GIS system that can be queried to produce the analyses needed to inform this process. Unfortunately, the County alone has

control over who has access to that data, and who can order queries of it. CEQA is a process in which the County is obligated to disclose what it can in good faith. Do not attempt to hide the problems. Instead, share the information so that we can all work together to solve our problems.

P. 1-2. The PEIR is not “inherently cumulative.” Traffic on highways come from outside Counties. Impacts on forests, wildlife, and watersheds include cumulative impacts from public lands administered by BLM and Forest Service on thousands of acres. These outside activities are combined with development under the general plan to assess cumulative impacts. In the Final EIR, please make this correction.

P. 1-3. “significant” and “major” environmental issues.” When responding to comments on the DEIR, please do not claim that people’s proposed mitigation measures do not address “major” or “significant” environmental issues. The issues addressed in the DEIR are all major environmental issues.

P. 1-3. The description of the EIR process does not explain for the decisionmakers and the public of the responsibility the lead agency has to adopt feasible mitigation measures, and to adopt a feasible alternative that reduces impacts. These are among the most basic purposes of the CEQA process. (CEQA Guidelines, sec. 15002.) The reason the County completes the EIR is to identify these ways to achieve its objectives with less impact on the environment. Some of the County Supervisors may not like that duty, but is their legal obligation nonetheless, and we expect them to abide by it. It is worth noting that, the draft community plans from many of the communities included requirements that project impacts be fully mitigated. This is an expectation of many communities in Calaveras County. In the past, when a project has jumped the gun and been constructed without environmental review, the cry from the community was for an EIR, and for impact mitigation. When projects have raised issues in the past, it has been because they did not mitigate their impacts. In the Final EIR, please make this duty clear.

P. 1-4: We disagree that some of the impacts listed as such are in fact unavoidable. Throughout our comments we explain why and propose mitigation measures. We disagree that other impacts are insignificant, and propose mitigation measures. Please include these measures in the final EIR. Please do not trump up excuses why they are infeasible. We hope that the BOS will adopt these.

Chapter 2 – Executive Summary

(1) The DEIR Executive Summary 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 dominance of optional policies in the general plan that result in a vague project description, prevent accurate impact assessment, prevent their use as impact mitigation measures, and that preclude their use as fair and uniform development standards.
- 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 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.)
- 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.

- Specifically, the exclusion of the Valley Springs Community Plan from the Draft General Plan. This well-known community plan controversy was not mentioned in the DEIR. The Valley Springs Community Plan (VSCP) should have been included in the General Plan Update, but has not been, due to 12 years of ongoing controversy. The Valley Springs community and community activists began work to update their community plan in 2006. Years of public meetings were held, a \$250,000 grant was obtained from Caltrans, and CCOG and Calaveras County staff became involved in the community plan update. This resulted in controversy and divisions in the community, but two final draft Valley Springs Community Plan updates were completed and provided to the Calaveras County Planning Department in 2010. Subsequently, no leadership was provided by the County to bring the community together, move the plan forward, and resolve controversies and conflicts.

In 2016, community members finally stepped forward to try to work out a compromise VSCP. They worked with the Planning Department and the previous Valley Springs supervisor to blend the two draft community plan documents to create a document that represented the interests of all parties. The Planning Director then summarized and condensed this draft “blended” document, in preparation for a January 2017 Planning Commission public hearing on the proposed VSCP, to be followed by VSCP insertion into the Community Plan Element of the General Plan update.

Unfortunately, this effort to move the Valley Springs Community Plan forward was derailed by the current county area supervisor. The Valley Springs Community Plan was pulled from the planning commission agenda on January 26, 2017 (see Exhibit 2-1, Minutes for the Planning Commission Meeting of January 26, 2017). Nothing has been done about the VSCP since then.

This Valley Springs Community Plan controversy has led to its exclusion from the General Plan update, and lack of evaluation of impacts to the Valley Springs area in the DEIR. This was pointed out in DEIR scoping comments but has not been addressed. Please list this controversy, and the continued refusal to address or evaluate this exclusion of the VSCP in the Draft General Plan, as a controversy in the Executive Summary of the final EIR.

This is an important checklist for the Supervisors to use to ensure that stubborn issues do not get overlooked. Please include this list of controversies in the Final EIR.

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

An EIR executive summary 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) Many of the listed mitigation measures do not qualify as mitigation.

As required, the Executive Summary lists the potentially significant impacts of development under the proposed general plan, as well as a list of proposed "mitigation measures." (CEQA Guidelines, sec. 15123, subd. (b)(1). However, many of the listed proposed mitigation measures are optional policies, and therefore do not qualify as mitigation measures under CEQA. (CEQA Guidelines, sec. 15126.4, subd. (a)(2); *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260 - 1261 [A mitigation measure must be required

and enforceable so that it is not adopted and then disregarded].) 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. In the Final EIR do not claim that optional policies are impact mitigation measures.

CHAPTER 3 - PROJECT DESCRIPTION

3.4 Project Components

Buildout Projections

Misleading/inaccurate terms

Pg. 3.5. As requested in comments on the DEIR Introduction, please replace misleading term “accommodate” with “allow”, and replace inaccurate term “carrying capacity” with “build-out analysis”, or “lot-yield analysis.” Those DEIR terms are not correct and are misleading. They do not accurately describe proposed land use map buildout projections and ensuing environmental impact.

Substantial evidence is needed to support the low buildout projections.

P. 3-5. Please provide the data and evidence used to conclude that land use designations would ultimately build out at percentages of 50% or less. The current land use plan is from 1996, and was basically a tune up of the 1982 plan. Thus, the County has been using the 1982 plan, as amended, for 36 years. After 36 years, the proposed plan would likely have a greater buildout of its land use designations. The EIR should also evaluate the potential impacts of buildout at or near the maximum allowed. (*San Joaquin Raptor Rescue Center v. County of Merced* 149 Cal.App.4th 645, 665-666 [An EIR must evaluate the impacts on roads of at or near the maximum allowed level of production].)

Furthermore, there is nothing in the general plan that limits the development under the general plan land use designations to these low buildout levels. Thus, the EIR could be grossly underestimating the impacts of buildout of the proposed general plan. An EIR’s impact analyses must be based upon substantial evidence, not conjecture.

If the County insists on only evaluating the impacts of these low buildout levels, then it needs to add policy limitations to coincide with that low buildout level. For example, the County could track buildout on an annual basis. If any of the land use designations exceed the buildout estimates, the County should begin a CEQA process to determine if the General Plan DEIR needs to be updated. In the interim, development of that land use designation should be suspended to avoid unevaluated impacts.

Data Conflicts & Discrepancies in DEIR

1) Discrepancies in County Acreage; Errors in Table 3-1, 3-2, and 3-3 and/or DEIR text?

There are large discrepancies between different figures in the DEIR and in referenced documents. The Introduction states “**County encompasses 662,791 acres**” (pg.1-1). The Project Description Table 3-1 states “**Existing Total County Acreage - 482,568**” (pg. 3-7). One of these figures has to be wrong, or one is not labeled correctly. Is Table 3-1 total

acreage perhaps counting only private land, not total acreage of the County? Or is this total counting just residential land? The text on page 3-6 *does* say Table 3-1 represents “all **residential** land use areas in the County, excluding lands within the City of Angels Camp city limits.” **If *residential* is what Table 3-1 represents, please change “Existing Total County Acreage” to “Existing Total County Residential Acreage.”**

When the “Existing Total County Acreage 482, 568 is added to the non-jurisdictional lands 154,803, the total is 637,371; still short of the County total of 662,791.

2) Discrepancies in Additional Units & Additional Population; Errors in Table 3-1, 3-2, and 3-3 and/or General Plan Land Use Element text?

Table 3-2 and Table 3-3 show “**Additional Population**” at **71,567** and “**Additional Units**” at **19,979** (after buildout percentage reductions). **This *conflicts* with the General Plan Land Use Element November 2015 (a “Source” listed for Table 3-1). The Land Use Element states, “As a result of these [percentage] reductions, a more likely buildout scenario is approximately **23,000 new units**. At the current census rate of 2.41 persons per household, this could accommodate over **56,000 new residents** (pg LU3). This is a large discrepancy, both in additional units and population figures. **Please reconcile these discrepancies between the Land Use Element text and DEIR figures, regarding additional units and population projections.****

3) Conflict in Total Population figures; Errors in DEIR text or Table?

The text describing Table 3-2 (pg 3-6) says, “As shown in the table, buildout of the Draft General Plan would accommodate approximately **111,527 persons...**” but **117,045** is the actual figure in the table. **Please correct or explain the discrepancy in these two population figures, which are supposed to be identical.**

4) Conflict or Errors in Tables Regarding Inclusion/Exclusion of Angels Camp?

Table 3-1 *excludes* Angels Camp, and Table 3-2 and Table 3-3 *include* Angels Camp in units and population figures. *Yet the Total Units and Total Population figures, 48,567 and 117,045, are identical in all 3 Tables. How can this be, with Angels Camp not included in one table and included in the other two?* Please correct or explain how Angels Camp can both be in and out of three tables, yet the tables have identical figures.

Errors in numbers impact projections for estimated buildout, estimated population, and estimated new residential units. Errors in numbers can impact significance of environmental impacts and analysis. The above discrepancies and conflicts in data and projections must be corrected in the Final EIR. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 655 -657 [An inconsistent project description makes an EIR insufficient as an informational document amounting to a prejudicial abuse of discretion].)

Vague Project Description

Following the Planning Commission editing of the 2014 Draft General Plan, the hallmark of the plan became its pervasive lack of commitment in its policies. What many

considered a bug in the plan, the Planning Commission hailed as a key feature of the plan. “Providing flexibility” became an objective of the plan.

The problem is that so much of the plan is optional that it defies accurate impact analysis. If most of the impacting policies in the proposed general plan are implemented, and most of the impact reducing policies are not, then the plan will have devastating impacts. On the other hand, if few of the impacting policies fully implemented, and most of the impact reducing policies are fully implemented, then the plan could have minimal impacts. The project description is simply not sufficiently clear and stable to allow for meaningful environmental review. (*Communities for a better Environment v City of Richmond*, (2010) 184 Cal.App.4th 70, 89 [An EIR with an obscure project description fails as an informational document].) In the Final EIR, the County should make unequivocal commitments to reduce impacts, so that the plan will include the requisite mitigation measures. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1173 [Mitigation measures must be incorporated into a plan].)



Home at Mokelumne Hill

SECTION 4.1 AESTHETICS

General--Referenced Documents

“The EIR shall cite all documents used in its preparation including, where possible, the page and section number of any technical reports which were used as the basis for any statements in the EIR.” (CEQA Guidelines, sec. 15148.)

We looked for documents cited in 4.1 Aesthetics and found most, but could not find two:

1) Page 4.1-1, National Park Service. *Guidelines for the Treatment of Cultural Landscapes*. Updated 2007. We found a web page of that name based on a 1996 document *Guidelines for Treatment of Cultural Landscapes*, but no actual document was posted, and there was no mention of a 2007 update. The website has no page numbers, and the site is not searchable--just a collection of web pages.

2) Page 4.1-16, Federal Highway Administration. *Visual Impact Assessment for Highway Projects*. 1988. (found 1981 version online; found 2015 “Guidelines for...” online)

We requested the above documents from County Planning. On July 31, Planning sent the FHA Visual Impact Assessment; but “Raney is still trying to track down the NPS document.” If “National Park Service. *Guidelines for the Treatment of Cultural Landscapes*. Updated 2007” is not made available to the public during the review period, then the Draft EIR was not really made fully available for review during the comment period, and the County has abused its discretion by not proceeding in accordance with the law. **As of August 8, 2018, the National Park Service document still has not been made available. The entire Aesthetics assessment and impact analysis of Rural Character seems to be based on this NPS document. In addition, our request for an extension of the comment period was not accepted.**

Other documents cited in 4.1 Aesthetics had no page or section number referenced. Most of these documents were over 100 pages, and we could not find what part of the document was used as a basis for DEIR statements. Listed below are documents cited without any referenced page number or section. **In the Final EIR, please provide a citation to the page and section the DEIR is referencing in the following documents:**

Page 4.1-1

1 Ebbetts Pass Scenic Byway Association. *2013 Corridor Management Plan, Ebbetts Pass National Scenic Byway*. November 2013.

3 National Park Service. *Guidelines for the Treatment of Cultural Landscapes*. Updated 2007.

Page 4.1-6

4 Sierra Business Council. *Planning for Prosperity: Building Successful Communities in the Sierra Nevada*. 1997.

Page 4.1-16

6 Federal Highway Administration. *Visual Impact Assessment for Highway Projects*. 1988.

7 United States Department of Agriculture, Forest Service. *Landscape Aesthetics, A Handbook for Scenery Management*. December 1995.

4.1.1 Introduction

On page 4.1-1, the Introduction states that **Aesthetics chapter *impact analysis of existing visual and aesthetic resources, and the visual character and quality of the Calaveras County project area is based on information drawn from only three documents*** (one of which was not available for public review, the NPS document cited above).

The following impact analysis is based on information drawn from the Ebbetts Pass National Scenic Byway Corridor Management Plan,¹ the California Department of Transportation (Caltrans),² and the National Park Service (NPS).³

The three documents listed—a Scenic Byway plan, a CalTrans Scenic Highway map, and a National Park Service landscape treatment guideline—focus on only certain types of areas of the county: areas along scenic highways, and areas considered a “cultural landscape” by the National Park Service. This seems like a **very** limited knowledge base

to inform an environmental description and aesthetic analysis of the entire land area of Calaveras County. **If there were more documents or reports that informed the 4.1 Aesthetics section impact analysis, please list those documents in the final EIR.**

4.1.2 Existing Environmental Setting

Scenic Highways

On page 4.1-1, the first paragraph acknowledges the 24-mile section of State Route 4 (SR 4) in Calaveras County *east* of Arnold as a Scenic Highway. It also acknowledges that SR 49 is an “*eligible* State Scenic Highway.” But it doesn’t mention here that **the 21-mile stretch of SR 4 west of Arnold is also designated an “Eligible State Scenic Highway”**, as shown on the Calaveras County map in the California Scenic Highway Mapping System cited in the DEIR (page 4.1-1). This western section of SR 4 is also acknowledged later in Aesthetics as an eligible State Scenic Highway road section, and that impacts to scenic resources within such potential scenic highways would be considered significant:

“While **the undesignated portion of SR 4** and the entirety of SR 49 within the County are not protected at the same levels as the officially designated portion of SR 4, **both roadways have the potential to be designated as official State Scenic Highways in the future.** For the purposes of this EIR, **impacts to scenic resources within such roadways would be considered significant.**” (pg 4.1-17)

It is important to **include mention of this eligible section of SR 4 in addition to SR 49, as this affects existing setting impact analysis. Please correct the roadway omission and include the 21-mile section of SR 4 (west of Arnold to Angels Camp) as an Eligible State Scenic Highway, both in this first paragraph, and also list and describe State Route 4, along with State Route 49 (pg.4.1-6), separately, under the Scenic Highways section.**

Rural Character

On page 4.1-6, first paragraph, the DEIR cites a Sierra Business Council report recommendation for “safe guarding rural character...by maintaining clear edges”, as a first principle for sound development. We agree. But then the DEIR doesn’t seem to know what rural character is. The DEIR says, “A question arising from this principle, however, concerns the precise nature of the “rural character” being safeguarded.”

The rest of this section on Rural Character (from page 4.1-6 to 4.1-11) attempts to define and describe “rural character” in Calaveras County, based on the concept “cultural landscape, as used by the NPS.” The DEIR concludes that what “NPS describes as “historic vernacular landscapes” could define “at least three rural cultural landscapes within Calaveras County”: ranching landscapes, mining landscapes, and forest landscapes. This conclusion is not based on evidence or basis that we could find.



First, the NPS Guidelines (National Park Service. *Guidelines for the Treatment of Cultural Landscapes*. Updated 2007) was not made available for public review, so we were not able to fully read and understand the basis for the DEIR's conclusion of three cultural landscapes for Calaveras County. Please include the NPS Guidelines, and what sections and pages were used, in the final EIR.



Forest in the Mokelumne River Canyon

Second, we think the conclusion of *three landscapes for Calaveras is too narrow*. **We would like to see the three “historic vernacular landscapes” of ranching, mining, and forest landscapes expanded to include other major land areas of Calaveras County that fit into none of those three categories, but that people here would certainly consider to be part of our “historic rural character.”** Please add at least two more “historic and rural cultural” landscapes that represent Rural Character for Calaveras County:

- 1) Historic Community Landscapes
- 2) Rural Residential Landscapes



Downtown Murphys

Historic Communities and rural small towns are part of the heart and soul of Calaveras County. Historic communities appear first in the Draft General Plan Vision Statement, “The **historical character of the county’s communities**...will create a high quality of life for residents and a remarkable and memorable experience for visitors to the county.” The “**history of the Gold Rush era will be alive in the culture of distinctive communities**” and “**preserve the character of historic communities**” is prominently featured throughout the plan’s Guiding Principles (DEIR 4.9-5 and 6). There is often no “clear edge” between rural historic towns and country, as they sprang up, evolved, moved, and adapted as history changed. But historic communities and rural small towns are an essential part of Calaveras County’s Rural Character.



Rural Residential areas are also “the cultural character” of our rural areas, and are historic. Many cabins, second homes, and scattered, remote, larger-lot subdivisions were built in rural, foothill, and forested areas of Calaveras County back in the 40’s, 50’s, and 60’s, and were expanded in the 70’s and 80’s. People in Calaveras have lived in these rural residential areas for many years, and consider them part of their “rural character”, defending them fiercely from commercialization, urbanization, sidewalks, street lighting, road expansions, woodland and forest clear cutting, light pollution—things that they believe destroy “rural character.” People that live in these areas do not live in a ranching, forest, or mining landscape (as described in this DEIR section), and would not consider themselves to be living in a community or town either (in fact, they are usually strongly opposed to the very idea of being included in a Community Area).

Rural Historic Community and Rural Residential landscapes share many of the same visual and physical characteristics of ranching, mining, and forest landscapes, but do not fit into those categories. Any discussion of Aesthetics of Calaveras County must include the aesthetics of historic communities and of rural residential landscapes. Aesthetic

analysis of impacts of the General Plan Project cannot be complete without including these important areas. Please expand the Rural Character discussion, description, and Aesthetics EIR analysis to include Calaveras County Historic Community Landscapes and Rural Residential Landscapes.

On page 4.1-9, the DEIR describes Forest Landscapes. This section seems *incomplete*, as it only talks about public forest lands. Forest landscapes on private lands are not mentioned at all. Calaveras County has thousands and thousands of acres of forest lands that are privately owned by SPI and other private owners. There needs to be more discussion of existing *private* forest lands, type of vegetation, wildlife, elevation, and other features.

Additionally, **as of August 8, 2018, the National Park Service document *Guidelines for the Treatment of Cultural Landscapes* Updated 2007 still has not been made available for the public to review. The entire Aesthetics assessment and impact analysis of Rural Character seems to be based on this NPS document. Since this document was not made available to the public during the review period, the full DEIR has not really been circulated for comment, and the County has abused its discretion by failing to proceed as required by law.**

Community Character

This section is puzzling, as there is NO discussion of the aesthetics of our communities—**there is no discussion of or description of existing Community visual character.** In the DEIR, only “objective” facts are given about populations, elevations, relationship to highways, and commuters. Where is a description of the distinct visual characteristics of our communities? Where is a description of their scenic qualities and value? **How can Aesthetics analysis of impacts occur or be complete without even *describing* the aesthetic and visual character of our communities, much less potential impacts? In the final EIR, include a thorough discussion and description of the existing visual character, quality, and scenic value of Calaveras County’s distinct communities.**



Downtown San Andreas

4.1.3 Regulatory Context

Local Regulation

1988 Ebbetts Pass Highway Special Plan

On page 4.1-15, this Special Plan is briefly discussed. Will this Special Plan remain in the new draft General Plan? In the Land Use Element (pg 4.9-3), the Ebbetts Pass Highway Special Plan is listed as one of nine existing Community Plans that are part of the current 1996 Calaveras County General Plan. But the Ebbetts Pass Highway Special Plan is not included in the GPU draft Community Plan Element, so one assumes it will be rescinded, along with four others. **Is the Ebbetts Pass Highway Special Plan also to be rescinded on adoption of the new General Plan?** If so, how/ will this affect Aesthetic impacts to the Plan area, especially the California Scenic Highway area?

Other Existing Community Plans

Many community plans **to be rescinded** and not replaced are also on the Highway 4 corridor (Arnold, Avery, and Murphys community plans). The entire upper Highway 4 corridor above SR 49 is either an existing or eligible Scenic Highway, and should be examined and analyzed as a whole, for potential aesthetic impacts to scenic resources within a State Scenic Highway due to lack of community plans and policies. The Goals, Policies, and Implementation Measures of the Land Use Element aiming to protect unique scenic resources and community character will not be as effective in communities that have lost their unique community plans and policies.



Shouldn't *all* existing Community Plans in Calaveras County be included here in the Local Regulation regulatory section? They are all existing legal documents with goals, policies, and programs guiding land use and development in their communities, including aesthetics, but *all* existing plan text will be rescinded upon adoption of the new general plan project. What will be the impact on aesthetics from the rescission of all existing community plans? The new Community Planning Element includes some policies from the old plans, but has no implementation measures. **The final EIR should include and review all existing community plans for goals, policies, and programs intended to protect local aesthetic resources from impacts of future development. The final EIR should then list these existing community protections, analyze and determine the impact of rescission of these documents on the scenic resources and existing visual character of Calaveras County, and provide mitigation measures.**

Calaveras County Code of Ordinances

On page 4.1-15, the DEIR says "the Calaveras County Code of Ordinances includes **numerous standards relating to aesthetic resources.**" We beg to differ. There are **not enough standards in county code regulating visual character, and the standards that are there are inadequate. When we ask for better standards we are turned down.** There is only one "design guidelines" for **one** community in the entire county. Many standards relating to visual character in county code are inadequate, limited, or not enforced.

Requirements to shield and direct lighting do not apply to single-family residential, residential subdivisions, or rural areas. Requirements for commercial buildings are not enforced (photos of new Dollar General store in Valley Springs with illegal lighting and glare are on file at the Planning Department). We have requested a more comprehensive county lighting ordinance update for years. Nothing has happened.

We have ugly billboards along our highways; we have nighttime glare from neighbors' lights shining into our eyes, and we have light pollution from towns and developments getting worse each year, ruining our dark skies. We see ugly unscreened RV storage areas and patched metal sheet fencing from our highways; we see heritage oaks and oak woodlands removed; we see hillsides graded and scarred; we see sediment from grading spoiling our streams.

When we point out problems with Aesthetics and standards, submit photos, and ask for better standards and mitigations for projects, we are told these photos “exhibit visual character similar to other uses... within the County. As such, inclusion of mitigation within the context of CEQA is not considered necessary or appropriate in light of existing visual conditions within the County.”¹ **There is existing regulatory failure of County Code to protect the visual character of the county or mitigate aesthetics impacts of new development. Please note this in the final EIR.** (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 874 [In the environmental setting, the agency must divulge harm to the environment caused by current and past mismanagement].)

4.1.4 Impacts and Mitigation Measures.

Standards of Significance

On page 4.1-15, criteria used to determine if a project impact is significant to aesthetic resources are listed, but these criteria and thresholds of significance can be increased. CEQA supports the use of local standards of significance when there are local resources that are of critical importance, or that are already severely impacted (like over-crowded lakes, traffic jammed streets, a half-burned forest, etc.). (CEQA Guidelines, sec. 15064, subd. (b); *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1123 [Thresholds of significance for cumulative impacts may have to be lower when the existing environmental setting is already degraded to substandard levels].) Calaveras County meets these increased local criteria standards of significance in numerous ways.

We have many local resources of critical aesthetic importance that are not acknowledged or considered in usual standards or the general plan, such as Castle Rock and Valley Springs Peak in Valley Springs. There are many other local county aesthetic resources of critical importance too numerous to list here. The Butte Fire burned over 70,000 acres in 2015, and severely impacted the county's aesthetic resources and value. This burn area is

¹ Calaveras County Final EIR, Medical Cannabis Cultivation and Commerce Ordinance Project. September 2017. [Page 2-106]

a critical area of the county, but we see no acknowledgment of this existing severe impact to aesthetics in the DEIR.



Most areas of our county have existing high quality visual character that residents wish to preserve, and that are beautiful and scenic. There are a few pockets of existing visual blight, but we do not wish to be held to usual CEQA standards of “existing visual character” and then be punished for some existing visual blight in some limited areas due to lack of county standards and enforcement. We want to preserve the high-quality scenic and visual character we DO have. We do not want to be told we can’t do this because there is already bad stuff out there, “existing visual conditions.” That’s like saying you

already live in a slum, so there is no expectation or requirement for any future project to mitigate negative impacts or raise standards or look any better than your existing slum. This approach is not acceptable.

As quoted in the previous section, we have been told that our photos of some instances of visual blight “exhibit visual character similar to other uses... within the County. As such, inclusion of mitigation within the context of CEQA is not considered necessary or appropriate in light of existing visual conditions within the County.” We do not accept that just because there are some existing negative aesthetic conditions in the county, that this is acceptable, and that there is nothing to be done.

Calaveras County needs stricter local Standards of Significance than are used in the DEIR, in order to protect critical local aesthetic resources, and to give greater protection to areas of the county that have already had severe impacts to aesthetic resources.

Method of Analysis

As stated previously in these Aesthetic comments, **the two key documents cited** in this section (Federal Highway Administration. *Visual Impact Assessment for Highway Projects*. 1988 and United States Department of Agriculture, Forest Service. *Landscape Aesthetics, A Handbook for Scenery Management*. December 1995) **do not reference which section or page numbers they use**. On page 4.1-16, the DEIR states, “Together, both sources provide the **key analytical framework** and guide the visual impact assessment process for the Draft General Plan.” The two documents contain 240 pages. We have no idea where to look for the “key analytical framework” used to guide this Aesthetics visual impact assessment. **Provide specific section and pages of cited key Aesthetic analysis documents in the final DEIR.**

Impacts and Mitigation Measures

We disagree with the DEIR’s discussion of Draft General Plan impacts related to visual and aesthetic resources (pgs. 4.1-16 through 4.1-24).

We strongly disagree with Aesthetics conclusion 4.1-1 “less than significant” impacts from the Draft General Plan Project to scenic vistas and scenic resources along a scenic highway. The policies and programs cited from the Draft General Plan intended to protect the County’s aesthetic resources from future development are inadequate, ineffective, and unenforceable. They will not ensure that negative impacts on Aesthetics from future development will not occur. Without strong policies and programs, new development and buildout of the Draft General Plan will have negative impacts on aesthetics, scenic vistas, and scenic resources in Calaveras County, including along scenic and potential scenic State highways.

1) Policy LU 4.1 sounds good, but its three implementation programs, IM LU-4A, LU-

4C, and LU-4F, propose to “Adopt” a landscape ordinance, “Adopt” community design guidelines, and “Update” county code for signage. **None of these future implementations commit the County to adopt from list feasible mitigation measures, to meet any standard, by any time frames or deadlines. Thus these policies are unenforceable and do not qualify as mitigation measures.** (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 443 [Lead agency cannot defer mitigation without committing to meet performance standards]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1118-1119 [A lead agency cannot defer selecting mitigation measures without first identifying feasible mitigation measures]; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 195-196 [A promise to complete a future study after project approval, without identifying any specific mitigation measures, or providing mitigation standards, is inadequate mitigation].) Furthermore, there is no explanation of why these ordinances, guidelines, and code sections could not have been drafted during this 11-year general plan update. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670-671 [Mitigation deferral is improper unless there is a reason for the deferral and mitigation performance standards are set forth]; *Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 95 [The time to formulate mitigation measures is during the EIR process, before final project approval].)

2) Policy LU-5.3 is weak and meaningless. “*Recognize*” scenic resources as strong *economic* generators, and “*encourage*” retention is vague. The only implementation measure for this is IM LU-5D, Special Events, to “Review” the Zoning Ordinance for the purpose of “streamline permitting for Special Events.” Again, there is no time frame. Not only is this **unenforceable**, we see **no clear connection between streamlining special events and retaining scenic resources**.

3) Policy COS 5.1, COS 5.2, and COS 5.3 contain vague words and phrases like “*Encourage*” conservation, and “*consider*” scenic qualities. These words are weak, are not clear direction, and **require no action**. All three policies use the same two implementation measures, IM COS-6A and COS-6B, which propose to “Review and amend” county code to incorporate flexible development standards, and to “Formulate guidelines” for hillside and hilltop construction. These are both worthy goals, but again, **IM COS-6A and COS-6B do not commit to reducing an aesthetic impact, and contain no time frames or deadlines, so are unenforceable and do not qualify as mitigation measures**.

4) IM COS-7F Corridor Plans is not connected to a Policy—what policy is this measure implementing? The language of the measure is also vague, “*Participate*” in “*corridor planning efforts*” to “identify opportunities for...recreational facilities...and *achieving other General Plan goals and policies* (e.g....conserving scenic vistas...). Participate when? What corridor planning efforts? What policies? *Again, no time frame, no clarity. This is so vague as to be nearly meaningless, much less an enforceable mitigation measure.*

Without **stronger** policies and **enforceable** programs, new development and buildout of the Draft General Plan will have negative impacts on aesthetics, scenic vistas, and scenic resources in Calaveras County, including along scenic and potentially scenic State highways. **Add more mitigations and strengthen implementations for Aesthetics in the final EIR.**

We strongly disagree with Aesthetics conclusions 4.1-2 “significant and unavoidable” impacts from the Draft General Plan Project to existing visual character. We agree that buildout of the Draft General Plan would introduce new buildings and population to currently undeveloped areas, but we disagree that impacts from buildout *must be* significant and unavoidable. Goals, policies, and programs in the Draft *could* significantly minimize these changes to our rural aesthetic character—if *they were made stronger*. The policies and programs listed in this section are vague and non-committal, not strong and enforceable. **With the *strengthening* of the Draft policies and programs, and with the *addition of more mitigation measures*, there could be significant avoidance and reduction in impacts to visual character.**

There have been many feasible and effective mitigation measures proposed to the County and general plan consultants by interested citizens over the 11+ years of the County general plan update. On page 10 of their 2008 Issues and Opportunities Report, Mintier and Associates stated that, “The GPU can create policies and implementation programs that can protect community identity, and historic and cultural resources.” We believe the 2011 Mintier Draft General Plan contained many effective policies and mitigation measures, but the County abandoned it, and started over with a new consultant and general plan in 2012. Since then, the public has continued to request the Mintier document, continued to support a strong general plan update, and continued to make suggestions for effective mitigation measures, including in recent February 2017 NOP scoping comments for this EIR. But public suggestions for additional and stronger mitigations have NOT been acknowledged, discussed, or used in this DEIR. There has been no explanation for this, or why they weren’t even considered. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1175-1176 [It is an abuse of discretion to reject alternatives or mitigation measures that would reduce adverse impacts without supporting substantial evidence]; *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1173 [When provided examples of mitigation measures implemented elsewhere, and agency must either implement them or explain why not].)

Please pay attention to all suggestions to strengthen the Draft General Plan document the County has received over the last 11 years. Strengthening draft implementation programs, and adopting additional mitigation measures that have been suggested could go a very long way to reducing “significant and unavoidable impacts.”

We strongly disagree with Aesthetics conclusion 4.1-3 “less than significant” impacts from the Draft General Plan Project from creation of new sources of substantial light and glare or adverse affects on nighttime views in the area (pg. 4.1-

23). Policies and programs in the Draft General Plan intended to protect the County's aesthetic resources from development impacts due to new sources of light and glare are inadequate and unenforceable. Existing county regulations in Title 17 are not effective (as described previously in these comments under lighting problems in Calaveras County Code of Ordinances) and are non-existent for new residential development. Local citizens have been asking for light shielding on new residential developments for many years, but there is nothing in County Code that requires this, so the county won't put Conditions on a residential project. They rarely even address light glare or pollution in CEQA documents, so we have to fight for light shielding on a project-by-project, hearing-by-hearing basis, hoping the owner/applicant will *voluntarily* agree. *Sometimes* they do, as in the Las Tres Marias Estates project hearing, where citizens advocated for lighting standards. Even some planning commissioners thought something should be done, but only the owner, Luis San Bartolome, was able to do anything by volunteering to put lighting standards in his future Homeowner Association (HOA documents)². We have been advocating at the Planning Commission for a dark skies lighting ordinance since 2008.

Without strong general plan policies and programs, new sources of light and glare **will** continue to adversely affect day and nighttime views, and new development **will** continue to have negative impacts on aesthetics and visual character of Calaveras County.

There are only two policies and programs in the Draft General Plan that mention light or lighting, and they are inadequate and unenforceable:

1) Policy LU 4.3 mentions design "addressing potential impacts from...lighting", but the only program to implement anything to do with lighting is IMLU-4F Signage, which says "*Update* the Calaveras County Code...*should* address...minimizing sign-lighting..." This program is **limited to new sign lighting**, it says *should* not *shall*, and there is ***no time frame*** given to update the code. **Policy LU 4.3 and its program are ineffective and unenforceable.**

2) Policy LU 4.10 "Retain the rural nature of the county's communities and dark skies by controlling light pollution (glare, light trespass, and night sky glow). (IM LU-4B)" IM LU-4B "Adopt a dark sky ordinance that addresses excessive light spillage and glare on adjacent properties and protection of the rural night sky." The policy is a good start, but the implementation "**Adopt a dark sky ordinance**" has ***no time frame*** for adoption and no deadline. **IM LU-4B is unenforceable. A dark sky lighting ordinance may never happen.** We fear a county Lighting Ordinance will never happen.

Conclusion

The Draft General Plan suffers from a lack of quantified standards and measurable objectives. There is deferment of development impact mitigations indefinitely. The Land

² Summary Minutes for Planning Commission Meeting May 19, 2011. [pgs. 2-4] See attached file: PC_110519m.pdf

Use Element and Conservation and Open Space Element “Implementation Measures” referenced are nebulous and meaningless, as they do not commit the county to reduce aesthetic impacts by any objective standard or deadline, and are unenforceable. New sources of light and glare will continue to adversely affect day and nighttime views. New development will continue to have negative impacts on aesthetics and visual character of Calaveras County. Impacts to Aesthetics WILL be significant without effective mitigations, which neither the Draft General Plan nor the DEIR offers.

Policy COS 6.1 (page 4.1-21)

Revise Policy COS 6.1; add an Implementation Program.

Add Calaveras County Parks & Recreation Committee (CCPRC) to Policy text as an additional entity to work with (see below revised text). The CCPRC was formed by the County in 2008, and is referenced in Calaveras County Code Chapter/section 16.24.040, “At the time of the approval of the final or parcel map, the CDD, **with the recommendation from the Calaveras County parks and recreation commission**, shall submit to the board of supervisors for approval, a plan for use, specifying how, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve the residents of the county.”

The CCPRC has been active for years working on Calaveras County parks and recreation needs; they helped create this exact county code section; they created the Calaveras County Parks and Recreation Plan, and they managed State Prop 40 park revenues from the California State Park & Recreation Department for the County. There are now new Prop 68 State revenue sources available for park & recreation. The CCPRC is the County entity set up to recommend where these funds could be spent in Calaveras County. The CCPRC needs to be included in the general plan update.

Revised Policy COS 6.1

Work with **the Calaveras County Parks & Recreation Committee**, community organizations and special districts to develop park and active recreation facilities, striving to provide a minimum of 3 acres of local park land for every 1,000 County residents. (IM COS-7A, COS-7B, COS-7C and COS-7G)

Add Implementation Measure:

“The County shall support and pursue efforts to provide funding for local community parks, recreation, trails development, and expansion, using available funding sources, such as California State Parks & Recreation programs and grants, and other opportunities available.”



SECTION 4.2 AGRICULTURAL, FOREST, AND MINERAL RESOURCES

4.2.1 - Introduction

In the introduction, the DEIR lists three documents used in the agricultural impact analysis. The CPC submitted numerous additional resources agricultural impact mitigation in comments on the Draft General Plan and in scoping comments. Please use those reference materials in the Final EIR.

In the introduction, the DEIR indicates that it will evaluate the impacts of the general plan buildout. It is not enough to merely evaluate the impacts of buildout of the general plan as mapped. The general plan policies also determine the ease or difficulty of amending the general

plan map to convert additional agricultural lands to other developed uses. Stronger policies limiting the conversions of agricultural lands can mitigate this impact. For example, Figure 4.2-1 maps agricultural land currently in Williamson Act Preserves that is in non-renewal status. The General Plan Background Report indicates that there are 7,534 acres in non-renewal status in 2012. (Calaveras County, General Plan Background Report, 12/18/14, Table AG-4, p. 28.) Please put this number in the existing setting section of the Final EIR.

As we pointed out in our comments on the 2014 Draft General Plan, it is likely that these non-renewal lands will seek conversion to other developed uses. (CPC. Comments on the Calaveras County 2014 Draft General Plan, March 20, 2015, p. RPEC-2.) In the Final EIR, please evaluate the potential agricultural land conversion impact of having minimal limits on the conversion of agricultural lands, and having no established programs and/or standards to mitigate such project impacts. Also note the ease of converting these lands to developed uses that are by right or ministerial, for which no impact mitigation is required.

4.2.2 - Existing Environmental Setting

P. 4.2-2 The DEIR states, “With the exception of a slight increase in 2014, the amount of farmland in the County has remained relatively consistent between 2012 and 2015, as shown below in Table 4.2-2.”

However, this is far too short a time frame to demonstrate the conversion of farmland to other developed uses over time. A longer time frame is needed to establish agricultural production trends, put the potential impacts of a long-term general plan into perspective, and to evaluate the cumulative impacts of agricultural land conversion over time. As noted in the Background Volume of the December 2014 Draft General Plan, between 2004 and 20012, 59,839 acres of farmland were put out of production (or nearly 7,500 acres per year) and 23,756 acres of rangeland were put out of production (or nearly 3,000 acres per year). (See Calaveras County, General Plan Background Report, 12/18/2014, Table AG-5 Agricultural Trends – Acreage, p. 30.)

Please put these numbers in the Final EIR. The Final EIR must reflect a good faith effort at full disclosure. The Final EIR cannot be merely a list of cherry-picked data that makes impacts appear minimal. (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 439-440 [A Program EIR must disclose the known baseline level of impacts that it reasonably can, as they may escape analysis later]; *Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 89 [An EIR that omits relevant baseline information fails in its informational purpose under CEQA]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 659 [An EIR is informationally inadequate if it does not clearly and conspicuously identify baseline assumptions].)

What is particularly disturbing is that we asked the County to include longer term data when we commented on the draft environmental setting sections distributed for public comment in 2013. (CPC, Comments on the Calaveras County General Plan Update Environmental Impact Report Existing Setting Section Preliminary Draft, March 2013, p. 7.) Please do the public that is commenting on your draft documents the courtesy of prompt and efficient correction. We should not have to ask twice.

In the final EIR, identify the causes of these reductions in productive acres, and the amount attributable to conversion to other developed uses. Unless we know the causes of these impacts, we cannot identify the appropriate mitigation.

What information does the county have on changing demand and costs for services (e.g. roads, utility) provided as the existing agricultural land is converted into other uses over time? Please include this in the Final EIR. Increased demand for services can result in the need for new infrastructure which has an impact on the environment. (CEQA Guidelines, sec. 15131, subd. (a).)

P. 4.2-5 Table 4.2-5 reports four years of timber production in order to establish a trend. Since the new General Plan is intended to guide the county to 2035, the trending data should be long enough to match such a term. For example, the General Plan Background Report notes a fairly constant amount of land in timber production since 1999, with a reduction in harvest and revenue since the 2008 housing market crash. (Calaveras County, General Plan Background Report, 12/18/14, p. 33.)

What data has the county collected in regards to the increased length of fire season and the severity of forest fires and how this affects timber production trends in the future? Has the county compared the effect on the timber industry in other jurisdictions in similar situations? If not, please do so and include the results in the FEIR.

Also, under the Mining Resources section of 4.2.2 Existing Environmental Settings, no mineral production data was included. Please include this in the Final EIR.

P. 4.2-11 Asbestos. The conversion of mineral lands to other uses could result in otherwise undisturbed asbestos-bearing rock being graded for development under conditions in which the asbestos emissions are less controlled than in mineral production. Please note this potential impact of the conversion of mineral lands to developed use in the Final EIR.

4.2.3 - Regulatory Context

P. 4.2-12 The DEIR identifies as part of the existing setting, the “Regulatory Context”. This section identifies part of the “carrot” (some tax incentives) and the “stick” (regulations) associated with “the carrot and the stick” approach to regulation.

However, missing from the DEIR is any mention of the many other incentives provided by federal and state governments, private foundations, and that can be provided by local governments. In the post-regulatory era, these incentive programs are an important part of the context in which regulation operates. As such, they provide a huge opportunity for local governments to soften the blow of regulation, and to feasibly mitigate the impacts of general plan buildout.

In addition, these incentives provide the opportunity to fund programs for long-term preservation of agricultural and forest lands, as well as the products and ecosystem services they provide. Failing to provide this information in the DEIR fails to inform the decision makers and the public regarding ways to feasibly fund future impact mitigation and resource conservation programs.

For example, the USDA has over 30 programs providing loans, grants and technical assistance to rural communities to improve their economic viability, and thereby maintain their agricultural and forest lands in future production. (Exhibit 4.2-1 - USDA Rural Development, Catalog of Loans, Grants and Technical Assistance.) These include grants for value-added producers, for energy efficiency, for community facilities, for water supply and waste water treatment, for broadband services, and for workforce housing. By actively participating in these grant programs, the County can help keep Calaveras County agriculture productive and competitive in the 21st century, so that owners will keep their lands in production rather than converting them to developed uses. Please disclose this in the Regulatory Context section of the Final EIR.

P. 4.2-12 to P. 4.2-14 The list of state regulatory requirements in this section leaves out critical regulations that must be disclosed to the decision makers and the public for them to understand the need to mitigate impacts and to include programs to protect agricultural lands in the General Plan Update. CEQA requires that significant impacts to agricultural lands be feasibly mitigated at the project level. General Plan law requires an open space element and an open space action plan that include measures to protect open space, including agricultural lands, whenever feasible. (Gov. Code, Sec. 65560 et seq.) Please include this in the FEIR.

P. 4.2-14 This section describes the California Forest Practice Act. In the Final EIR, please disclose in this section that the law provides the opportunity for County governments to propose special timber harvesting rules to address special needs within the county. The Board of Forestry

has the authority to accept or reject those rules. This may provide an opportunity for the County to mitigate impacts from private forestry operations.

4.2.4 - Impacts and Mitigation Measures

P. 4.2-15 The list of potential impacts from the standard CEQA environmental checklist is only a start of identifying environmental impact standards of significance. Quantified thresholds are needed to evaluate the significance of impacts, and to identify when mitigation has sufficiently reduced impacts to a level that is less than significant. Please include these in the Final EIR. (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1123 [A “bare conclusion” regarding the threshold of significance, in the absence of analysis, does not satisfy the requirement that the EIR serve as an informational document].)

P 4.2-17 “Agricultural lands provide a variety of important functions and generate a wide variety of benefits to the residents of Calaveras County. For example, agricultural lands produce commodities that generate various economic benefits (in the form of local jobs and revenue), contribute to the aesthetic value of an area (i.e., greenbelts or transition zones), and create a variety of foraging habitats for wildlife species. In addition, the conversion of agricultural land has hydrological implications, as loss of farmland changes the existing watershed and may reduce groundwater recharge areas.”

Please mention this in the “Existing Setting” part of this chapter.

P. 4.2-17 “Development occurring under buildout of the Draft General Plan could potentially eliminate or modify important agricultural resources. In addition, buildout could result in fragmentation of existing agricultural areas. Fragmentation of existing agricultural lands may increase nuisance effects resulting from urban expansion into agricultural areas—also known as “edge effects.” Edge effects include, but are not limited to, noise (from farm equipment and crop dusting), dust, odors, and drift of agricultural chemicals. From the agricultural perspective, conflicts with urban development include restrictions on the use of agricultural chemicals, complaints regarding noise and dust, trespass, vandalism, and damage from domestic animals (such as dogs). Such conflicts may increase costs to the agricultural operation, and combined with rising land values for residential development, encourage the additional conversion of additional farmland to urban uses. “

While this is a nice description of the potential impacts of the general plan, it neither quantifies these impacts nor depicts them on the map. Which changes to the land use map may result in fragmentation of agricultural land? Which changes in the land use designations may have an

adverse “edge effect”? Unless decision makers and the public know where these problem changes are, we can’t consider ways to reduce their impacts. Please locate these problem areas on a map in the Final EIR.

P. 4.2-18 “Instead, this EIR focuses on potential impacts associated with conversion of agricultural, forest, and mineral resources that would not be protected by the Resource Production or Working Lands designations in the Draft General Plan.”

This analysis leaves out the potential under the general plan for the conversion of lands initially included in the Resource Production or Working Lands designation, but that are allowed to be converted, without specified impact mitigation, under the terms of the general plan and the zoning ordinance. Mere inclusion in the Resource Production or Working Lands designation, in the absence of some other protection, does not guaranty the long-term protection of agricultural and forest lands.

As previously pointed out, over the years, many agricultural lands have been converted to developed uses. In many circumstances, development approvals are not on lands initially designated for developed use under the 1996 General Plan, but are the result of general plan amendments from natural resource lands to developed lands. This is a foreseeable impact of the General Plan Update that does little to restrict these impacts and does not specify mitigation for these impacts.

Thus, in the Existing Setting Section of the Final EIR, identify the proportion of past agricultural land conversion that are a result of general plan amendments, and the proportion of total development that resulted from the conversion of agricultural land. In the Impacts and Mitigation Section, the Final EIR should consider the impacts if a similar proportion of total development in the future resulted from similar general plan amendments. Then, the Final EIR should consider ways to mitigate that impact. To fail to do so would be to ignore the most likely means of conversion of agricultural and forestry land to developed uses as a result of the General Plan Update. CEQA is violated when an EIR contains no discussion of a potentially significant environmental consideration. (*California Clean Energy Committee v. City of Woodland* (2014), 225 Cal.App.4th 173, 213.)

P. 4.2-18 “The Draft General Plan includes policies and associated programs that are intended to retain agricultural lands within the County. The Land Use Element of the Draft General Plan includes the following goals, policies, and implementation measures (IMs) related to protection of agricultural, forest, and mineral resources:”

The Final EIR needs to explain to decision makers and the public that the County is not legally bound by the broad goals in the general plan, nor by policy or implementation measures that are optional rather than mandatory. As a result, the goals and optional provisions of the general plan

listed below in the EIR cannot be relied upon as mitigation measures. If this is not made clear to the public and decision makers, they may get the incorrect impression that these general plan provisions provide more legal protection for agricultural and forestry resources than is the case.

For example, the existing provisions in the draft general plan were all in place at the time the Planning Commission decided to designate an additional 5,000 acres of agricultural land for developed land uses in 2016. Thus, those policies did not effectively protect those agricultural lands from being made available for developed uses.

In addition, non-mandatory provisions of the General Plan do not qualify as mitigation measures. (CEQA Guidelines, sec. 15126.4, subd. (a)(2).) This makes this EIR confusing. CEQA requires an EIR to distinguish between mitigation measures that are part of the proposed project, and those that are still under consideration by the Lead Agency. (CEQA Guidelines, sec. 15126, subd. (a)(1)(A).) Instead, this EIR lists provisions of the proposed general plan “intended to retain agricultural lands.” This list is a mix of mandatory mitigation measures, and optional non-mitigation measures. In the Final EIR, the County needs to eliminate this confusion. The best way is to convert optional policies to mandatory ones to make them mitigation measures.

The Final EIR should also consider the impacts on agricultural lands as a result of by-right and ministerial approvals that do not get reduced by impact mitigation, and that are not required to comply with the General Plan. Without this evaluation, there is no way for the public or the decision makers to determine if the proposed general plan needs to include policy directing that some of these by-right or ministerial approvals be changed to discretionary, or have agricultural land impact mitigations built into them. CEQA is violated when an EIR contains no discussion of a potentially significant environmental consideration. (*California Clean Energy Committee v. City of Woodland* (2014), 225 Cal.App.4th 173, 213.)

P. 4.2-18 “IM LU-2A Title 17 of the Calaveras County Code – Update the Zoning Ordinance, Title 17 for consistency with the General Plan.” What portions of the County Code are not consistent with the new General Plan, and will have to be amended to become consistent? What agricultural, forest or mineral related impacts may result while development continues under the obsolete code? Are there ways to mitigate these impacts by restricting certain developments pending the update of the code, or by identifying interim standards in the general plan that will apply to such development pending the code update?

Amendment of Title 17 to make it consistent with the General Plan is not specific enough an implementation to qualify as a mitigation measure. In the Final EIR, explain what specific aspects of Title 17 will be amended to reduce conversion impacts on agricultural, forest, and mineral lands. Title 17 could just as well be amended to increase conversion of these lands, consistent with the property rights objectives of the General Plan.

P. 4.2-18 “Policy RP 1.1 Limit the intrusion and encroachment of incompatible uses that may affect Resource Production Lands. (IM RP-1A, RP-1B, RP-1C, RP-1D and RP-1E)

“Policy RP 1.2 Require newly created or lot line adjusted parcels adjoining Resource Production Lands be of adequate size and compatibly zoned to minimize potential conflict between the uses or potential uses on Resource Production Lands. (IM RP-1A, RP-1B, RP-1D and RP-1E)”

What are the compatible uses adjacent to Resource Production Lands, and what are the incompatible uses? Unless these are defined, the decision makers and the public cannot determine the effectiveness of these policies in reducing impacts, and the need to improve their effectiveness. A general plan is expected to be clear and not vague.

What is the appropriate size of lots for incompatible uses adjacent to Resource Production Lands? Unless investors know, they cannot properly participate in the market. Unless decision makers and the public know, they cannot be sure that the policy will be effective, or whether it needs clarification. A general plan is expected to have such standards, and there is nothing that prevents their use. (Gov. Code, sec.65302.)

P. 4.2-19 “Policy RP 1.3 Buffer resource production lands through setbacks or other measures to prevent non-compatible uses from impacting resource production uses. (IM RP-1A, RP-1B, RP-1D and RP-1E)”

What are appropriate setbacks to prevent impact to resource production areas? What other measures would be used to prevent impact from incompatible uses? Please include these in the Final EIR.

P. 4.2-19 “Policy RP 1.7 Provide for the protection of resource production operations and activities and their economic viability. (IP RP-1A, RP-1B, RP-1D and RP-1E)”

This is too vague. Please include specific actions to be taken for the protection of resource production operations in the Final EIR.

P. 4.2-19 “Goal RP- 2 Long term viability and economic productivity of agricultural lands and resources within the County recognizing their economic, aesthetic, cultural, and other values.”

With approximately 7,500 acres of farmland and 3,000 acres of rangeland dropping out of production per year between 2004 and 2012 (as noted in the Background Volume of the December 2014 Draft General Plan), it would be appropriate to recognize the need to stop the bleeding of agricultural lands when declaring the long-term viability and economic productivity of agricultural lands as a goal.

P. 4.2-19 “Policy RP 2.7 Solar energy installations shall be compatible with agricultural activities and such facilities shall not be located on prime agricultural land and shall not reduce the production of the primary agricultural product(s). (IM RP-2A)”

Is one solar panel running a pump a solar energy installation? Please provide a clear definition of “solar energy installations” in the Final EIR.

P. 4.2-26 “Policy RP 3.1 Continue supporting landowner participation in the CalFire Forest Legacy Program, USDA Forest Legacy Program, the California Forest Improvement Program, and other long term forest conservation programs. (IM RP-3A)”

Please include how landowner participation in these forest conservation programs is supported in the Final EIR.

P. 4.2-26 “Policy RP 3.3 Recognize and encourage the well-managed use of timber resources for multiple beneficial purposes. (IM RP-1A)”

This policy is too vague. Please include specifics on how the well-managed use of timber resources will be recognized and encouraged in the Final EIR.

P.4.2-22 “Mitigation Measure(s)

“Feasible mitigation measures do not exist beyond the goals and policies included in the Draft General Plan. Therefore, the impact would remain significant and unavoidable.”

The Calaveras Planning Coalition provided comments on the 2014 Draft General Plan. Those comments recommended including the Calaveras Ag. Coalition’s agricultural and forest land conversion guidelines, mitigation guidelines, and interim setback standards in the General Plan.

(CPC, Comments on the Calaveras County 2014 Draft General Plan, March 20, 2015, p. RPEC-5.)

The CPC also submitted scoping comments. Those scoping comments identified agricultural land conservation tools and listed other jurisdictions that are using them. These tools are feasible means to mitigate the potential impacts of agricultural land conversion. (CPC, Scoping Comments in Response to the NOP for the General Plan Update DEIR, 2/16/17, pp. 2.1-11 to 2.1-15,)

Attached to those comments we provided agricultural policies and elements from El Dorado, Monterey, Mariposa, Marin, Napa, Placer, Sacramento, Stanislaus, and Yolo Counties; and a summary of their use of mitigation ratios, minimum parcel sizes, specific setbacks, agricultural land conversion limitations, and conservation easement funding opportunities.

If you persist in rejecting these common place mitigation measures, please provide substantial evidence in the Final EIR demonstrating that they are infeasible. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1175-1176 [It is an abuse of discretion to reject alternatives or mitigation measures that would reduce adverse impacts without supporting substantial evidence]; *Masonite Corp. v. County of Mendocino* (2013) 218 Cal.App.4th 230, 238-241 [Agricultural land conservation easements are legally feasible mitigation measures for the conversion of agricultural land to other developed uses].) It is unbelievable that the DEIR dismisses all of these proven mitigation options with a one-sentence bald assertion that they are all infeasible. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1173 [When provided examples of mitigation measures implemented elsewhere, and agency must either implement them or explain why not].)

As we said in our scoping comments, we strongly encourage the County to gather proponents and opponents of the Agricultural Element to work out goals, policies and implementation measures that all can support.



All eyes on you!

Section 4.5 Cultural and Tribal Cultural Resources

1) 4.5.3 Regulatory Context, State Regulations. The Public Resources Code, Section 21083.2(a) indicates that if the lead agency determines that the project may have a significant effect on unique archaeological resources, then the environmental impact report shall address the issue of those resources. This would include adopting feasible mitigation measures to reduce potentially significant impacts.

However, on page 4.5-16, the DEIR indicates merely that “CEQA requires lead agencies to carefully consider the potential effects of a project on historical resources.” Again, why is it so hard for the DEIR to disclose to the public and decisionmakers that CEQA requires more than the “consideration” of potentially significant impacts?

If an impact is potentially significant, then the County is obligated to adopt feasible mitigation measures to reduce or avoid the impact. Once the mitigation measures is determined to be feasible, then the County must adopt it to reduce a significant impact of the project. The County has an absolute duty to avoid or minimize the general plan updates potential for significant environmental damage wherever feasible. (CEQA Guidelines, sec. 15091-15092.) There may be some economic costs, and some of the objectives of the project may not be fully realized. It does not matter. If the mitigation is feasible, it must be done. The dominant political party may not like doing the mitigation. It does not matter. If the mitigation is feasible, it must be done. That is the choice that we have made in California by passing CEQA. This mitigation requirement is in sharp contrast to the federal law, the National Environmental Policy Act (NEPA), which only requires federal agencies to consider mitigating impacts after completing an environmental impact statement. Any local government that abrogates its mitigation responsibility is abusing its discretion by not proceeding in accord with the law.

It is essential to make this clear to the decisionmakers when they review the general plan update again. When the Planning Commission reviewed the 2014 Draft General Plan, it repeatedly deleted feasible mandatory policies designed to protect the environment, or converted them into optional policies. The Commission clearly believed it had the discretion to avoid mandatory impact mitigation by balancing “a variety of public objectives, including economic, environmental, and social issues.” Neither planning staff nor the general plan consultant made it clear to the Planning Commission that they do not have this discretion under CEQA. The result is a plan that lacks the feasible measures to reduce significant impacts. The result is now a DEIR that is improperly claiming that optional policies in the general plan count as mitigation. They do not. (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 199 [A mitigation measure is inadequate when it does not commit the agency to mitigate the impact].)

This error in judgment cannot be repeated, and must be corrected. It is paramount that throughout the document the FEIR makes it clear to the Planning Commission and the Board of Supervisors that they must adopt feasible mitigation measures, and that those measures must commit the county to take action to reduce potentially significant impacts.

2) 4.5.3 Regulatory Context, Federal Regulations Section 106. Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties and affords the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings.

Develop under the General Plan Update may involve the use of federal funds to expand roadways, replace bridges, develop affordable housing, and promote rural economic development. Each of these federal undertakings could affect historic properties. Has the DEIR been circulated to the Advisory Council on Historic Preservation for comment? If not, please do. In the Final EIR please disclose their comments if any.

3) 4.5.4 Impacts and Mitigation Measures, Standards of Significance, Historical Resources. The NRHP requires consideration of significance of any structure over 45 years old. Also referenced under impacts or mitigation measure 4.5-1 “Furthermore, as noted above, the NRHP requires consideration of significance of any structure over 45 years old. While existing historic structures currently over 45 years old have been identified in this EIR, other structures within the County will likely age into historical significance by the horizon year (2035) of the Draft General Plan.”

Do these standards apply to private homes or neighborhoods? If they do, how would future development affect those structures and those communities? Please explain this in the Final EIR.

4) Thank you for including the mitigation measures outlined in 4.5-1(a) and 4.5-1(b) as well as 4.5-2.

5) There appears to be a minor error in mitigation measure 4.5-2. It currently reads as follows:

4.5-2 *Implementation Measure IM COS-8A of the Draft General Plan shall be revised as follows:*

IM COS-8A Identify Native American Resource Sensitivity Areas – Update the County’s Archaeological Sensitivity Map in cooperation with local Native American archaeology and history representatives ~~to assist planners in determining when cultural resource surveys shall be required in conjunction with the environmental review process.~~ The County shall consult the updated Archaeological Sensitivity Map, in addition to other existing cultural resources information (e.g. pre- 1950 USGS topographic quadrangle maps, official townsite maps, Sanborn Insurance Maps, GIS database) in conjunction with the environmental review

process for all discretionary approvals to identify sensitive areas and resources. If such cultural resources information indicates that sensitive areas and/or resources are likely to occur within the subject area, site-specific cultural resources shall be required, at the applicant's expense.

Perhaps the last sentence should say, “If such cultural resources information indicates that sensitive areas and/or resources are likely to occur within the subject area, site-specific cultural resources surveys and/or treatment plans shall be required, at the applicant’s expense.”

Please make this correction in the Final EIR.

6) More than one comments on the 2014 Draft General Plan asked for the adoption of specific general plan programs to mitigate impacts on historical and cultural resources as recommended by local expert in the field, Julia Costello. The CPC provided one of those comments. (CPC, Comments on the Calaveras 2014 Draft General Plan, 3/20/15, p.COSC-14, Attachment COSC-4.) Our comments, and those of others, are posted on your website. The attachment can be downloaded from our website if you have lost track of it. (www.calaverascap.com) Her comments stated:

“Protect our Historic Resources

“Julia G. Costello

“Virtually every account of Calaveras County’s assets – economic and aesthetic – places historic resources -- charming gold rush towns, rolling ranch landscapes, picturesque historic homes, mining history, and nearly 10,000 years of Native American presence -- near the top of the list. However, Calaveras County is woefully deficient in instituting programs that will help protect and enhance these vulnerable resources. We have no official inventory of important buildings and sites, no control over new construction design in historic areas, and no procedure for reviewing proposed demolition of historic buildings. The list goes on. In brief: while we in Calaveras are eager to promote our historic assets, we are doing little to protect them.

“In full disclosure, Judith Marvin (historian and Murphys resident) and I (Julia Costello, archaeologist and Mokelumne Hill resident) have operated our cultural resources firm Foothill Resources for over thirty years. Our professions involve identifying and evaluating archaeological sites, historic buildings, and historic districts throughout California, primarily for state and federal agencies such as Caltrans, the US Forest Service, and the National Park Service but also for numerous county and city governments. We work with many smart and dedicated public servants who want to identify and protect their heritage sites. It has been discouraging to see our home-town historic resources treated with such little regard. Judith and I have contributed extensive comments on all drafts of the General Plan since 2006 and have been gratified to see many of our suggestions incorporated in various versions.

“We propose that these be added to the admirable list of “Cultural Resources Programs” found on page COS 19 of Chapter 6 (COS-6A-6F) which address identification of areas important to Native Americans, mandate professional standards in identifying and carrying out cultural resource studies, and provide a process for addressing archaeological remains found during construction. These are all long overdue and we applaud the Planning Department for including them. In addition, we believe that the following programs should also be added to this list:

“1. *Establish a County Register of Historic Resources*

This official register would guide heritage tourism in the County, serve as a baseline to track cumulative effects of projects, and facilitate consideration of demolition requests (which would be faster and less costly to developer). Incentives for registration include use of the Mills Act (reducing property taxes for eligible properties) and use of the California Historical Building Code. Preliminary inventories have already been completed for Mokelumne Hill, San Andreas, Murphys, Copperopolis, and Angels Camp.

“2. *Provide Contractors the option of using the California State Historical Building Code for buildings 75 years of age and older.*

The California Historical Building Code (CHBC) provides alternate building regulations for the preservation and restoration of qualified historic buildings. Until Calaveras County establishes its own Register of Historic Resources (see No. 2 above), this proposed program would formally allow restoration work on historic buildings to follow these history-sensitive regulations.

“3. *Adopt and implement the Mills Act*

This state-wide program allows property-tax relief benefits for the maintenance and restoration of historic buildings. The program can be applied to Historic Districts, neighborhoods where historic preservation is to be encouraged, or individually recognized historic buildings.

“4. *Require a cultural resource study prior to demolition of buildings 75 years of age or older.*

Fifty years is the time established by both Federal and California laws for assessing a building’s historical merit; 75 years seems more appropriate for our Mother Lode communities. These evaluations would be carried out by qualified professionals, and would prevent the inadvertent loss of important community icons.

“5. *Establish County-wide design review guidelines for all new commercial construction projects in areas with concentrations of historic buildings.*

Tourism has been identified as one of our leading economic forces and new construction should be architecturally compatible. People are coming to see our historic Mother Lode towns and landscapes and new development can be sympathetic to this setting. Mokelumne Hill’s *Design Review Guidelines* could be used as a model.

- “6. *Require that the developer be responsible for curation of artifacts recovered from a County-mandated study.*

This would require that archiving of important archaeological remains excavated as part of a project’s pre-construction studies be borne by the developer. This is a standard requirement for Federal and State projects and without it the cost of long-term preservation of significant artifacts would fall on the County.

- “7. *Develop and adopt a Cultural Resource Management ordinance.*

County statutes and mandates related to cultural resources would be consolidated under one heading, making procedures easier to identify and implement. Included here would be the proposed programs COS-6A-6F, as well as those identified above.

“These are all programs long established in most counties in California; they are not extraordinary or expensive. Inclusion of them in the General Plan acknowledges that our cultural resources are important to us, and that these are worthy goals to work for.”

In the Final EIR, please discuss these proposed mitigation measures in the body of the EIR. Either adopt these measures, or explain, based upon substantial evidence in the record, why they are infeasible. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1175-1176 [It is an abuse of discretion to reject, without supporting substantial evidence, alternatives or mitigation measures that would reduce adverse impacts]; *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1173 [When provided examples of mitigation measures implemented elsewhere, and agency must either implement them or explain why not].)

7) The EIR makes the general and bald assertion that, “Additional mitigation beyond the requirements identified above are not feasible to require at this point in the planning process. Therefore, the above impact would remain significant and unavoidable.”

The DEIR is exactly the “point in the planning process” when additional mitigation measures are identified and evaluated. (CEQA Guidelines, sec. 15126.4; *POET, LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 736-740 [Mitigation cannot be deferred past the start of project activity that causes the adverse environmental impact]; *Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 440-441 [A lead agency needs substantial evidence, not merely bald assertions, that it is infeasible to provide more impact information in a Program EIR]; *Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 426 [All EIRs, including program EIRs, “must cover the same general content” and provide “decisionmakers with sufficient analysis to intelligently consider the environmental consequences of the project”]; *Masonite Corp. v. County of Mendocino* (2013) 218 Cal.App.4th 230, 241-242 [An EIR must address comments proposing mitigation and give reasons for rejecting such proposals].)

“Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts.” (Guidelines, § 15151.)

“[M]ajor environmental issues raised when the lead agency's position is at variance with

recommendations and objections raised in the comments must be addressed in detail.” (Guidelines, § 15088, subd. (c).)

(*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 940.)

[W]here comments from responsible experts or sister agencies disclose new or conflicting data or opinions that cause concern that the agency may not have fully evaluated the project and its alternatives, these comments may not simply be ignored. There must be good faith, reasoned analysis in response.’ ” (*People v. County of Kern* (1974) 39 Cal.App.3d 830, 841-842; accord, *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935 (*Concerned Citizens*).) Rather than sweep disagreements under the rug, the City must fairly present them in its EIR.

(*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 940-941)

In the Final EIR, please explain, based upon substantial evidence in the record, why it is not feasible for the County to consider mitigation proposed by experts and the public in comments on the DEIR.

COMMENTS ON GREENHOUSE GAS EMISSIONS IN THE GENERAL PLAN DEIR

CHAPTER 1: INTRODUCTION

1.7 Comments Received on the Notice of Preparation

It is noted that “various contributors” submitted comments from the Calaveras Planning Coalition. For **Air Quality and Greenhouse Gas Emissions** (*c.f.* Section 4.3), on p. 1-5, among the following were noted:

- Cumulative impacts due to greenhouse gas (GHG) emissions
- Incorporation of California Air Resources Board measures to mitigate for greenhouse gasses
- Mitigation for GHG emission from future development should be integrated with general plan programs to implement AB 32, SB 32, and SB 375
- Total vehicle miles travelled within the County considered as a contributor to GHG emissions

All of the above were indeed noted in the scoping comments. However, the primary concern in those comments, expressed in the following, is not noted or addressed in the DEIR:

The EIR process can greatly strengthen the General Plan by requiring that there be specific implementation steps, monitoring methods, and naming of accountable personnel positions for achieving the stated goals. Otherwise, the Plan remains largely at the level of intentions. (p. 2.2-1)

In some cases the agency of government accountable for GHG measures is noted. But nowhere are there specific implementation steps, interim objectives, actual monitoring methods, or timelines for accomplishment identified. In these regards, the DEIR is not an improvement or enhancement to the General Plan Update.

CHAPTER 4: AIR QUALITY AND GREENHOUSE GAS EMISSIONS

4.3.2 EXISTING ENVIRONMENTAL SETTING

4.3-27 GHG EMISSIONS

4.3-27 Method of Analysis

The DEIR references “the CCAPCD’s *Guidelines for Assessing and Mitigating Air Quality Impacts of Land Use Projects*” as the basis for analyzing the GP’s GHG emissions impacts. There is no information given as to how to access that document, in order to see how it is being applied. Please provide specific referral information for that document in the Final EIR.

In the next paragraph, another basis of analysis is cited: “The long term...GHG emissions from buildout of the Draft General Plan were estimated using the California Emissions Estimator Model (CalEEMod) software version 2016.3.2 – a statewide model designed to provide a

uniform platform...to quantify air quality emissions, including GHG emissions, from land use projects.” The figures from that modeling are presented in Appendix C. It is unclear how these figures relate, if at all, to analysis via the CCAPCD’s “Guidelines.” In the Final EIR please explain the relationship between the model and the guidelines.

The CalEEMod figures presented are based on an assumption of buildout by 2035, and a population of 111,527 by that date (p.4.3 -28). It appears, although it is unclear, that the analytic tool was applied in a per capita way to that population figure. The big unknown throughout the DEIR, because it has not been established by the County yet, is what the current baseline GHG levels are. So the starting point, above which the added population will increase emissions, is an unknown. The figures presented are simply a product of computer modeling.

In addition, the 111,527 population buildout figure is less than the buildout population of 117,045 referenced for the project description and alternatives section of the DEIR. (DEIR, Chapter 3, Table 3-2, p. 3-7; Chapter 6, Table 6-1, p. 6-13.) In the Final EIR please make the project description consistent throughout the EIR. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 655 -657 [An inconsistent project description makes an EIR insufficient as an informational document amounting to a prejudicial abuse of discretion]; *Communities for a Better Environment v City of Richmond*, (2010) 184 Cal.App.4th 70, 89 [An EIR with an obscure project description fails as an informational document].)

Following the reference to CalEEMod projections, the DEIR (4.3-28) then says, “In addition to estimating potential future emissions that could occur under buildout of the draft General Plan, emissions from existing development within the County were considered....Emissions estimation [via USEPA] is known as the National Emissions Inventory (NEI)....” The NEI figures are also in the DEIR Appendix C.

The NEI includes emissions that the CalEEMod does not - specifically, volatile organic compounds from vegetation and emissions from wildfires or controlled burns (4.3-29). In order that that information might be included, the NEI estimates were added to the CalEEMod figures for buildout. The NEI estimates are not, however, projections into the future; they are calculations of existing levels taken every three years, the most recent one available for the DEIR being 2014. It is not clear in what way they were added to the overall projections.

Moreover, it is difficult to discern GHG emissions from the NEI figures in Appendix C, as they do not specifically note CO₂ or methane emissions. Also, the figures for the different gasses noted are presented simply as gross amounts. They are not measured against any standard or desired level. So it is not clear how they translate into useful information for the County.

In the Final EIR please explain the use of the NEI numbers.

4.3-4 Generation of GHG emissions, either directly or indirectly, that may have a significant impact on the environment and/or a conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs (i.e. emission reductions required by AB 32 and SB 32). Based on the analysis below, even with mitigation, the impact is *significant and unavoidable*.

The County has no current GHG Baseline Inventory and no Emissions Reduction Plan. “In the absence of an adopted GHG Reduction Plan..., the potential operational GHG emissions related to buildout of the Draft General Plan have been estimated and compared to the per capita emissions targets established in the 2017 [ARB] Scoping Plan.” (4.3-41)

The need to develop GHG baseline data has been apparent since the earliest state greenhouse gas directives over a decade ago. It has also been apparent that a general plan EIR would need GHG baseline data since the general plan update began in 2007. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 659 [An EIR is informationally inadequate if it does not clearly and conspicuously identify baseline assumptions]; *Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 89 [An EIR that omits relevant baseline information fails in its informational purpose under CEQA].) In the Final EIR please present an argument, based upon substantial evidence, that explains why it was infeasible for the County to complete a baseline inventory over the last decade. (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 440-441 [A lead agency needs substantial evidence, not merely bald assertions, that it is infeasible to provide more impact information in a Program EIR].)

Executive Order No. S-3-05 requires a County to maintain a constant rate of GHG reductions after 2020 (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1175.) Without the baseline inventory, it is impossible to determine if the County will be meeting this requirement under the general plan update. Thus, lack of a baseline inventory interferes with informed decisionmaking and public participation. Approval of the Final EIR in the absence of a baseline inventory would be an abuse of discretion.

As noted above, how the different models have been used to arrive at the DEIR’s figures is unclear. But the figures presented make noncompliance very clear.

CARB has identified that statewide emissions targets for 2030 and 2050 are 6 metric tons of CO₂ per capita, and 2 MTCO₂ per capita, respectively. The DEIR estimates Calaveras per capita emissions at 11.78 MTCO₂ in 2030, and 11.35 MTCO₂ in 2050. It is not stated why the 2050 figure, assuming continued buildout, would be slightly lower. (Chart, 4.3-42)

The conclusion, p. 4.3-41: “Because buildout of the County would exceed the CARB’s per capita emission targets implementation of the Draft General Plan would be considered to conflict with the goals of SB 32 and contribute to a *significant* impact related to GHG emissions.”

The figures make clear the need for goals, policies **and specific implementation commitments** in the DEIR and General Plan for reducing GHG emissions. And those commitments can actually be **continued** via the General Plan, not just initiated. Like all jurisdictions, Calaveras County is responsible to implement AB 32 and SB 32, General Plan or not. It can begin now. The DEIR can provide guidance.

BACKGROUND AND SETTING

The DEIR points out that: SB 375, (Chapter 728, Statutes of 2008) links greenhouse gas reduction to land use planning, transportation planning, and affordable housing. (p. COS-6) Calaveras County is not subject to SB 395 because it is not a Metropolitan Planning Organization. However, the DEIR points out, "...as a part of the environmental review of this plan, air quality and greenhouse gas emission impacts must be addressed."

The DEIR goes on to say that "Development of a Sustainable Community Strategy (SCS) is a primary tool to identify and achieve greenhouse gas reduction goals." Yet an SCS is not mentioned as a policy proposal to achieve compliance with state standards. In the Final EIR, please evaluate this proposed mitigation measure

Also, policies and implementations are not broken out into the areas of land use, transportation planning, and affordable housing/building. In the Final EIR, please do this to make the document rapidly understood by decisionmakers and the public.

GOALS AND POLICIES

The General Plan presents one goal with regard to greenhouse gases:

COS-4B: Greenhouse gas emissions associated with vehicular travel, electric power generation, and energy use in compliance with applicable state goals and standards.

Recommended that it read: Greenhouse gas emissions in compliance with state goals and standards.

This allows the goal to cover a complete range of policies. As it stands, policies COS 4.5, COS 4.6 and COS 4.7 do not fall into the categories in the goal as stated in the General Plan.

COS 4.4 Develop and adopt a comprehensive strategy to assist in achieving emission reduction goals of AB 32. (IM COS-5B, COS-5C and COS-5D)

COS 4.5 Encourage retention of existing mature trees in landscaping for new development, consistent with fire protection needs, to facilitate carbon sequestration. (IM LU-4A and LU-4C)

COS 4.6 Encourage alternatives to open burning of yard debris and construction clearing. (IM COS-2E and COS-5D)

COS 4.7 Encourage energy conserving construction techniques and the use of alternative energy sources. (IM COS-5E)

COS 4.8 Encourage the use and installation of alternative energy generating systems, including solar, wind, bio fuel, and other systems, in new development and in retrofitting existing structures. (IM COS-2E and COS-5E)

These existing provisions of the General Plan Update do not qualify as mitigation measures.

COS 4.4 calls for the future adoption of a GHG reduction strategy without specifying a list of feasible mitigation measures, and without a commitment to achieve an objective standard. This does not meet the standards for deferred mitigation. (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 443 [Lead agency cannot defer mitigation without committing to meet performance standards]; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 195-196 [A promise to complete a future study after project approval, without identifying any specific mitigation measures, or providing mitigation standards, is inadequate mitigation]; *Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 92-93 [A greenhouse gas mitigation plan violates CEQA when it includes a generalize mitigation goal, vaguely described mitigation measures, unquantified emission reduction estimates, and no objective criteria for measuring the success of the mitigation]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1118-1119 [A lead agency cannot defer selecting mitigation measures without first identifying feasible mitigation measures].)

Given that the County has dragged its feet, and failed to make a serious effort to contribute to greenhouse gas reduction over the last decade, there is no more time to waste. Adopt some basic GHG reduction efforts WITH the general plan, before the development and its impacts occur. (*Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 95 [The time to formulate mitigation measures is during the EIR process, before final project approval]; (*POET, LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 736-740 [Mitigation cannot be deferred past the start of project activity that causes the adverse environmental impact].)

COS 4.5, 4.6, 4.7, and 4.8 all begin with the non-mandatory verb “Encourage”, which does not commit the County to do anything that will result in any level of GHG emission reduction with any certainty. This is not mitigation. (CEQA Guidelines, sec. 15126.4, subd. (a) (2).)

In the Final EIR, please modify COS 4.4 to 4.8 so that they qualify as mitigation measures.

4.3.4 IMPACTS AND MITIGATION MEASURES

In the Draft General Plan, the Implementation Measures for the policies provide little direction for implementation.

Mitigation for greenhouse gas emission must be timely set forth, with complete and relevant information, in an accountable arena. (*Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 96.) The final selection of specific mitigation measures may be deferred when the lead agency has evaluated the impact, identified feasible mitigation measures, and has committed to mitigating those impacts. (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 412) Mitigation deferral requires not merely a generalized

goal, but “objective performance criteria for measuring whether the mitigation goal will be achieved.” (*POET, LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 736-740.)

At a minimum, the implementation measures should include a timeline, suggested mitigation method(s), quantitative reduction estimates, interim steps, reporting requirements, a commitment to achieve objective performance criteria, and responsible officials or offices. The measures do indicate the responsible entities, but other specifics are lacking.

For example, to implement policy 4.4:

COS-5B reads: Undertake a greenhouse gas (GHG) emissions inventory to establish baseline levels of GHGs generated from all major emissions sources in the County consistent with the requirements of Assembly Bill 32 (California Global Warming Solutions Act of 2006).

The Air Pollution Control District and Planning Department are identified as the responsible entities

We suggest: The Calaveras County Air Pollution Control Board shall undertake a greenhouse gas emissions inventory for the County, using evaluation tools provided by the Air Resources Board via its Local Government Toolbox (ARB website). The inventory shall commence no later than January, 2019, and be completed no later than December, 2019. The CCAPCB shall make an interim report to the Board of Supervisors and the public six months after commencing the project, and a final report at its conclusion. The inventory will be kept updated and reported out every six months. Since the DEIR is written anticipating buildout, the baseline shall be expressed in per capita data; that will be the only way to evaluate that the Emissions Reduction Plan (COS-5C) is being effective.

As to IM-COS 5C, the same criteria for specificity would apply. The DEIR can propose specific strategies and actions that might be considered as part of the Emissions Reduction Plan. For example, the DEIR lists a variety of measures that the CCAPCD already uses to mitigate for other gasses and pollutants (p. 4.3-24). Many of these would help to mitigate GHGs: alternatives to open burning, traffic controls during construction, limits on wood-burning appliances, application of Tier 1 emission standards for vehicles. Given projected buildout, the County could greatly moderate emissions by adopting CAI Green Code Tier 1 or Tier 2 provisions in its building codes (4.3-22).

The Policies and Implementation Measures could also be organized under the categories mentioned in the Background and Setting: land use, transportation, and housing/building.

For example, under land use:

Policy: The County shall encourage the development of businesses that rely on environmentally sustainable products and services, such as renewable energy, green building, water conservation, and waste management and recycling.

Implementations: Within one year of the adoption of this General Plan, the County shall establish and publish standards of environmental sustainability in each of these areas.

The County shall fast-track planning approvals for businesses that meet or exceed these standards.

Note: the DEIR proposes adding this policy to the General Plan:

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.

No implementation measure is proposed.

Recommend this instead: The County shall evaluate proposed developments to determine whether they will emit criteria air pollutants, including GHGs, to a degree exceeding standards the County will publish within six months of the General Plan's adoption.

Implementation: The County will impose upon developments exceeding those standards mitigation measures provided in the CCAPCD's Guidelines for Assessing and Mitigating Air Quality Impacts of Land Use Projects.

For example, under transportation:

Policy: The County shall encourage efforts to reduce emissions from vehicle use.

Implementations: The County shall purchase lower-emission and/or electric vehicles when replacing fleet vehicles.

Within six months of the adoption of the general Plan the County will set standards for inclusion of bicycle and pedestrian routes in all proposed developments.

Note: The DEIR proposes adding this policy to the General Plan:

COS 4.9: The County shall continue to support emissions reductions programs such as the Carl Moyer Program, and find methods of incentivizing the replacement or retrofit of small emissions sources throughout the County, such as the replacement of existing wood stoves with EPA Phase II certified appliances, and the installation of new replacement engines or technologies to reduce emissions from off-road and on-road engines within the County.

There are no Implementation Measures proposed for this policy.

Two possible measures:

The County shall set numerical yearly goals for participation of residents in the Carl Moyer Program.

Within a year of the adoption of the General Plan, the Planning Department will prepare a public report on methods of incentivizing the replacements and retrofits and sources of funding to underwrite them.

For example, under housing/building:

Policy: The County shall encourage new development to incorporate green building practices.

Implementations: The County shall ensure that all new or renovated County-owned buildings are energy-efficient and meet, at a minimum, LEED Silver or equivalent standard.

The County shall incorporate into its building codes, over five years from the date of adoption of this General Plan, requirements bringing new buildings up to CalGreen Tier 1 standards.

The ARB website lists a wide variety of funding sources and opportunities to assist localities to implement GHG programs.

ALTERNATIVES

In terms of greenhouse gas emissions, the order of preference of alternatives is clear.

The No Project Alternative with full buildout would yield the most greenhouse gas emissions because the buildout would not be concentrated and therefore involve more vehicle traffic, which is a major source of emissions. Plus the 1996 Plan does not include green building provisions.

The Rural Character Protection Alternative, by concentrating development, would result in fewer GHG emissions than the No Project Alternative.

The Department of Finance Alternative is most preferable, because project buildout would be less than half of what is projected in the other alternatives. The numbers would allow the County to make thoughtful decisions about growth, and therefore about the quality of the environment and of the life of its residents.

Section 4.7 – Hazards and Hazardous Materials

4.7.1 INTRODUCTION

Introduction 4.7-1

One concern about the proposed general plan and DEIR is the way the introduction to chapter 4.7 regarding hazards and hazardous material does not accurately describe the contents of the chapter. It states that it specifically describes potential effects on human health that could result from soil contamination or from exposure to hazardous materials related to future development and industrial activity. A more accurate description would be to say: This chapter presents a list of currently existing fire and man-made hazards currently existing in the county followed by a discussion of federal, state and local regulations, impacts and mitigation measures, with footnotes pointing to information from the EPA related to health effects due to exposure to Polychlorinated Biphenyls (PCBs), asbestos, radon and lead based paint.

In the Final EIR, I request that the county adopt a better description of what is addressed in that chapter.

Also, in the Final EIR, include a definition of what is considered a hazard such as the following from the DEIR for Tuolumne County:

Hazardous Materials:

The federal government defines a hazardous material as a substance that is toxic, flammable/ignitable, reactive, or corrosive. Extremely hazardous materials are substances that show high or chronic toxicity, carcinogenic, bioaccumulative properties, persistence in the environment, or that are water reactive. Improper use, storage, transport, and disposal of hazardous materials and waste may result in harm to humans, surface and groundwater degradation, air pollution, fire, and explosion. The risk of hazardous material exposure can come from a range of sources; these may include household uses, agricultural/commercial/industrial uses, transportation and disposal.

4.7.2 EXISTING ENVIRONMENTAL SETTING

Airport Hazards

There is a table in the Tuolumne County EIR that shows compatible land uses around airports. I request that that our Final EIR include such a table to make it clear what will or will not be allowed.

Table 4.8-1. Airport Land Use Compatibility Zones

Zone Location Prohibited Uses

A

Runway Protection Zone or Within

Building Restriction Line

- ☐ *All structures except ones required by aeronautical function*
- ☐ *Assemblages of people*
- ☐ *Objects exceeding FAR Part 77 height limits*
- ☐ *Aboveground bulk storage of hazardous materials*
- ☐ *Hazards to flight*

B1

Approach/Departure Zone and

Adjacent to Runway

- ☐ *Children's schools, day care centers, libraries*
- ☐ *Hospitals, nursing homes*
- ☐ *Highly noise-sensitive uses (e.g., outdoor theaters)*
- ☐ *Above ground bulk storage of hazardous materials*
- ☐ *Hazards to flight*

B2

Extended Approach/Departure

Zone

C Common Traffic Pattern

- ☐ *Children's schools, day care centers, libraries*
- ☐ *Hospitals, nursing homes*
- ☐ *Hazards to flight*

Source: Tuolumne County Airport Land Use Compatibility

Fire Hazards 4.7-2

There is an inadequate discussion of how fire protection is provided and how it can be improved, like adopting the Service Level Stabilization Plan. Here is an example from the DEIR for Tuolumne County:

Fire protection in Tuolumne County is provided through a cooperative fire protection services approach. CAL FIRE provides administrative and operational services through a fire protection agreement to the County of Tuolumne, the Jamestown Fire Protection District, and the Groveland Community Services District. Other local fire agencies in Tuolumne County include the Tuolumne Fire District, Columbia Fire Protection District, Mi-Wuk Sugar Pine Fire Protection District, Strawberry Fire Protection District, and Twain Harte Community Services District. The Tuolumne County Fire Department (TCFD) adopted the Service Level Stabilization Plan in 1992 to address fire protection needs in the service area. The plan provides guidance for the development of fire services through acquisition of fire stations, apparatus and equipment, and the provision of personnel and support services. Additionally, the CAL FIRE Strategic Fire Plan for the Tuolumne/Calaveras Unit helps to plan fire prevention, protection, and suppression strategies and the Emergency Services Plan for Tuolumne County describes organizational responses to typical emergency situations in Tuolumne County, including fire Groveland Community Services District.

In the Final EIR, I request that Calaveras County include plans to improve fire prevention and services.

Human-Made Hazards 4.7-2

The language is remiss or vague about responsibilities of purchasers or developers of commercial, industrial, or agricultural property. I request that the following language be included in the Final EIR:

Federal and state environmental laws provide that all property owners be required to pay for cleanup, when necessary, of contamination by hazardous materials on or originating from their land. Because of the potential liability, purchasers or developers of commercial, industrial, or agricultural property should perform environmental assessments before development or purchase. In addition to being liable for cleanup, the owner can be responsible for toxic effects on human health, and measures should be taken to avoid exposing people to hazardous materials.

This language will prevent commercial or industrial businesses from moving forward on projects without first performing environmental assessments, as occurred in 2015 when an asphalt plant was allowed to come into a residential neighborhood with no notice, no EIR and no conditions. This caused a year and a half of upheaval and division in the community when residents objected.

Part of being friendly to businesses is to give them clear guidelines of what is required to comply with our general plan.

Hazardous Materials Transport 4.7-2

Transportation of Hazardous Materials:

There is missing information as to which federal and state departments regulate transportation of hazardous materials, their responsibilities and how authority is delegated to various state and local agencies. The following information taken from the DEIR for Tuolumne County is much more complete.

Both the USEPA and the United States Department of Transportation (DOT) regulate the overall transportation of hazardous waste and material, including transport via highway and rail. The USEPA administers permitting, tracking, reporting, and operations requirements established by the RCRA. DOT regulates the transportation of hazardous materials through implementation of the Hazardous Materials Transportation Act. This Act administers container design, and labeling and driver training requirements. These established regulations are intended to track and manage the safe interstate transportation of hazardous materials and waste. Transportation of hazardous materials on highways falls under federal legislation; however, authority is delegated to various state and local agencies that are focused on specific aspects of hazardous materials and transportation. The Hazardous Waste Control Act establishes the California Department of Health Services (DHS) as the lead agency in charge of the implementation of the RCRA program. State and local agencies such as the CHP, State of California Department of Transportation (Caltrans), and the City and County Fire Departments are responsible for the enforcement of state and federal regulations and responding to hazardous materials transporting emergencies. The CHP establishes state and federal hazardous material truck routes and has lead responsibility over hazardous material spills on state highways.

Please include such language in the Final EIR.

C

Underground Storage Tanks (UST): 4.7-4

Information as to the method and frequency of monitoring USTs should be included in the Final EIR as well as the following:

The State Water Resources Control Board regulates spills, leaks, investigation, and cleanup sites and maintains an online database, GeoTracker, to provide access to environmental data (State Water Resources Control Board). The GeoTracker database tracks regulatory data about leaking underground storage tank (LUST) sites, fuel pipelines, and public drinking water supplies and presents it in a geographic information system format.

Landfills 4.7-4

There is no discussion of reduction of toxic household waste or any database system to track information on solid waste facilities, operations and disposal sites etc. I want to know if Calaveras County intends to implement such a system, and if not, why not. Explain this in the Final EIR. Here is how Tuolumne County addresses this issue and the issue of Solid Waste Information System.

Household Products: By far the most common hazardous materials are those found or used in the home. Waste oil is a common hazardous material that is often improperly disposed of and can contaminate surface water through runoff. Other household hazardous wastes (used paint, pesticides, cleaning products and other chemicals) are common and often improperly stored in garages and homes throughout the community. Tuolumne County adopted the Household Hazardous Waste Element of the Tuolumne County Integrated Waste Management Plan to reduce the amount of household hazardous waste generated within Tuolumne County through reuse and recycling, to divert household hazardous waste from landfills, to promote alternatives to toxic household products, and to educate the public regarding household hazardous materials.

CalRecycle's searchable Solid Waste Information System (SWIS) database was completed for the County. The SWIS database tracks regulatory information on solid waste facilities, operations, and disposal sites throughout the State of California. The database includes information on landfills, transfer stations, material recovery facilities, composting sites, transformation facilities, waste tire sites, and closed disposal sites. The database tracks regulatory information regarding the site location, owner, operator, the facility type, operational status, regulatory enforcement records, and inspections.

4.7.3 REGULATORY CONTEXT pg 4.7-7

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) pg 4.7-8

There is no discussion of Preliminary Remediation Goals (PRGs) in chapter 4.7. The following has been taken from the DEIR for Tuolumne County. I want to see this issue addressed in Calaveras County in the Final EIR. .

Regulatory agencies such as the USEPA, Department of Toxic Substance Control, and Department of Environmental Health Hazard Assessment set forth guidelines that list at what point concentrations of certain contaminants pose a risk to human health. The USEPA combines current toxicity values of contaminants with exposure factors to estimate the maximum concentration of a contaminant that can be in environmental media before it is a risk to human

health. These concentrations set forth by the USEPA are termed Preliminary Remediation Goals (PRGs) for various pollutants in soil, air, and tap water. PRG concentrations can be used to screen pollutants in environmental media, trigger further investigation, and provide an initial cleanup goal. PRGs for soil contamination have been developed for industrial sites and residential sites. Residential PRGs are more conservative and take into account the possibility of the contaminated environmental media coming into contact with sensitive receptor sites such as nurseries and schools. PRGs consider exposure to pollutants by means of ingestion, dermal contact, and inhalation, but do not consider impacts to groundwater.

Groundwater Contamination:

Tuolumne County provides the Primary maximum contaminant levels (MCLs) to refer to when groundwater is affected with contaminants. The following is how Tuolumne County addresses this issue:

Both the USEPA and the California DHS regulate the concentration of various chemicals in drinking water. The California DHS thresholds are generally stricter than the USEPA thresholds. Primary maximum contaminant levels (MCLs) are established for a number of chemical and radioactive contaminants (Title 22, Division 4, Chapter 15 California Code of Regulations). MCLs are often used by regulatory agencies to determine cleanup standards when groundwater is affected with contaminants.

In the Final EIR, I request that Calaveras County commit to using this measurement for cleanup standards.

Brownfield sites: 4.7-8 added as part of CERCLA

Calaveras County's discussion of Brownfields as it relates to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), focuses on the fiscal aspect of unrecovered response costs incurred by the United States and windfall liens up to the amounts not to exceed the increase attributable to the response action at the sale or other disposition of the property. Below is a fuller description of Brownfield sites from the DEIR from Tuolumne County:

Brownfield sites are areas with actual or perceived contamination and that may have potential for redevelopment or reuse. Brownfields are often former industrial facilities that were once the source of jobs and economic benefits to the community, but lie abandoned due to fears about contamination and potential liability. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Over five years, \$1.6 billion was collected and the tax went into a fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA was amended in January of 2002 with passage of

the Small Business Liability Relief and Brownfields Revitalization Act. This Act provides some relief for small businesses from liability under CERCLA. It authorizes \$200 million per fiscal year through 2006 to provide financial assistance for brownfield revitalization. CERCLA also facilitated a revision of the National Contingency Plan (NCP), which provides the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the generation of the USEPA's National Priorities List (NPL), a list of all the sites with known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States.

Please include such an explanation in the Final EIR.

State Regulations 4.7-10

After listing the applicable state and local laws, there is a statement “Within Cal-EPA, the Department of Toxic Substances Control (DTSC) has primary responsibility, with delegation of enforcement to local jurisdictions that enter into agreements with the state agency for the management of hazardous materials” etc.

Add the agreements with the local jurisdictions.

Unified Program

On page 10 of 4.7, there is a discussion of the Certified Unified Program Agencies that is confusing. It is unclear how the entirety of Calaveras County rather than a specific agency or department can be a CUPA. Although it is stated that Calaveras County is a CUPA, which was assessed by Cal-EPA as having “No deficiencies observed,” there is no mention of when or how often the assessments are made. A better description of CUPA from the Tuolumne County DEIR is as follows:

Pursuant to SB 1082 (1993), the State of California adopted regulations to consolidate six hazardous materials management programs under a single, local agency, known as the Certified Unified Program Agency (CUPA). In addition to conducting annual facility inspections, the Hazardous Materials Program is involved with hazardous materials emergency response, investigation of the illegal disposal of hazardous waste, public complaints, and storm water illicit discharge inspections. In January 1997, the Tuolumne County Environmental Health Division of the Community Resources Agency was designated as the CUPA by the Secretary of the California Environmental Protection Agency (CalEPA) for Tuolumne County. Accordingly, it is the Environmental Health's Division responsibility to prevent public health hazards in the community and to ensure the safety of water and food. The Environmental Health Division (EHD) coordinates activities with federal, state, and regional agencies when planning programs

that deal with the control of toxic materials, housing conditions, nuisance complaints, protection of food and water supply, public bathing areas, and sewage and solid waste.

Please include such an explanation in the Final EIR.

Emergency Response to Hazardous Materials Incidents

In the Final EIR, please add a description of the local government emergency response plans.

4.7.4 IMPACTS AND MITIGATION MEASURES

P. 4.7-26. In the Final EIR appendices, please provide a copy the Airport Land Use Compatibility Plan.

P. 4.7 – 27. In the Final EIR appendices, a copy of the Local Hazard Mitigation Plan should be provided.

SECTION 4.9 LAND USE AND PLANNING

4.9.1 Introduction

On page 4.9-1, the Introduction incorrectly lists a document used to prepare this chapter as, “the Calaveras County General Plan. Adopted October 2016.” This is incorrect, and should say Calaveras County **DRAFT** General Plan. Our existing General Plan dates back to 1996. Additionally, **the existing Calaveras County General Plan document should also be listed as a reference document here**, as quoted in the first paragraph, “the EIR shall discuss any **inconsistencies** between the proposed project and **applicable general plans...**” There are also statements later in Section 4.9 regarding conflict and inconsistency with the existing general plan, our “**applicable land use plan.**”

4.9.2 Existing Environmental Setting

Regional Setting

On page 4.9-1, the DEIR states, “Calaveras County is currently home to approximately **41,587 persons.**” This figure *conflicts* with other Calaveras population figures in the DEIR, including the figure in Population & Housing, supposed to be the most recent: **45,207 in 2016** (pg. 4.11-1). Current figure on DOF website is “**44,609 as of July 2017.**” **Where does “41,587 persons” come from??? Please cite source.** (CEQA Guidelines, sec. 15148.)

Community Plans

On page 4.9-1 and 2, eight existing adopted community plans are listed. These community plans are part of the current Calaveras County General Plan. The EIR needs to make clear in the Existing Environmental Setting section that these eight plans will be going away--*they will no longer exist upon adoption of the Draft General Plan.* **Please add a sentence in the final EIR acknowledging this fact, “These eight community plans will be rescinded upon adoption of a new Calaveras County General Plan.”** It is impermissible to sweep this controversial issue under the rug. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 940-941)

This section should contain additional background information on draft community plans that the County has in its possession—plans for Copperopolis and Valley Springs. The County and area residents have worked on both plans for close to 20 years, have received grant funding, held public meetings, and worked with CCOG and County departments to create draft community plan documents that the County has in its possession.

According to the Calaveras County General Plan Evaluation, October 12, 2006, when talking about existing adopted community plans, it states, **“In addition the County has produced the following draft Community Plan: Copperopolis Community Plan - Working Draft (August 26, 2005).”** A few years later, a revised draft Copperopolis Community Plan was submitted to the County, which then held many public meetings in Copperopolis in 2012. **The County has a least two draft Copperopolis Community Plans; this information should be included in the EIR.**

In Valley Springs, community residents tried for years to get the County to update their ancient 1975 plan text, to no avail. A community group formed in 2005 to help update the community plan, MyValleySprings.com. They held community meetings and obtained grant funding from CalTrans so that the Calaveras Council of Governments (CCOG) had funds to work with the County and consultants to update the community plan. This was completed, and **a final draft Valley Springs Community Plan was submitted to the County by CCOG in October 2010.** A separate group **submitted a Citizens Committee Valley Springs Community Plan to the County in September 2010.** **The County has a least two draft updated Valley Springs Community Plans; this information should be included in the EIR.**

These two Valley Springs plans were later merged and condensed, in order for a Valley Springs section to be included in the Community Planning Element of the General Plan update. A draft version was created by the Planning Department, and was ready for a public hearing at the Planning Commission Hearing on January 26, 2017. This was listed on the January 26 Planning Commission Meeting Agenda, “4. General Plan Update: Addition of a Valley Springs section to the Community Planning Element of the Draft General Plan and to provide a recommendation to the Board of Supervisors. (Peter Maurer, Planning Director). The January 26, 2017 Planning Commission Staff Report¹ contains a summary of the community plan’s background, and the Valley Springs Section of the Community Planning Element. Unfortunately, at the last minute, the Valley Springs plan was pulled from the agenda, and “continued to a date uncertain.”² **This Valley Springs Community Plan section of the Community Planning Element for the Draft General Plan remains on the shelf at the Planning Department.**

The above information about existing revised/ updated/ new final draft Community Plans for Valley Springs and Copperopolis needs to be included in the EIR as Existing Settings background under Community Plans.

4.9.3 Regulatory Context

On page 4.9-2, the DEIR says, *“The following discussion contains a summary review of regulatory controls pertaining to land use and planning, including State, regional, and local regulations and ordinances. **Specific federal regulations do not directly pertain to land use and planning of an area.**”* We believe this last sentence is inaccurate.

¹ See attached file PC Staff Report_Community Planning Element Valley Springs section 1-26-17.pdf

² From Planning Commission Minutes for Jan. 26, 2017. See attached file PC_17126m.pdf

Federal Regulations. Federal/ State regulations are part of the Calaveras River Habitat Conservation Plan (HCP), which directly pertains to and may impact land use and planning in western Calaveras County. Land development can impact fisheries health and fish passage through the Calaveras River. The Stockton East Water District (SEWD) and FISHBIO personnel have been working with state and federal agencies and the National Marine Fisheries Service (NMFS) for many years to develop a habitat conservation plan (HCP) to manage resident rainbow and steelhead trout in the Calaveras River, as per the ‘Calaveras River Habitat Conservation Plan Presentation’ 2007³, and 2018 Stockton East and FISHBIO website information⁴. ***Over 11 miles of the lower Calaveras River lie in Calaveras County, extending east up to New Hogan Reservoir, where fish are now returning and spawning. The HCP management of trout could potentially conflict with land use and planning and the Draft General Plan. For the final EIR, please add the heading “Federal Regulations” under Regulatory Context, and investigate and describe the status of the Calaveras River Habitat Conservation Plan for trout management.***

State Regulations

On page 4.9-2, this section does not mention recent State legislation on the Mokelumne River, passed June 27, 2018, that is relevant to land use and planning. **In the final EIR, address the recent listing of the Mokelumne River as a California State Wild and Scenic River. There are regulations and restrictions on land uses in areas adjacent to the river.**

Additionally, the Regulatory Context section makes no mention of **LAFCO, the Local Agency Formation Commission**, required by the State to monitor and plan for the orderly provision of water, sewer, fire, and other services for development throughout Calaveras County, and to oversee service provider Spheres of Influence. **In the final EIR, address LAFCO under Regulatory Context.**

Local Regulations

On page 4.9-4, the DEIR states “The following are the local regulations relevant to land use and planning”, but then only lists and discusses three local regulations. We believe at least four other Local Regulations and Plans relevant to land use and planning have been incorrectly omitted by the DEIR. As per the draft Land Use Element, **Relationship to**

³ The Calaveras River Watershed Stewardship Group. *Calaveras River Habitat Conservation Plan Presentation*. 2007. See attached file Calaveras River Habitat Conservation Plan Presentation_2007.pdf. Accessed 8/6/18. Available at: <http://www.calaveras-river.com/Calaveras%20River%20Habitat%20Conservation%20Plan%20Presentation.pdf>

⁴ Stockton East Water District History - Managing the Calaveras Resource. Available at: <http://sewd.net/history/> . Calaveras River Habitat Conservation Plan, FISHBIO. Available at: <https://fishbio.com/projects/calaveras-river-habitat-conservation-plan> . Accessed August 6, 2018. See attached file Calaveras River HCP Info Sources_08_06_18_LU Exhibit.doc

Other Plans and Documents section, “In addition to the General Plan, the following documents guide or regulate land uses in Calaveras County: **Zoning (Title 17)...Specific Plans...Airport Land Use Compatibility Plan...Integrated Waste Management Plan-Countywide Siting Element**” (pg LU13). Additionally, **Existing Adopted Community Plans** should be included and addressed.

Below are local regulations we believe are either *inadequately* discussed, or *have been left out altogether*. ***These regulations and plans need to be included and thoroughly discussed in Local Regulations, and subsequently acknowledged and analyzed in Impacts and Mitigations 4.9-2 for land use conflicts or inconsistencies with the Draft General Plan.***

Calaveras County Zoning Ordinance

On page 4.9-4, the statement “California planning and development law requires zoning in all counties...to be consistent with their adopted general plans” does not acknowledge the fact that old *Calaveras County zoning is NOT always consistent with our existing General Plan, and that the County’s existing zoning WON’T be consistent with the proposed Draft General Plan*. This has been acknowledged and discussed by the county Planning Director and Planning Commission, and is reflected in the addition of the draft Land Use Element Implementation Measure **LU-2A Title 17 of the Calaveras County Code** *Update the Zoning Ordinance, Title 17 for consistency with the General Plan*. **Many existing and draft General Plan land use designations and uses conflict with underlying county zoning and our current zoning ordinance. Please acknowledge this in the EIR in the Local Regulations section, and address this conflict in Evaluation of Impacts and Mitigation Measures.**

Specific Plans

The County currently has two Specific Plans, Oak Canyon Ranch and Saddle Creek. These have “unique land use designations, goals, policies, and implementation programs intended to implement the General Plan and provide detailed guidance on the long term development of these two areas.” *Have these Specific Plans been reviewed for conflicts and consistency with the new Draft General Plan project?* **Please include, discuss, and analyze these Specific Plans in the final EIR, including in Impacts and Mitigations 4.9-2 for land use conflicts or inconsistencies with the Draft General Plan.**

Airport Land Use Compatibility Plan

The Airport Land Use Compatibility Plan (ALUCP) is an adopted plan. “**State law requires that the County...modify the general plan...to be consistent with the ALUCP.**” (pg. LU13). *Has the ALUCP been reviewed for conflicts and consistency with the proposed new Draft General Plan project?* Draft policies and programs in the Land Use Element only address future review and implementation of the ALUCP for consistency. *No one seems to have currently reviewed the Draft General Plan for*

consistency with the ALUCP. Please include and discuss the ALUCP in the final EIR. Please analyze the Draft General Plan for consistency with the ALUCP, including under Impacts and Mitigations 4.9-2, to review the ALUCP for land use conflicts or inconsistencies with the Draft General Plan.

Integrated Waste Management Plan-Countywide Siting Element

Waste disposal facilities are designated in the Countywide Siting Element of the County's Integrated Waste Management Plan; **State law requires the General Plan to identify these waste disposal sites** (pg. LU13), as there is a potential for land use conflicts. The Draft General Plan Land Use Map identifies locations of the (generic) land use designation, "Public/ Institutional", but this designation includes innocuous uses such as schools and libraries, and *does not specifically identify any waste disposal facility sites*. This is required by State law in order to avoid land use conflicts. **Please include and discuss the County Waste Management Plan and Countywide Siting Element in the final EIR. Please analyze the Draft General Plan for consistency and conflicts with the Plan and existing waste disposal facilities locations. Please specifically identify the location of existing waste disposal sites in the Draft General Plan and Land Use Map. Include the Waste Management Plan under Impacts and Mitigations 4.9-2, for review for land use conflicts or inconsistencies with the Draft General Plan.**

Existing Adopted Community Plans

Existing adopted Community Plans are "local regulations relevant to land use and planning." All existing Community Plans in Calaveras County should be included here in the Local Regulation regulatory section. They are existing legal documents guiding land use and development in local communities, adopted to avoid negative land use impacts of development on those communities. All existing community plan text will be rescinded upon adoption of the new general plan project. **The final EIR should acknowledge and discuss all existing Calaveras County community plans in the Local Regulation section.** (*Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 89 [An EIR that omits relevant baseline information fails in its informational purpose under CEQA].)

The final EIR should review all existing community plans for mandatory policies in each of the community plans that mitigate impacts of development that may not be mitigated by the general plan due to its "optional" mitigation goals, policies, and programs. The final EIR should then list these existing community plan mitigations, and then analyze and determine the impact of rescission of these documents. Include review and analysis under both Impacts and Mitigations 4.9-1 and 4.9-2, for potential impact to established communities, and for potential impacts and land use conflicts or inconsistencies with the Draft General Plan.

4.9.4 Impacts and Mitigation Measures

Standards of Significance

On page 4.9-5, part of the second environmental land use and planning impact question was omitted. **Please add back in CEQA text in bold below that was left out:**

“Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project **(including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance)** adopted for the purpose of avoiding or mitigating an environmental effect?”

On page 4.9-5, the third environmental impact question was not answered:

“Conflict with any applicable habitat conservation plan or natural community conservation plan?”

This question was not answered by the DEIR, instead telling the reader to refer to the Biological Resources chapter. The question was not answered or adequately addressed in Biological Resources either—information is missing about an applicable habitat conservation plan (HCP). **The question needs to be answered here in Land Use and Planning**, and also answered and addressed in Biological Resources. **Information is missing about the Calaveras River Habitat Conservation Plan** (see above comments under **4.9.3 Regulatory Context, Federal Regulations**). (*Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 89 [An EIR that omits relevant baseline information fails in its informational purpose under CEQA].)

First, *this HCP question needs to be addressed here*, in Section 4.9 Land Use and Planning (as per CEQA Guidelines Appendix D). Second, as noted previously in these section comments, **there IS a federal/state Habitat Conservation Plan (HCP) for the Calaveras River**. The Stockton East Water District (SEWD) has been working with state and federal agencies and the National Marine Fisheries Service (NMFS) for many years to develop a habitat conservation plan (HCP) to manage resident rainbow and steelhead trout in the Calaveras River (see previous HCP comments and attachments in this Land Use Section 4.9 under 4.9.3 Regulatory Context). ***Over 11 miles of the lower Calaveras River lies in Calaveras County, and extends up to New Hogan Reservoir, where fish are now returning and spawning. The HCP management of trout could potentially conflict with or be impacted by land use and planning and the Draft General Plan. For the final EIR, please investigate the status of the Calaveras River HCP for trout management. Please include and answer the CEQA question, whether the HCP conflicts with the Draft General Plan.*** (*California Clean Energy Committee v. City of Woodland* (2014), 225 Cal.App.4th 173, 213; [CEQA is violated when an EIR contains no discussion of a potentially significant environmental consideration].)

Impacts and Mitigation Measures

On page 4.9-5, the DEIR states “The following discussion of land use and planning impacts is **based on implementation** of the proposed project...” Despite this statement, **the entire impact analysis section of Land Use and Planning lists NO Implementation Measures for goals or policies, and discusses NO specific land use mitigation measures to reduce impacts.** The EIR lists draft land use goals and policies, but *does not explain how they will be implemented.* Other sections of the DEIR list Implementation Measures in the Draft General Plan that carry out the Goals and Policies of that section. Why was this ignored in Land Use and Planning?

The DEIR cannot assume “something” unnamed will implement goals and policies! The EIR cannot assume there are implementation measures in the Land Use Element to implement goals and policies and reduce impacts of the proposed project. The DEIR has not demonstrated any connection between specific goals and policies, and what might implement them. The EIR must connect and list implementation measures with goals and policies. ((*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1173 [Mitigation measures must be incorporated into a plan]; *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260 – 1261 [Mitigation measures must be implemented, and not merely adopted and then neglected or disregarded].)

HOW CAN ANY DEIR ANALYSIS OR CONCLUSION ABOUT THE SIGNIFICANCE OF LAND USE AND PLANNING IMPACTS OF THE PROPOSED PROJECT BE REACHED WITHOUT ANY DIRECT CONNECTION TO IMPLEMENTATION MEASURES THAT MAY REDUCE IMPACTS? Please explain this in the Final EIR.

*****The entire 4.9.4 Impacts and Mitigation Measures section of Land Use and Planning must be re-done, listing specific and effective, measurable Implementation Measures that will carry out Goals and Policies in order to reduce impacts of the Proposed Project. It is impossible to evaluate the adequacy of the DEIR’s analysis of Land Use and Planning without this being done.** (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116-1118 [A lead agency must have substantial evidence that mitigation is feasible and will be effective].)

4.9-1 The proposed project would not physically divide an established community. “Based on the analysis below, the impact is *less than significant*.”

On page 4.9-5 through -15, the DEIR discusses this issue, and then makes a finding of “less than significant impacts” on the potential to physically divide an established community. But the DEIR conclusion is based on *assumed implementation* of policies in the Land Use Element and Community Plan Element, without naming or even

acknowledging there *may or may not be implementation measures there*. The administrative record must contain substantial evidence supporting the County's that the measures will mitigate the impacts. "A clearly inadequate or unsupported study is entitled to no judicial deference." (*Laurel Heights Improvement Association of San Francisco v. Regents of the University of California* (1988) 47 Cal.3d 376, 422 & 409 fn. 12.)

In the final EIR, please provide the basis **of this assumption of no impacts? There are no implementation measures listed or discussed here in the DEIR. The Community Plan Element also contains no implementation measures.**

*"The primary objective of the Land Use Element and Community Plan Element of the Draft General Plan is to maintain and enhance the established communities in the County, as well as **implement** the Calaveras County Draft General Plan vision statement and guiding principles. **Implementing the policies** included in the Land Use Element and Community Plan Element would focus development in and around the existing communities, and would prevent the physical division of an established community. Therefore, impacts related to the potential to divide established communities would be **less than significant**."*(pg. 4.9-15)

Implementation Measures Needed for 4.9-1

As the DEIR itself states, "*implementing the policies...would prevent the physical division of an established community.*" But without Implementation Measures, you have no evidence of implementation of policies and goals, and no reduction of impacts to communities. **In the final EIR, list all Implementation Programs and Measures that will reduce impacts of the Project on established communities. It is impossible to evaluate the adequacy of the DEIR's analysis of Land Use and Planning 4.9-1 without this being done.**



Community Plan Element

The Community Plan Element section of 4.9-1 analysis, on pages 4.9-7 through 15, lacks adequate environmental analysis. There are inconsistencies, omissions, and information deficiencies:

- *The DEIR does not address or analyze environmental impacts of draft general plan development on the communities and community plans **not** included in the Community Plan Element of the Draft General Plan, including the two largest towns in Calaveras County with the most development pressures and potential impacts, Valley Springs and Copperopolis.*
- *The DEIR does not address the lack of **any** implementation measures for community plans in the Community Plan Element.*
- *The DEIR is vague and unclear on basic community plan background information, which community plans were not analyzed and why, the extent of analysis, and more. See more below.*

Community plans have been controversial in Calaveras County over the years, going back to the 1980's. People in Valley Springs have been asking for an update of their 1975 community plan text for over 40 years—"Things have changed!"—but the County has never managed to do so. More basic background information is needed, both in the

General Plan and in EIR discussion. **Please include this information:** which Calaveras County community plans were updated and included, which were updated and not included (and why not), which were newly developed and included, which were newly developed but not included (and why not), exactly which community plans will be included in the General Plan and which will not, and exactly which ones will be rescinded and abandoned upon adoption of the new General Plan *with no replacement goals, policies, or implementation*. **This information is important to community residents. (See attached petition) Most people are not even aware that they are losing their existing community plan altogether, or that it has been changed, or that years of effort to update or create new community plans are being ignored.**

Impacts to existing communities not included in the Community Plan Element are not even addressed here, much less mitigated by this element's goals and policies. Adequate DEIR analysis of impacts to established communities from eliminating existing Community Plan policies and programs without replacement cannot occur without adequate information. This is a potentially significant impact. CEQA is violated when an EIR contains no discussion of a potentially significant environmental consideration. (*California Clean Energy Committee v. City of Woodland* (2014), 225 Cal.App.4th 173, 213.)



To be able to discuss potential physical impacts on existing established communities, the

DEIR basis for environmental analysis must be informed by all the facts, about all communities, not just ones briefly summarized in the Community Plan Element. (*Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 89 [An EIR that omits relevant baseline information fails in its informational purpose under CEQA].) Any lack of community information in the GPU must be stated clearly in the EIR. No conclusion of “less than significant impacts” to dividing established communities, like Valley Springs, Copperopolis, and communities on the Highway 4 corridor, can be reached without including these communities in this Element of the draft General Plan.

The DEIR does not look at those existing community plan policies and programs which were adopted to guide development in those communities and to mitigate environmental impacts of development, but that will be rescinded and abandoned. What are the potential significant impacts of this action? The final EIR should review ALL existing community plans for *mandatory* policies in each community plan that mitigate impacts of development that may not be mitigated by the general plan due to its “optional” mitigation goals, policies, and programs. The final EIR should then list these existing mandatory community plan mitigations, and then analyze and determine the impact of rescission of these documents. Include existing community plans’ review and analysis under both Impacts and Mitigations 4.9-1 and 4.9-2, for potential impact to established communities, and for potential impacts and land use conflicts or inconsistencies with the Draft General Plan.

For example, Planning looked at 2005 development proposals in the Valley Springs area like the Spring Valley Ponte Ranch, and responded to applicants that the proposals are not consistent with the existing Valley Springs Community Plan, so **the 2005 project applicants need to wait until the community plan is updated. They are still waiting. No major development in Valley Springs can happen because our community plan is over 40 years old and no one knows what the community wants now.**



Also, if the County is eliminating community plan provisions adopted to mitigate the impacts of development, then the County must make a finding to justify the elimination of the measure. Mitigation measures adopted when a project is approved may be changed or deleted, but only if the agency states a legitimate reason for making the changes, and the reason is supported by substantial evidence. (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 359.) **In the Final EIR, determine if any of the community plan policies are mitigation measures. If so, provide a justification for the elimination of any such policy, based upon substantial evidence in the record.**

These controversial community plan issues have been raised and discussed with the County many times, and have been pointed out to General Plan consultants in EIR Scoping Comments. There were many suggestions made. These comments seem to have been ignored. The Valley Springs and Copperopolis communities are the largest and fastest-growing communities in Calaveras County. Ignoring them in the draft General Plan is unacceptable. Ignoring any Calaveras County communities in DEIR environmental analysis and conclusions about impacts to existing communities is inadequate and unacceptable.

4.9-2 Conflict, or create an inconsistency, with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Based on the analysis below, the impact is *less than significant*.

On page 4.9-2, the DEIR states, “Other than the existing General Plan, Calaveras County **currently does not have any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.**” **This statement is incorrect.** There are many other adopted land use plans and regulations besides the General Plan that are applicable, and should have been analyzed for conflict, inconsistencies, and compatibility. See previous comments in this Land Use and Planning Section, under Local Regulations, “In addition to the General Plan, the following documents guide or regulate land uses in Calaveras County: **Zoning (Title 17)...Specific Plans...Airport Land Use Compatibility Plan...Integrated Waste Management Plan-Countywide Siting Element**” (pg LU13). Additionally, **all Existing Adopted Community Plans** should be included and addressed.” The Calaveras County Community Wildfire Protection Plan seeks to avoid or mitigate the environmental harm from fires associated with development in the urban wildland interface. .

Impacts and conflicts/inconsistencies from ALL applicable land use plans and regulations need to be included and analyzed. A special focus should be the **four existing, adopted Community Plans that will be rescinded and will not be replaced** upon adoption of the Draft General Plan: Arnold, Avery-Hathaway Pines, Murphys-Douglas Flat, and Valley Springs. The final EIR needs to include/analyze impacts from all applicable land use plans and regulations.

A. Airport Plan

The Calaveras County Airport Land Use Compatibility Plan (ALUCP) IS an applicable land use plan adopted for the **purpose of preventing conflicts** between airport development and proposed land uses in the vicinity. On page 4.9-3 the plan is discussed briefly, and the DEIR says, “Calaveras County and jurisdictions with land use authority over areas within the AIA [Airport Influence Area] **are expected to incorporate certain criteria and procedural policies from the ALUCP into their General Plan and Zoning Ordinances** in an effort to ensure that future land use development would be compatible with long-term airport operations.” Has this been done? We can find nothing in this DEIR environmental analysis addressing whether the ALUCP has been reviewed for consistency with the Draft General Plan, or whether any ALUCP policies or criteria have been incorporated. **The Airport Plan has been left out of this environmental analysis completely.**

The only mention of the Airport Plan we found was in Land Use Element Implementation Programs. But Implementation Measure LU-3A below is a proposed *future* effort with no time commitment, and does nothing to tell us *now* or ensure *now* that the 2016 Draft General Plan is *compatible to the existing 2010 Airport Land Use Compatibility Plan*, as required by State law.

LU-3A Airport

On an on-going basis, review the general plan, including land use designations surrounding the airport for consistency with the Airport Land Use Compatibility Plan.

Implements: Policy LU 3.3

Responsible Entity: Planning and Public Works Departments

B. Calaveras County Zoning Ordinance

The County Zoning Ordinance **is a land use regulation adopted for the purpose of avoiding or mitigating an environmental effect**, so must also be analyzed for potential conflicts and inconsistencies with the Draft General Plan. **The Zoning Ordinance has not been analyzed.** On page 4.9-4, the statement “California planning and development law requires zoning in all counties...to be consistent with their adopted general plans” reinforces the need to analyze potential conflicts. **Many existing and proposed draft land use designations and uses conflict with or are inconsistent with underlying county zoning and our current zoning ordinance. Please acknowledge this in the Final EIR and evaluate impacts and mitigation measures.**

These zoning and land use inconsistencies have been acknowledged and discussed by the county Planning Director and Planning Commission. This is reflected in Land Use Element Implementation Measure LU-2A Title 17 of the Calaveras County Code Update the Zoning Ordinance, Title 17 for consistency with the General Plan. But **LU-2A Implementation Measure is a proposed future effort, with no time commitment, and does nothing to address now whether the 2016 Draft General Plan is compatible to the County Zoning Ordinance, or if impacts are significant.**

C. Specific Plans

The County currently has two Specific Plans, Oak Canyon Ranch and Saddle Creek, which contain “unique land use designations, goals, policies, and implementation programs intended to implement the General Plan and provide detailed guidance on the long term development of these two areas.” These Specific Plans must be acknowledged and analyzed. **Please include, discuss, and analyze these two Specific Plans in the final EIR in Impacts and Mitigations 4.9-2 for land use conflicts or inconsistencies with the Draft General Plan.**

D. Integrated Waste Management Plan-Countywide Siting Element

Waste disposal facilities are designated in the Countywide Siting Element of the County’s Integrated Waste Management Plan. **State law requires the General Plan to identify these waste disposal sites** (pg. LU13), as there is a potential for land use conflicts. **The Countywide Siting Element designating waste disposal sites is an applicable land use plan or policy necessary for the General Plan to consider in avoiding conflicts in land use**, and must be acknowledged and analyzed for consistency of waste disposal facilities with land uses in the Draft General Plan. The Draft General Plan Land Use Map identifies locations of the (generic) land use designation, “Public/Institutional”, but this designation includes innocuous uses such as schools and libraries, and *does not specifically identify any waste disposal facility sites*. This is required by State law in order to avoid land use conflicts. **Please include and discuss the County Waste Management Plan and Countywide Siting Element in the final EIR, and analyze the Draft General Plan for consistency and conflicts with the Plan and existing waste disposal facilities locations. Please specifically identify the location of existing waste disposal sites in the Draft General Plan and Land Use Map. Include the Waste Management Plan under Impacts and Mitigations 4.9-2, for review for land use conflicts or inconsistencies with the Draft General Plan.**

E. Existing Adopted Community Plans to be Rescinded ~~and Not Replaced~~

All existing adopted Community Plans have land use policies intended to give direction on community development and avoid or mitigate negative impacts of development to their communities—in other words, “**adopted for the purpose of avoiding or mitigating an environmental effect.**” **All existing adopted Calaveras County Community Plans will be rescinded upon adoption of the Draft General Plan.** *Some* of these community plans will have *new goals and policies (but no implementation programs)* in the Draft General Plan Community Plan Element; other plans will *not* be included in the Community Plan Element and *will have no goals, policies, or programs remaining*.

The final EIR should review ALL existing community plans for mandatory policies in each community plan that mitigate impacts of development that may not be mitigated by the general plan due to its “optional” mitigation goals, policies, and programs. The final EIR should then list these existing mandatory community plan mitigations, and then analyze and determine the impact of rescission of these documents. Include existing community plans’ review and analysis under both

Impacts and Mitigations 4.9-1 and 4.9-2, for potential impact to established communities, and for potential impacts and land use conflicts or inconsistencies with the Draft General Plan.

The existing Arnold, Avery-Hathaway Pines, Murphys-Douglas Flat, and Valley Springs Community Plans will be rescinded upon adoption of the Draft General Plan, **and will no longer exist in any form at all, not even a summary, condensed version, because none of them have been included in the Community Plan Element. This complete abandonment of four Calaveras County General Plan Community Plans is in direct conflict with the land use mitigation purpose of those adopted community plans.** They guide future development and help protect unique community resources and historical character from potential impacts of development. These community plans help inform planners and decision-makers when considering proposed development, general plan amendments, permit modifications, and zoning changes in the community plan areas. For example, the existing adopted 1974 Valley Springs Community Plan will be abandoned and rescinded upon adoption of the proposed Draft General Plan. This existing plan, albeit old, has goals and policies that have been in place for over 40 years, but that will now be ignored in the Draft general plan update. These policies directed the location of single family residents, multifamily developments, and commercial growth. The density and intensity of development rationally varied depending upon access to public water and sewer. **The Final EIR must acknowledge the direct conflict and creation of inconsistency by completely abandoning four adopted community plans in the Draft General Plan, with no community-specific land use and development replacement goals, policies, or programs.**

AS EXAMPLES OF MANDATORY COMMUNITY PLAN POLICIES USED TO GUIDE DEVELOPMENT, just recently, **policies and implementation measures in the Avery-Hathaway Pines Community Plan were cited twice by the Planning Department to support their recommendation to the Planning Commission, in two different project applications** (2016-016 Zoning Amendment for Greenberg 7/12/18, and 2016-18 MOP for West 3/8/18).

In Greenberg, Planning's verbal reason for rezoning from C2-PD to M4-PD was, *"There are a number of policies and implementation measures in the Avery-Hathaway Community Plan that recommend the PD overlay"* as mitigation and environmental protection. The Planning Commission Staff Report reads, *"The community plan further singles out the exact location of the subject parcel, stating that Commercial Way 'terminates in an isolated area suitable for light industrial and automotive service activities.' Implementation Measure 10-2 of the Community Plan requires all industrial property to have a Planned Development combining zone in order to 'encourage design of industrial development that is compatible with adjacent land uses.' Due to this implementation measure, in order to fully comply with the General Plan, the subject parcel will retain the PD combining zone, being rezoned to M4-PD rather than simply M4."*⁵

⁵ Planning Commission Staff Report. 2016-016 ZA for Matthew Greenburg [pg.4]. July 12, 2018. See file attached: 2016-016 Greenberg Staff Report 7-12-18.pdf

In West, one of Planning’s reasons for supporting the owner’s road Modification to Existing Permit and allowing an exception to road-widening requirements was a section of the Avery-Hathaway Pines Community Plan that granted latitude in the disposition of interior roads. The Planning Commission Staff Report reads, **“The parcel is located within the Avery-Hathaway Pines Community Plan. This community plan states under the Land Use Element, Streets and Parking section: “Commercial Way, because of its isolated location, neither intrudes on the rural aspects of the scenic corridor nor impacts its traffic patterns. Because of its seclusion and the particular demands of its manufacturing and service operations, the owners and/or operators of these properties should be granted latitude in the disposition of interior roads and parking areas, subject to adequate screening of the complex from Highway 4.”**⁶

The Avery-Hathaway Pines Community Plan effectively and clearly guided development in both of these project applications by providing specific mandatory or location-specific policies to address future growth in its area. There are also mandatory policies in other existing community plans that will be abandoned by the Draft General Plan. This is a direct conflict, and the draft general plan does not fix this, as it contains no mandatory implementation programs for community plans. A Community Plan is an “applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.”

Further Review of Additional Plans, Policies, and Regulations Needed for 4.9-2

Because of the *above missing land use plans and policies and regulations* that have not been considered or reviewed in 4.9-2, and their potential conflicts and impacts with the Draft General Plan, **further Review of relevant, additional Plans, Policies, and Regulations is needed for 4.9-2 before any possible conclusion such as “impact is less than significant” can be made. Further review and possible Mitigation Measures will be needed for 4.9-2 in the final EIR.**

Conflict and Inconsistency Within the Draft General Plan Itself

In the **Land Use Element** section **Land Uses** there is a description of land use designations and the Land Use Diagram (General Plan Land Use Map). “Community Areas” are described and defined, and an explanation given why specific areas of the county are suited to be included within Community Areas—they are more appropriate for high-intensity development. The text makes clear that these areas have **boundaries**, and that **Community Area boundaries are intended to be specific:**

“The Land Use Diagram also identifies areas of the county as a “Community Area”. **These areas identify the regions of the County where higher intensity land uses and higher density residential uses are most suited**, based on infrastructure availability, reduced physical constraints, and existing development patterns. **The boundaries of the Community**

⁶ Planning Commission Staff Report. *2016-018 MEP for West* [pg.4]. March 8, 2018. See file attached: 2016-018 West Staff Report 3-8-18.pdf

Areas are intended to be specific, since some policies differentiate between being within or outside of the Community Area.” (pg. LU5, emphasis added)

Some policies in the Land Use Element directly *conflict with and are inconsistent with* the above Land Uses direction, explanation and expectation for boundaries of Community Areas.

Policy LU 1.2 and Policy LU 3.4 conflict with the Land Use purpose of focusing development and growth within Community Area boundaries.

LU 1.2 Support growth in **and around** existing communities while protecting and enhancing community and neighborhood character.

LU 3.4 Infrastructure such as water and sewer and high capacity roads shall be encouraged within existing developed areas, **areas contiguous to existing communities**, areas where future development is **anticipated** by the General Plan as reflected in the General Plan land use map, existing, **non-contiguous** communities, and/or where essential to public health and safety. (IM LU-3C)

Policy LU 1.2 supporting growth “around” communities directly conflicts with Land Use direction to have “specific” boundaries, and clear direction that there is a difference “between being within or outside” community areas. Policy LU 1.2 needs to say “**Direct** growth **to within** existing communities...” There need to be effective implementation *requirements* directing development and growth TO, NOT AROUND, existing communities, to avoid impacts and conflicts with surrounding incompatible land uses, and to protect natural resource lands & open space. Policies need to be put back in with buildout criteria, restricting the expansion of Community Areas without findings by the Board of Supervisors that additional land is necessary to accommodate growth.

Policy LU 3.4 also conflicts with Land Use direction. It blurs community area boundaries by encouraging infrastructure in areas outside of community areas.

Policy LU 1.2 and Policy LU 3.4 conflict and are inconsistent with the Land Use purpose of focusing development and growth within Community Area boundaries, and need to be revised.

False Conclusion Due to Lack of Any Implementation Measures in 4.9-2

*“As a result, should the Calaveras County Board of Supervisors vote to approve the Draft General Plan, the proposed project would further strengthen and expand the environmental protection policies and would not conflict or create an inconsistency, with any existing applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Therefore, the implementation of the draft goals and policies above would result in a **less-than-significant** impact.”* (pg. 4.9-20)

As the DEIR itself states, “implementation of the draft goals and policies” would result in a less-than-significant impact. But the 4.9-2 section lists NO Implementation Measures for the draft Goals and Policies listed. The DEIR CANNOT conclude there are less-than-significant impacts **without any evidence or analysis of impact mitigation measures and implementation. (Gray v. County of Madera (2008) 167 Cal.App.4th 1099,**

1116-1118 [A lead agency must have substantial evidence that mitigation is feasible and will be effective].) Without implementation of goals and policies, you have NO mitigations for impacts, so cannot state “less-than-significant.”

Implementation Measures Needed for 4.9-2

As the DEIR itself states, “*implementation*” could result in less-than-significant impacts. But without Implementation Measures, you have no evidence of implementation of policies and goals, and no evidence of continued consistency, or of continued compatibility, with all existing applicable land use plans, policies, and regulations adopted to avoid or mitigate environmental impacts.

In the final EIR, list all Implementation Programs and Measures that “*would further strengthen and expand the environmental protection policies and would not conflict or create an inconsistency, with any existing applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.*” It is impossible to evaluate the adequacy of the DEIR’s analysis of Land Use and Planning 4.9-2 without Implementation Measures being provided and analyzed.

Suggested Additional Policies and Mitigation Measures to Reduce Impacts of Development

Please add the following Implementation Program as a Mitigation Measure, to be included in both 4.9-1 and 4.9-2 mitigations and the Land Use Element, *in order to lessen potentially significant impacts to existing communities whose adopted, revised, or draft community plans and policies would be rescinded or abandoned entirely in the Draft General Plan:*

Land Use Implementation Program **Measures: Community Character and Design**

Add: LU-4I Existing, Updated, and Draft Community Plans

Existing adopted, existing draft-updated, and existing draft-new community plan documents are included in the general plan in “General Plan Reference Documents” as “placeholders”, to help inform planners and developers about existing community and historical character, unique local natural and scenic resources, community history, and specific community policies to guide development and protect the community, until those community plans can be revised, updated, and adopted. These community plans are referred to in the Community Plan Element as “Placeholders until those community plans can be revised and adopted.”

- 1) **Include the existing adopted Arnold, Avery-Hathaway Pines, Murphys-Douglas Flat, and Valley Springs Community Plans as “Reference Documents.”**
- 2) **Include *all* revised and updated draft Valley Springs Community Plan (VSCP) update documents as “Reference Documents.”** Include the 2010 CCOG VSCP Plan, the 2010 Citizen Committee VSCP Plan, and the 2017 Planning Department blended/condensed version of the Valley Springs Plan for the Community Plan Element.
- 3) **Include all draft Copperopolis Community plan documents as “Reference documents”**

Implements: Goal LU-4 and Policies LU 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7

Other suggested Policies and Programs to Add as Mitigations:

- Maintain parcel sizes outside of community growth boundaries large enough to sustain viable agriculture and discourage conversion to non-agricultural home sites
- Prohibit division of agricultural land for non-agricultural uses
- Require that the subdivision of agricultural lands shall only be allowed upon demonstration that long-term productivity on each parcel created would be enhanced as a result of the subdivision.
- Urban growth boundaries around county unincorporated communities with findings required for expansion.
- Clustering programs to preserve the best farmland, rangeland, and forestland, with conservation easements required on remainders, and 2:1 mitigation for all unavoidable conversions.
- Create and adopt an agricultural land and forestland conversion mitigation program and ordinance. Require compensation for loss of agricultural lands, including farm and rangeland, and forest lands. Establish appropriate mitigation ratios for the program or utilize a graduated mitigation mechanism. The mitigation ratio shall be a minimum of at least 2:1 (2 acres of farmland/rangeland/forestland protected through mitigation with land of equivalent value for each acre converted.) The program shall not present regulatory barriers to agritourism, agricultural services, and agricultural processing or uses compatible with timber harvest where such uses are permitted and where they are sited to avoid the best farmland/forestland. The program, where feasible, shall also establish mitigation within the agricultural/forestlands area where the conversion occurs as a preferred strategy. The program shall include a fee option and shall provide an exemption for farmworker housing, again ideally sited off of the best farmland and rangeland.
- Establish a resource mitigation overlay district within the zoning ordinance to encourage, site and permit mitigation banks
- Development shall avoid, minimize and mitigate impacts to rare and special status species and critical habitat to the maximum extent feasible. Measures may include, but are not limited to:
 - Clustering lots to avoid habitat areas and wildlife corridors
 - Dedications of permanent conservation easements;
 - Purchase of development rights from willing sellers; and
 - Other appropriate means.

Compatible.

1) Land Use Element Implementation Measure title “**Compatible** Land Uses” makes no sense. The purpose of the IM is to protect an existing land use from a new, *dissimilar and incompatible use, not a compatible use*. **Change “Compatible” to “Dissimilar Land Uses.”**

LU-4H Compatible Dissimilar Land Uses

Adopt standards for buffers, landscape setbacks, walls, berms, building setbacks or similar techniques to reduce the impact on existing land uses from dissimilar land uses.

Implements: Policies LU 4.3 and LU 4.7

2) Compatible. The word “compatible” is a generic, general term, and is used at least eight times in Land Use Goals and Policies without being defined or explained (pgs LU16-18). Different people have different opinions on what's compatible or not, and why. For example, some people think the new Dollar General, AutoZone, and O'Reilly's store buildings in downtown Valley Springs are *incompatible* with the community's character, but others think they're just fine in a commercial area, even though there is an older residential home on a large rural lot adjacent and across the street. Is an asphalt plant “*compatible*” next to a public recreation area, a river and drinking water source, and with trucks driving through a quiet residential area? In Valley Springs, at the Hogan Quarry, there were greatly differing opinions on this compatibility, causing a year of controversy and legal battles between the County, the public, and the owner. “Compatible” needs to be spelled out or defined in the General Plan—some standards given for interpretation. There are no implementation measures here or anywhere in General Plan that explain how to interpret whether something is compatible. **Without being clear about the meaning and application of the word compatible in the general plan, the county will have more controversies about whether proposed land uses, designs, and development are *compatible* or not.**

Lack of Implementation Measures

There are no Implementation Measures listed or analyzed in the Land Use and Planning chapter of the DEIR.

An EIR must distinguish between mitigation measures that are part of the project, and those additional mitigation measures that are still under consideration by the lead agency. (CEQA Guidelines, sec. 15126.4, subd. (a)(1)(A).

In most sections of the DEIR, the DEIR identifies a list of Draft General Plan policies and programs that it claims will reduce the impacts of the project. In the Land Use and Planning Section 4.9, no implementation programs are listed—the DEIR *assumes* policies will be implemented by unnamed programs. But we believe that we should probably look in the Land Use Element for whatever programs they have in mind, so we looked at policies and programs there.

However, after reviewing, we find the Land Use Element includes many *optional* policies and programs, and *actions that are deferred without a commitment* to achieve a specific mitigation standard by a specific deadline. Thus, even if the DEIR did include and list implementation programs from the Land Use Element, and counted on them as implementation in the Land Use and Planning section of the DEIR, **a number of policies and programs in Land Use do not qualify as mitigation measures.** (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 443 [Lead agency cannot defer mitigation without committing to meet performance standards]; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 195-196 [A promise to complete a future study after project approval, without identifying any specific mitigation measures, or providing mitigation standards, is inadequate mitigation]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1118-1119 [A lead agency cannot defer selecting mitigation measures without first identifying feasible mitigation measures]; (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670-671 [Mitigation deferral is improper unless there is a reason for the deferral and mitigation performance standards are set forth].)

For example, the following list of policies, programs, and implementation measures in Land Use do not qualify as mitigation measures.

List of Land Use Element & Community Planning Element Policies and Programs That Do Not Qualify as Mitigation Measures

(policies and programs that do not qualify because they are optional/ unenforceable, do not commit to implementation, and/or are deferred indefinitely)

A. ALL Policies in the Community Planning Element Disqualified as Mitigations

All Community Planning Element Policies are disqualified as Mitigation Measures because there is no Implementation Program, there are no implementation measures, and this is *no commitment to implementation*. [One exception: CPMH 1.2, implemented by the Mokelumne Hill Design Review Guidelines].

Suggested Community Planning Implementation Measures:

- **Require** all applications for new entitlements (both ministerial and discretionary), subdivisions, zoning changes, GPAs, and Accessory Dwellings within Community Areas to be reviewed by Planning Staff for consistency, compatibility, and conflicts with the relevant Community Plan before the application can be accepted as complete or move forward;
- **Require broad notification** of residents in Community Areas whenever any changes or revisions are proposed to their Community Plan;
- **Create Design Review Committees** for all Community Plan areas, to be notified and to review all above types of applications for consistency, compatibility, and potential conflicts;

- **Create Design Review Guidelines** for all Community Plan areas;
- **List Implementation Measures** in general plan elements that are relevant and would implement community plan policies;
- **Create “Placeholders”** for all Community Plans *left out* of the Community Planning Element by including all those existing adopted, draft revised, and draft new community plan documents in the general plan Reference section, and refer to those plans by name in the Community Planning Element as “Placeholders until community plans can be updated, revised, and adopted.”

B. Land Use Element Policies & Programs That Are Not Mitigations:

a. Implementation Measures with Missing Timelines (mitigation deferred indefinitely)

Missing time frames: LU-1A, LU-2A, LU-2B, LU-2C, LU-2D, LU-2E, LU-3A, LU-4A, LU-4B, LU-4C, LU-4D, LU-4E, LU-4F, LU-4G, LU-4H, LU-5A, LU-5B, LU-5C, LU-5D, LU-5F, and LU-5G.

The Implementation Measures above have no timeframes for completion. This means they can be postponed indefinitely. Proposed actions, such as will “Provide, Amend, Review, Update, Create, Establish, Adopt, Revise”, sound good but are meaningless without any time frame or commitment. Without a time frame, there can be no accountability or enforcement. Common county government issues such as lack of staffing, funding, topic interest, or political bias on controversial issues can easily lead to intended mitigations being deferred indefinitely.

Suggested effective Implementation Measures: Provide objectives, timelines, and potential funding sources for all of the above implementation measures.

b. Implementation Measures with Optional or Vague Wording (no commitment to mitigation)

LU 1.2, LU 1.3, LU 1.5, LU 2.1, LU 3.4, LU 4.4, LU 4.9, LU 5.1, LU 5.2, LU 5.3, LU 5.4, LU 5.5, LU 5.7, LU 5.8, LU 5.9, LU 6.1, LU-3C, LU-5B, LU-5D, LU-5E, and LU-5F.

The above Policies and Implementation Measures have vague or optional wording of actions to be taken. Proposed actions such as “Support, Encourage, Respect, Facilitate, Work with, Recognize, Coordinate, Evaluate, and Seek” sound good, but have no real meaning or commitment to actually do anything specific. They are not actual, effective mitigations.

Suggested effective Policies and Implementation Measures: Provide clear, mandatory, language with enforceable policies and implementation programs.

In the Final EIR please list all implementations for Land Use and Planning Goals and Policies. Separate this list into two parts. Part one, is the list of *actual* mitigation measures in the plan that *commit* the County to reduce impacts. Part two, is the list of other *optional* policies and programs in the plan that *may or may not get implemented* to reduce impacts. It is important that the DEIR help people to understand the difference between actual mitigation measures which commit the County to protect the environment, and optional measures which may or may not protect the environment. This is an essential part of a good faith effort at full disclosure.

Policies and implementation programs 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 purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260 - 1261.)

The County’s draft General Plan proposes as mitigation measures, a number of policies and implementation programs that **are not enforceable or do not commit** the County to reduce or avoid significant environmental impacts.

Draft Calaveras County General **Plan text that requires no commitment by the County is meaningless.** Terms like “Shall consider...may include...should be considered...should [anything]...will work with...will facilitate...will coordinate with...will encourage...to the extent practicable...support efforts... investigate...encourage...at the County’s discretion...may include...should be...” are not enforceable mitigations. **Mitigation measures must include terms like “shall require”, and other REAL commitments, to be enforceable.**

Deferred mitigation without a commitment to achieve an objective standard by a certain deadline is not mitigation.

The selection of mitigation measures may be deferred to a specific deadline provided that there is a list of feasible mitigation options, and a specific mitigation standard to achieve. (*Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-1029; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1118-1119.) “Numerous cases illustrate that reliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA’s goals of full disclosure and informed decision making; and consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment.” (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92-93.)

Some draft General Plan implementation measures claimed as mitigation measures defer impact mitigation to sometime in the future. However, some of these implementation measures do not include a list of feasible mitigation measures from which to choose, an objective standard to achieve, and/or a **time frame** within which the task is to be implemented and accomplished in order to reduce impacts. Thus, these do not qualify as mitigation measures under CEQA.

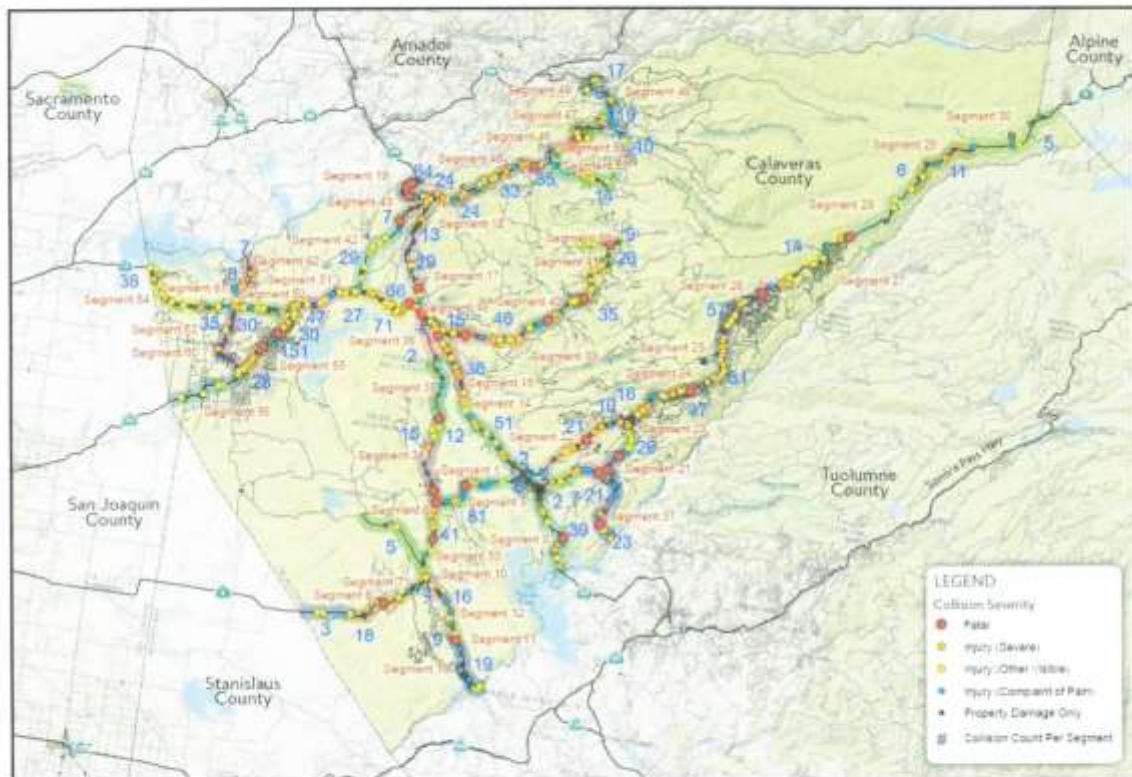
In the Final EIR, clearly distinguish between the actual mitigation measures which commit the County to protect the environment, and the optional or indefinitely deferred measures which may or may not protect the environment. This is an essential part of a good faith effort at full disclosure.

Feasible, meaningful mitigation measures for clear policies on development must be identified and provided.

SECTION 4.13 TRANSPORTATION AND CIRCULATION

7/31/2018

calaveras_orig.jpg (1078x800)



Calaveras County Collisions

http://www.safeforthcountyroads.com/uploads/9/7/7/8/87781356/calaveras_orig.jpg

1/1

The above map locates 1647 traffic accidents between 2011-2016

“ACCIDENT RATES ARE A MEASURE OF THE LEVEL OF SAFETY ON COUNTY ROADS. We can no longer accept failure to fund our roads.”

4.13.1 INTRODUCTION

The first sentence in this paragraph states “The Transportation and Circulation chapter of the EIR evaluates key circulation systems within Calaveras County and analyzes future traffic conditions associated with buildout of the Draft General Plan.”

The use of the words evaluates and analyzes leads a reader to expect a clear and concise picture of any available information related to our road system here in Calaveras County, so that any person trying to plan new project, housing or business, would be able to learn if they can or cannot move forward with a project and have the level of infrastructure needed.

In the Final EIR, please include the additional detailed information we provide below to assist EIR readers understand the transportation impacts likely to result from development under the general plan update.

Section 4.13.2 EXISTING ENVIRONMENTAL SETTING

P. 4.13-2 Roadway System. This section lists the State Highways in Calaveras County. Calaveras County has used State Highways as county roads for over 40 years. Caltrans has continually told county representatives how unproductive this is. (See **Exhibit 1- Caltrans Officials Admonish County for Lack of Road Planning, Sierra Sentinel, April 12, 1990.**)

The population went from 14,000 to 45,000 in that time frame. Two lane county roads with no shoulders or drainage and with limited safety features are no longer adequate. To successfully attract businesses and jobs, we need to direct new growth to areas where road infrastructure is in place and funded.

The following news article, (**Exhibit 2- Millions in Road Projects on hold, Calaveras Enterprise, May 30, 2014**) will demonstrate why road funding is a “broken process” in Calaveras County.

County officials reported this week that the county’s inability to move forward on the projects jeopardizes future federal funding for other projects here and raises the prospect that the county might have to repay as much as \$740,619 in federal grant funding that it has already spent.

The biggest problem: the county does not have the approximately \$10 million needed to pay its share to finish the projects. As a result, it will likely never receive almost \$57 million in federal funding.

A grim-faced Calaveras Board of Supervisors voted unanimously Tuesday to “deobligate” funding for projects.

“I sit here very embarrassed,” said Board of Supervisors Chairwoman Debbie Ponte. Ponte noted that although the board over the years had approved the various projects, members were caught unaware that the county had bitten off more projects than it could deliver.

She said the way the county government manages its road funding is a “broken process.”

In the Final EIR, please make a good faith effort to disclose this roadway funding problem, as it may contribute to traffic congestion from buildout under the proposed general plan.

Page 4.13-4 Transportation System Improvements. This paragraph of the DEIR’s existing environmental setting section speaks only in general terms about roadway funding, but does not provide the critical details about the existing setting that will affect traffic impacts from general plan buildout.

According to Draft 2017 RTP, the CCOG expects to fund the first \$337 million in road projects, but not the other \$363 million in projects. (Draft 2017 RTP, p. 68.) The numbers get worse when you look at local capital improvement projects needed to serve additional growth. The CCOG expects to fund only the first \$35 million of local capital projects, and not the last \$196 million of such projects. In addition, the Draft Calaveras County General Plan’s Circulation Element keeps roadway level of service standards in place, and only allows very limited exceptions. (Draft Circulation Element, Policy 2.2) Thus, it is reasonable to conclude that these severe limits to transportation infrastructure funding will also limit local development and population growth. We strongly encourage the Draft Calaveras County General Plan to prominently include this information in the information in the introductory section in the circulation element.

In the Final EIR, please make a good faith effort to fully disclose these and other roadway funding constraints, as they may contribute to traffic congestion from buildout under the proposed general plan. (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 439-440 [A Program EIR must disclose the known

baseline level of impacts that it reasonably can, as they may escape analysis later]; *Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 89 [An EIR that omits relevant baseline information fails in its informational purpose under CEQA]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 659 [An EIR is informationally inadequate if it does not clearly and conspicuously identify baseline assumptions].)

The DEIR states, “The primary source of funds for improvements to County roads is the Road Impact Mitigation (RIM) fee program and three benefit basin fees.” These fee programs are obviously not adequate to meet the county roads need. They are also not adequate to generate the matching funds to make our funding requests from the state and federal sources more successful. **Is Calaveras County going to continue their journey down the river of denial regarding the \$196 million in unfunded capital road projects? Does the General Plan and DEIR reflect which roads, slated for improvement, are on the unfunded projects lists in the 2017 RTP? Will the CCOG be consulted to coordinate those projects for future funding?** Please reply to these questions in the Final EIR. We don’t want to pave the Sierras, but we do need safe roads for residents, tourists, commercial pursuits, pedestrians, and alternative travelers, and hopefully be able to avoid becoming Sonora!

Page 4.13-4 , under heading, “Transportation System Improvements, final sentence- “ Where a development project impacts existing roads or where new roads are necessary to mitigate project impacts, road improvements or construction **MAY BE** required as conditions of project approval.” “May be” is too vague, and not acceptable. If there is anything this DEIR should be unambiguous about, it is this statement. **Please change the statement to read WILL BE required...**

Page 4.13-4 pertaining to Transportation System Improvements, from February 16, 2017 Caltrans letter, “The Draft Environmental Impact Report (DEIR) for the Plan should evaluate whether planned circulation improvements with funding are identified to mitigate the level of service (LOS) impacts of the County’s projected growth. If insufficient funding is available through existing traffic fees and regional transportation funds, new development in the County needs to help fund transportation improvements to mitigate the growth of the County. **CEQA requires that the lead agency**

implement feasible mitigation measures to reduce the severity of any significant and unavoidable impacts of the Plan.”

It is important to understand the history of traffic impact mitigation fees in Calaveras County to appreciate the extreme need for the County to adopt Caltrans’ proposed mitigation. Citizens have been suing Calaveras County over ill-conceived land use and transportation decisions, off and on, for the last 33 years, during which time the population has grown from 13,000 to 45,000+. (*Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176; *Concerned Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal.App.3d 90.) Why take legal action? During the 80s and 90s Calaveras was one of the fastest growing counties in the state of California, but the development was being allowed almost totally with Negative Declarations, no EIRs. After exhausting every other option, the citizens had to turn to the courts. In those days the Board of Supervisors would say, “If you don’t like the decisions, sue us.” So that is what we started to do. After a 6 year effort to get Road Impact Mitigation Fees (RIM) collected in Calaveras, in 2004, legal action finally forced the County to start collecting RIM Fees. The fees were not adequate, but RIM fees allowed the County to accumulate funds to be used as matching funds for grant requests. In the Final EIR, please include as a mitigation measure, the need to complete a new nexus study, to set a new RIM fee that charges developers the legal maximum fair share traffic impact mitigation fee.

One weakness of the fair share fee program is that not all road users are paying their fair share fee. In the Final EIR, identify any other “fair shares” that need to be captured, and identify mitigation measure so that the funding for necessary roads can be complete.

Page 4.13-4, under heading Road Maintenance, “County- and State-maintained roads receive funding for general road maintenance (including snow removal), from a variety of sources including gas taxes, vehicle license fees, transient occupancy taxes, and property taxes.”

County-and State-maintained roads receive only PARTIAL OR SOME funding. If there was adequate funding from this “variety of sources”, there wouldn’t be \$122 million in unfunded County road maintenance projects. (COG, 2017 RTP, Table 5.2(b), p. 72.) It is like we are all ignoring the 800 lb. gorilla in our home. In the Final EIR, please make a good faith effort to fully disclose this important fact, that can influence traffic congestion and traffic accidents rate impacts from buildout of the proposed general plan.

Page 4.13-5, under Common Traffic Analysis Terms:

- LOS C has stable operating conditions, but the operation of individual users is substantially affected by the interaction with others in the traffic stream;
- LOS D represents high-density, but stable flow. Users experience severe restriction in speed and freedom to maneuver, with poor levels of comfort and convenience.

Now LOS D is “acceptable.” Are we on a slippery slope here? Instead of pursuing appropriate funding we just keep lowering our expectations. Will this approach attract businesses?

The definition of LOS D is misleading when applied as a standard. It is important to disclose in the final EIR, that establishing LOS D as an acceptable standard for some roads means that development will be allowed to push roadways all the way to the brink of D, just below the beginning of LOS E. Please make a good faith effort to fully disclose this in the Final EIR.

Page 14.3-6 Traffic Safety. Table 4.13-3 provides a table of accidents from 2010 to 2014. This is very useful. Please add to the Final EIR the above map of the accidents on Calaveras roads from 2011 to 2016. (**Exhibit 3-Safer Tri-County Roads Map covers 2011 to 2016** http://www.safertricityroads.com/uploads/8/7/7/8/87781356/calaveras_orig.jpg) This helps to identify problem sites in each Supervisor District and community. This helps to inform choices to increase land use densities and intensities in locations with already high accident rates.

A total of 1,647 accidents are noted ranging from fatalities, severe injury, visible injury, injury with complaint of pain to property damage only. ACCIDENT RATES ARE A MEASURE OF THE LEVEL OF SAFETY ON COUNTY ROADS. We can no longer accept failure to fund our roads.

“According to Butzler, the number of fatalities has doubled so far this year. In 2016, there were 10 fatal collisions. With about a month left in 2017, the CHP has responded to 19 fatal incidents in which 20 people have lost their lives.” (See Exhibit 4- Fatality rate doubles in Calaveras County, Calaveras Enterprise, November 30, 2018) In the Final EIR, please make a good faith effort to disclose this aspect of traffic safety existing setting.

In the Final EIR, add to the existing setting section a discussion of public perception of the

existing roadway conditions. This will inform the choice of thresholds of significance, as existing adverse impacts suggest lower thresholds of significance. (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1123 [Thresholds of significance for cumulative impacts may have to be lower when the existing environmental setting is already degraded to substandard levels].) It will also help with selection of the appropriate impact mitigation path.

This next article is indicative of public perception and existing environmental setting on local roadways:

Bottleneck: traffic woes in central Valley Springs

Published July 31, 2018 at 04:59PM

By Guy McCarthy The Union Democrat @GuyMcCarthy

[for Valley Springs photos visit: <https://www.uniondemocrat.com/localnews/6417331-151/bottleneck-traffic-woes-in-central-valley-springs>]

Bottleneck traffic jams occur most weekday mornings in Valley Springs, especially during the school year, as Calaveras County workers and high school students head to San Andreas, and parents jockey for position on streets without sidewalks leading to Valley Springs Elementary. Matthew Thomas is co-owner of Gold Line Barber Shop on Highway 12 just southwest of the junction with Highway 26 in Valley Springs, the town's main intersection causing so many traffic issues.

"There's an alarming lack of infrastructure that's had catastrophic effects on local transportation," Thomas said as he trimmed a customer Tuesday afternoon in his shop. "What we've had here is an explosion in population and businesses that isn't supported by roads out here."

Growing pains

Valley Springs is an unincorporated community between New Hogan, Pardee and Comanche reservoirs, west of San Andreas. The 2010 census estimated there were more than 3,500 residents. Thomas estimates the greater Valley Springs area is now home to as many as 15,000 to 20,000 people.

Daniel Twigden, waiting for his turn in a barber chair, said he's lived in Valley Springs about six years and, in that time, there's been significant residential development.

“That would mean more taxes, but I don’t see the infrastructure to match it,” Twigden said. “You see evidence of demand, because there are franchises like Dollar General and AutoZone moving in here. They wouldn’t come if they didn’t see the growth and future growth coming. But I haven’t seen road works here other than the four-way stop signs, about a year and a half ago.” Thomas compared the four-way stop signs at Highways 12 and 26 to “the Dutch boy with his thumb in the dike.”

Twigden said it was “like robbing Peter to pay Paul, just creating another bottleneck in the same place.”

Traffic backs up

Ben Stopper, a candidate for Calaveras County District 5 supervisor who’s lived in nearby Rancho Calaveras since 2011, said the only public transportation serving Valley Springs he’s aware of are Calaveras Transit buses.

About 7 a.m. on weekdays at the 12-26 junction in central Valley Springs, when everyone’s going to work or trying to get their kids to school, or both, traffic backs up south on Highway 26, sometimes a half-mile or more all the way to a subdivision of recently built homes called Gold Creek Estates, Stopper said Tuesday, standing outside Good Friends Chinese Restaurant just north of the 12-26 junction.

“We’ve been pushing for a safe schools plan for a long time,” Stopper said. “The traffic backs up, and there are no sidewalks for the kids walking to school.”

Lack of planning

Mike Ford was also waiting to get in a barber chair Tuesday at Gold Line. He said he’s lived in the Valley Springs area since 1984 and believes “Infrastructure here sucks.” Elected supervisors have failed Calaveras County for a long time, and there’s been a no-growth, keep-industry-out, good-old-boys network for decades, Ford said. Rural property owners, including cattle ranchers, sold their land to developers, but no one has led the way with infrastructure like roads to support all the new homes and businesses.

“We have major highways running through our rural, residential areas,” Thomas said. “The number of vehicle-on-vehicle accidents illustrates the problem. It almost feels like every week I

hear about another fatal accident out here. In our residential neighborhoods, a lot of children walk along the highways to get to school. These intersections are deadly.”

Every morning, Thomas said, it’s “like a drag race” with so many people driving fast up the hill to get to Mokelumne Hill and San Andreas.

The Valley Springs area needs more regulated traffic to break up the speed zones, Thomas said, and make the roads safer.

Employees at Valley Springs Elementary referred questions Tuesday to Tessie Reeder, the transportation supervisor with Calaveras Unified School District . She was not available to comment.

Focus on town center

People with the Calaveras Council of Governments know there are issues in Valley Springs. They are recruiting individuals to apply for appointment to an advisory committee for the agency’s Valley Springs Town Center Connectivity Plan.

According to staff with the Calaveras Council of Governments, also known as CCOG, the council and Calaveras County have received a \$219,112 state transportation planning grant to undertake a “complete streets capital infrastructure plan” for Valley Springs.

Staff with CCOG say the Valley Springs Town Center Connectivity Plan is intended to provide for community-level planning to develop conceptual street-level transportation improvements that build on what’s already been spent on Highway 26 and the 12-26 junction in Valley Springs. They want to include “community aesthetic” in the plan, and provide “safe travel options for residents and students to schools and community centers.”

Partners in the project include Calaveras Unified School District , Caltrans, the California Highway Patrol, Calaveras County , CCOG and the Valley Springs community.

The advisory committee for the Valley Springs Town Center Connectivity Plan will be asked to produce a project website, other public outreach materials, summaries of outreach and input, as well as progress reports and expenditure reports.

Applications to be considered for appointment to the are Valley Springs Town Center Connectivity Plan advisory committee are due by Aug. 17.

Calaveras Council of Governments was formed in January 1998 under a joint powers agreement. It is the regional transportation planning agency for Calaveras County and Angels Camp, the only incorporated town in the county.

The council has seven members — two county supervisors, two Angels Camp councilmembers, and three members selected from the public at large. They generally meet the first Wednesday of each month at the Calaveras County Government Center on Mountain Ranch Road in San Andreas.

Current CCOG members are citizens John Gomes, Justin Catalano and Tim Muettert, Gary Tofanelli, District 1 supervisor, Dennis Mills, District 4 supervisor, and Angels Camp councilmembers Amanda Folendorf and Linda Hermann.

Contact Guy McCarthy at gmccarthy@uniondemocrat.com or 588-4585. Follow him on Twitter at [@GuyMcCarthy](https://twitter.com/GuyMcCarthy).

(<https://www.uniondemocrat.com/localnews/6417331-151/bottleneck-traffic-woes-in-central-valley-springs>)

Page 4.13-11 Guides and Plans for Operating Conditions of Caltrans Facilities

In the Final EIR, please display the operating condition guidelines (e.g. LOS) for the state facilities listed here. This is important information that could influence the threshold of significance and the path to impact mitigation.

Page 4.13-13, under heading **Issues Not Discussed Further,**

“With a population less than 50,000, Calaveras County does not meet the minimum population threshold for an urbanized area that would **require** the County to establish a Congestion Management Agency and to prepare a Congestion Management Program. Therefore, none of the roadway segments in Calaveras County are subject to standards of a Congestion Management Program. **It should be noted that future population growth occurring under buildout of the Draft General Plan would likely result in a total Countywide population of greater than 50,000. However, given that the County does not have a Congestion Management Program, consistency with such cannot be evaluated at this time.**”

Impacts related to the above issue are not further analyzed or discussed in this EIR chapter. (Emphasis added)

On the Calaveras County website the population listed is 44,828 (2015).

The Suburban Website listing Population Demographics for Calaveras County, California 2017, 2018 listed 45,578.(<https://suburbanstats.org/population/california/how-many-people-live-in-calaveras-county>)

Calaveras County was required to institute a Storm Water Grading Ordinance with a population below 50,000, when the threshold for such an ordinance was a population of 100,000. This occurred because during heavy development there were sediment issues in rivers and streams that were a serious concern to the authorities at the state level.

Given the existing lack of funding to meet current and future road maintenance and improvements, and given that there are many approved, unbuilt subdivisions that will probably be built if the economy continues to improve; and given that there are already 13 segments that are degraded down to LOS D – all on State Highway Segments depended upon for regional and statewide transportation; there is a crying need to adopt feasible measures to mitigate significant traffic congestion impacts. Congestion Management Plans are a feasible mitigation, as they are routinely conducted by local governments throughout the State of California (including neighboring San Joaquin County, see Exhibit 8). (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1173 [When provided examples of mitigation measures implemented elsewhere, and agency must either implement them or explain why not].)

The fact that a congestion management plan is not yet required by the Congestion Management Act, is not relevant. The question is, Can Calaveras County feasible complete a Congestion Management Plan during the next 20 years leading to the reduction in traffic congestion impacts from general plan buildout? Is it feasible to complete the plan and reap congestion management benefits prior to the County reaching the 50,000 in population threshold? It is important to implement impact mitigation BEFORE the significant impacts result from development under the proposed general plan. (*POET, LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 736-740 [Mitigation cannot be deferred past the start of project activity that causes the adverse environmental impact].)

We want the County to prepare and deal with the existing and resulting congestion. **This DEIR does not adequately justify delaying discussion of a Congestion Management Program (CMP). Why isn't it appropriate to list a CMP as a Policy with a stated time line, to allow**

CCOG time to do the work to get the program in place? Please respond to this recommendation in the Final EIR.

The excerpt below offers justification for a CMP.

2018 Regional Congestion Management Program San Joaquin Council of Governments

1 Chapter 1 Introduction 1.1 PROGRAM BACKGROUND

In June, 1990 California voters approved legislation which increased funding for California's transportation system. With the passage of Proposition 111 there were new requirements for the transportation planning process that requires urbanized counties, such as San Joaquin County, to prepare, adopt, and biennially update a Congestion Management Program (CMP).

As the designated Congestion Management Agency (CMA) for San Joaquin County, the San Joaquin Council of Governments (SJCOG) is required to maintain the state-mandated CMP for San Joaquin County. For most CMA's, implementation of the state CMP requirements also implements the federal Congestion Management System (CMS) planning requirements. The objective of the CMS/CMP is to ensure that new land uses are developed in tandem with the necessary transportation improvements by coordinating the land use, air quality, and transportation planning processes.

The Measure K Renewal Ordinance, approved by San Joaquin County voters in November 2006, required SJCOG to have in place and be fully implementing a regional CMP by January 1, 2008 (referred hereafter as the RCMP). The 2012 RCMP updated SJCOG's RCMP process to comply with state and federal requirements by developing methods and guidelines to streamline the congestion management process and facilitate program implementation via automation and web based applications. It also achieved greater consistency with current state law by integrating the SJCOG CMP process with SJCOG's other transportation planning and programming functions. This in turn, enhanced SJCOG's ability to satisfy the federal Congestion Management System (CMS) requirements as proscribed by FHWA's federal certification review process. The 2016 RCMP further refined SJCOG's RCMP process by better capturing the benefits and products developed as part of the 2012 RCMP update and better synced the RCMP with the Regional Transportation Impact Fee (RTIF) program.

Final Draft- San Joaquin County Regional Congestion Management Program, April 2018

(<https://www.sicog.org/DocumentCenter/View/3804/2018-Regional-Congestion-Management-Program---Final-Draft>)

What are the differences between a Congestion Management Program and Transportation Impact Study Guidelines (IM C-2B)?

Page 4.13-16 & 4.13-22 Conflicts with approved plans.

In 2017, Calaveras COG adopted a new Regional Transportation Plan. (See Exhibit 6) The CPC comments on that plan identify conflicts between the 2017 RTP and the Draft General Plan that may result in environmental impacts. (See Exhibit 6) In the Final EIR, please identify mitigation measures to resolve these conflicts.

Page 4.13-27, under **Mitigation Measures, Policy C 2.2**, 13 county road segments are listed as exceptions to the LOS C required operating level.

- SR 26 from the San Joaquin County line to Silver Rapids Road-LOS D is acceptable to the County.
- SR 4 from Vallecito Road to Kurt Drive-LOS D is acceptable to the County.
- SR 4 from Lakemont Drive to Henry Drive-LOS D is acceptable to the County.
- SR 4 from Henry Drive to Sierra Parkway- LOS D is acceptable to the County.
- SR 12 from SR 26 to SR 49 – LOS D is acceptable to the County.
- SR 49 from Pool Station Road to Gold Strike Road- LOS D is acceptable to the County.
- SR 49 from Gold Oak Road to Mountain Ranch Road- LOS D is acceptable to the County.
- SR 49 from Dog Town Road to SR 4 (W)- LOS D is acceptable to the County.
- SR 49 from SR 4 (W) to Murphys Grade Road – LOS D is acceptable to the County.
- SR 49 from Stanislaus Avenue to Mark Twain Road –LOS D is acceptable to the County.

- SR 49 from Mark Twain Road to Bret Harte Road – LOS D is acceptable to the County.
- SR 49 Bret Harte Road to SR 4 (S) Vallecito Road- LOS D is acceptable to the County.
- SR 49 from SR 4 (S) Vallecito Road to Tuolumne County Line – LOS D is acceptable to the County.

As depicted in Table 4.13-2, the range of traffic on a Major Two Lane Highway under LOS D goes from 935 to 1554 peak hour trips. Thus, although the County may insist on allowing roads to breach LOS C, the County need not raise the LOS to the entire range of LOS D. Page 4.13-24 notes that many of the State Highways will only slightly surpass LOS D (by 40 to 80 peak hour trips) at general plan buildout, and the maximum exceedance is 150 peak hour trips.

In the Final EIR, rather than moving the LOS Standards to LOS D for 13 State Highway segments, consider raising the LOS to a specified peak trip amount WITHIN LOS D (e.g. 1100 peak hour trips), so that drivers will not unnecessarily experience near LOS E conditions.

In the Final EIR, for roadways that exceed LOS C by 80 or fewer peak hour trips, please consider modifications to the Land Use Map in those areas to reduce the trip generation at general plan buildout. This is a way to actually mitigate the traffic.

Pages 4.13-31 to 4.13-32

IM S-3G Coordinated Fire Prevention and Response Planning Efforts.

.....”Coordination efforts should include evaluations of proposed road improvements in the County’s Circulation Element and Regional Transportation Plan that may improve emergency evacuation routes. Support may be in the form of hosting a strategic planning session for emergency response personnel and planners. Coordination may also be achieved in the form of sharing GIS database layers and fire modeling data.

As these comments are being written, there are about 19 very large fires burning in California, 33,000 firefighters from a wide area are fighting the blazes, and yes, there have been fatalities. The hills in a wide area are obscured by smoke and warnings have been distributed to the residents to be mindful of the effects of the smoke. We are almost 3 years out from the Butte Fire, but the County and the fire victims are far from recovered. It is very difficult to read the words may, or may be, or should, when talking about how this county is going to do a better job in the

future when it is faced with the next huge fire or storm event. Please make a more definitive statement here. Suggestion, “will”.

Although this measure is a positive step forward, IM S-3G defers mitigation efforts but does not commit the County to achieve any level of impact mitigation, thus it is not a valid mitigation measure. (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 443 [Lead agency cannot defer mitigation without committing to meet performance standards]; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 197, 199 [A promise to prepare a plan in the future, without any commitment to mitigate the impact, is an inadequate mitigation measure under CEQA].) In addition, there is no explanation why this coordination did not happen over the last 12 years of this planning process, so that concrete mitigation measures would now be available for adoption. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670-671 [Mitigation deferral is improper unless there is a reason for the deferral and mitigation performance standards are set forth]; *Communities for a better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 95 [The time to formulate mitigation measures is during the EIR process, before final project approval].) Please make this a more definite effort with specified tasks and outcomes.

IM S-3V Evacuation Routes.IF a Battalion Evacuation Plan is prepared as recommended in the Calaveras County Community Wildfire Protection Plan.

DO NOT USE THE WORD “ IF “ IN THIS INSTANCE—NOT ACCEPTABLE! Please use “WHEN” instead.

Page 4.13-33

Regarding Policy C 3.1, Policy C 3.2, Policy C 3.3 and possibly Policy C 3.4. and Policy C 3.6, Will these transit related policies still be accurate as presented in this DEIR, given that, as reported on March 9, 2018, in the Calaveras Enterprise, “County relinquishes control of the public transit system.”? (Exhibit 5) See excerpt below:

“City and county lawmakers have entered into an agreement with the Calaveras Council of Governments (CCOG) to allow the agency to take over management of the county’s transit program.

The agreement will allow both county and Angels Camp representatives to have a say in the program through a Joint Powers Authority board, but will relieve the county of its burden of managing the system, said Amber Collins, executive director of CCOG.”

The citizens of Calaveras County are fortunate to have a transit system. It is very positive that CCOG will be managing the operation of the transit.

Page 4.13-34

1M C-2B Transportation Alternatives in Impact Fees

Consider transit capital improvements and non-auto travel improvements necessary to serve new development in impact fee programs to fund public transportation infrastructure, park-and-ride lots, and bicycle and pedestrian facilities associated with the new development.

This was a recommendation of Caltrans on page two of its response to the NOP.

“Caltrans recommends that the DEIR consider the need to review traffic impact fee programs and their associated capital improvement programs to ensure that the cumulative impacts of development are adequately mitigated. Incorporating active transportation, goods movement, and transit facilities into the fee programs would help improve funding of Complete Streets and provide improved transportation choices to reduce reliance on private vehicles. Upon implementation of anticipated SB 743 CEQA Guidelines changes, these change might also act to mitigate vehicle miles traveled (VMT) impacts.”

Again, while this is a positive step forward, it is not mitigation. “Consider” is not acceptable. Suggest “Identify”. (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 197, 199 [A promise to prepare a plan in the future, without any commitment to mitigate the impact, is an inadequate mitigation measure under CEQA]; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 198-199

[Deferral of a fair share fee mitigation program is invalid when there is no evidence it would be practical and the lead agency has not committed to creating the plan.]

Page 4.13-35

IM C-3A Park-and-Ride Facilities –

As funding allows, designate and implement appropriate “Park and Ride” facilities, and promote ridesharing programs.

“As funding allows” isn’t going to cut it. If growth is allowed, these impacts need to be planned for and a legal funding mechanism developed. In the Final EIR identify the funding need in dollars annually, the available funding sources, efforts that will be made on an annual basis to secure those funds, targets for the number and locations of park and ride facilities (e.g. one in each Supervisor district), list the feasible means of promoting ridesharing, and the number of means that will be selected in the future. (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 412 [Selection of specific mitigation measures may be deferred when the lead agency has evaluated the impact, identified feasible mitigation measures, and has committed to mitigating those impacts].)

IM C-5A Bicycle and Pedestrian Plans

This plan will have to be more than updated, isn’t there a formal procedure to accept this plan, involving the Board of Supervisors that must take place?

Caltrans also proposed this mitigation measures on page 2 of its comments on the NOP.

“The DEIR should consider whether policies requiring discretionary approval including identification and mitigation of project-specific impacts for commercial, industrial, and high-density residential projects generating in excess of an appropriate threshold of vehicle trips would be a feasible way to reduce the severity of any significant and unavoidable transportation impacts of the Plan. “

Please consider this impact mitigation measure in the Final EIR. If you do not accept it, please explain why, based upon substantial evidence, the measure is infeasible. (Banning Ranch Conservancy v. City of Newport Beach (2017) 2 Cal.5th 918, 94[“[M]ajor environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail.” (Guidelines, § 15088, subd. (c).)]; *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1175-1176 [It is an abuse of discretion to reject alternatives or mitigation measures that would reduce adverse impacts without supporting substantial evidence].)

Exhibits:

Exhibit 1- Caltrans Officials Admonish County For Lack of Road Planning, *Sierra Sentinel*, April 12, 1990

Caltrans Officials Admonish County For Lack of Road Planning

Patty Shires, Editor

Sierra Sentinel News-April 12, 1990

Arnold, California

Obviously and visibly frustrated, Caltrans officials bluntly told Planning Commissioners on April 5 that all developments being approved by the county are impacting the highways and Caltrans has no money to improve roads.

Of specific concern was the rapid growth taking place along Highway 26. District 10 Permit Engineer John Gagliano told Commissioners that he is “really concerned about what’s happening.” He said Caltrans is seeing more and more development front on the highway and the roads will soon no longer have the ability to carry the increased traffic load. “We’re concerned and you ought to be concerned,” he declared.

Another Caltrans representative Gene Coleman displayed some maps to illustrate the problems caused by approving developments with small lots fronting on Highway 26. Even 40 acre and

large parcels fronting the highway will eventually become a problem because these lots can be broken down again and again into smaller parcels.

Gagliano explained that the county is approving subdivisions on the highway without requiring dedication of right of way and this will “create a helluva lot of congestion when built out.” He said, “I can tell you Caltrans is doing no planning” because there is no money to purchase right of way. Besides, Caltrans has taken the attitude that the county can take care of the problem because they are allowing the development to occur. He added, “the problem you are creating—you’ll live with.”

He stressed that someone needs to analyze the future impacts and plan facilities to take care of the traffic. He pointed out that road improvements take a long time in coming to fruition and mentioned that Oakdale and Livingstone bypasses still haven’t been built after 25 years.

Bob Ikeda, Assistant Chief Traffic Engineer, was critical of the county for failing to notify Caltrans on rezoning applications and commercial development.

Planning Director Danny Mao promptly replied, “that’s not true.” He noted that all rezoning applications go to various agencies, including Caltrans. However, if property is already zoned commercial or industrial, then no notice is sent. Ikeda said that no other county operates this way and intimated that Calaveras is the only county that doesn’t cooperate. Mao explained that property already zoned needs nothing but a building permit which is why Caltrans is not advised. If the property accesses onto the highway, then the owner must apply for a Caltrans encroachment permit. He suggested that Caltrans submit a plan and the Planning Department will then advise applicants of Caltrans requirements.

Ikeda differed with Mao, stating that developers take advantage of the situation.

Mao insisted the county is doing nothing different from any other county. On rezoning and use permits, the county is required, by law, to notify Caltrans and other affected agencies which have 21 days to respond. After 21 days the county is not obligated to accept the recommendations (and this has occurred in some instances).

Gagliano predicts that Highway 26 will soon become like East Sonora which has so many accesses and so much traffic that no one can enter the highway. He emphasized, “if you don’t act, it’s going to be too late.”

Planning Commission Chairman Rosemary Faulkner explained that the county requires dedication of rights of way and setbacks for county roads, but there are no such

guidelines from Caltrans and the Commission has no jurisdiction to require right of way for state highway absent such criteria.

Gagliano stressed, "You have to start talking to us more." He admitted cooperation has been much better in the last year, but there is still a need for improvement in communications. He explained that Caltrans has developed a Precise Plan for Highway 26, but the county has taken no action to adopt the plan and now Gold Creek Estates has been reactivated which is posing another problem. He added, "the inaction is causing problems."

The precise Plan, released last spring, involves setting right of way boundaries, as appropriate, to aid the county in protecting right of way for widening Highway 26 from two lanes and realigning the existing route to meet present day highway standards.

The Plan was initiated in response to substantial planned development to provide for appropriate setback distances. The Plan consists of two alternatives which differ from each other only at the easternmost end where Highway 26 ties into Route 12. Caltrans and county staff met in May, 1989, and all involved approved of the alternatives as approved and recommended that development of both alternatives continue.

Caltrans staff finalized the geometrics in early July and presented final layouts to county staff on July 14. It was decided that the county would pursue the selection and approval of an alternative through their own processes.

Mao recalled that Public Works Director Ted Pederson had some concerns about the width of right of way which Caltrans proposed. He believes Pederson sent a letter to Caltrans relative to those concerns; however, there has been no agreement on the best alignment.

Marty Price of Public Works explained that there is a conflict between private rights and public needs which needs to be resolved. He considered it "unfortunate" that a stalemate exists and agreed that both parties need to exert more effort to work together to resolve these issues which will make the Commission's job easier.

District 3 Commissioner Dick Stites inquired about the status of the request of Caltrans, regarding Thousand Hills, that no approval be given which adds to the traffic volume until certain provisions are made to mitigate the increased traffic. He also queried how provisions can be made to ensure that roads, impacted by development, will be improved.

Ikeda replied, "by working together."

Mao reported that consultants are presently preparing an environmental impact report and have hired very competent traffic engineers to perform the studies and analysis. He did not, however, know the status of the project at this time.

Mao suggested that the textbook principle be applied in the real world. Ideally, he said, Caltrans could design highways with the necessary right of way and notify the county of the recommendations. The county could then inform developers, in approving maps, that no building can take place within the right of way. They could request frontage roads parallel with the highway with accesses every half mile or mile. He concurred that the county doesn't want Highway 26 like a street. However, until Caltrans develops some policies or standards, the county legally can't tie up property.

Faulkner repeated that the Commission does not have jurisdiction over state highways.

Gagliano explained that once development is approved, Caltrans must allow access to each parcel which will eventually entail significant cross traffic. He noted that the Precise Plan calls for eight foot shoulders which he doesn't believe are adequate for the future. The county has contended that 80 to 100 feet of right of way is too wide but Gagliano speculated that it may not be wide enough in the future in light of Mao's concept of parallel roads.

Gagliano informed the Commission that Stockton's plan was just released and they contend that eight lanes on Interstate 5 and Highway 99 are not enough while this county is saying 100 feet is too much.

District 1 commissioner Frank Wibiral threw the ball back at Caltrans by asking how long the state has been working on the matter; when Caltrans expects to answer the county's letter and whether a schedule for meeting has been set.

Gagliano explained that the county is saying the state wants too much right of way and the state is saying they think more is needed.

Wibiral replied, "let's not think, let's do, let's get together" and he asked "are we going to set a meeting?"

Ikeda noted that Pederson was meeting with Caltrans engineers that day.

Gagliano explained that the issue cannot be resolved until such time as the county determines that amount of traffic at buildout.

Wibiral took exception to the state insinuating that the county has become stagnant. In his opinion, he was hearing the state saying they were washing their hands and putting it totally in the county's lap. He suggested that maybe the county and state should get politicians involved to obtain more funding.

Gagliano agreed that the political arena might be the best solution to the problems. He said the state used to put in highway systems to support traffic but that has changed. He added, "If I didn't care, I wouldn't be here." He also advised the Commission that the ballot measure to raise the gas tax nine cents will not benefit Highway 26 at all as the routes it will fund have already been named.

District 4 Commissioner Dick Barger implied that the state might have more funds if there was better management. He was critical of Caltrans sending eight guys and a pickup to patch the road while only one guy works and the other seven lean on a shovel.

Gagliano suggested that he contact the local superintendent when he sees incidents of this nature.

Explaining that she was not being critical, Faulkner said she didn't understand how the situation at La Contenta was allowed to happen. There's a commercial complex and nursery on one side and shopping center across the street and now Gold Creek Estates and yet no left turn pocket was required. She asked, "was it our fault or your fault?"

Gagliano said the state was upset over this but the real estate office circumvented Caltrans by using a side street for access. He said the county was notified that this type of thing was not helping the situation and ends up causing serious problems but it was approved.

Mao explained that if traffic uses the main highway for access then a Caltrans encroachment is required but not when access is from a county road.

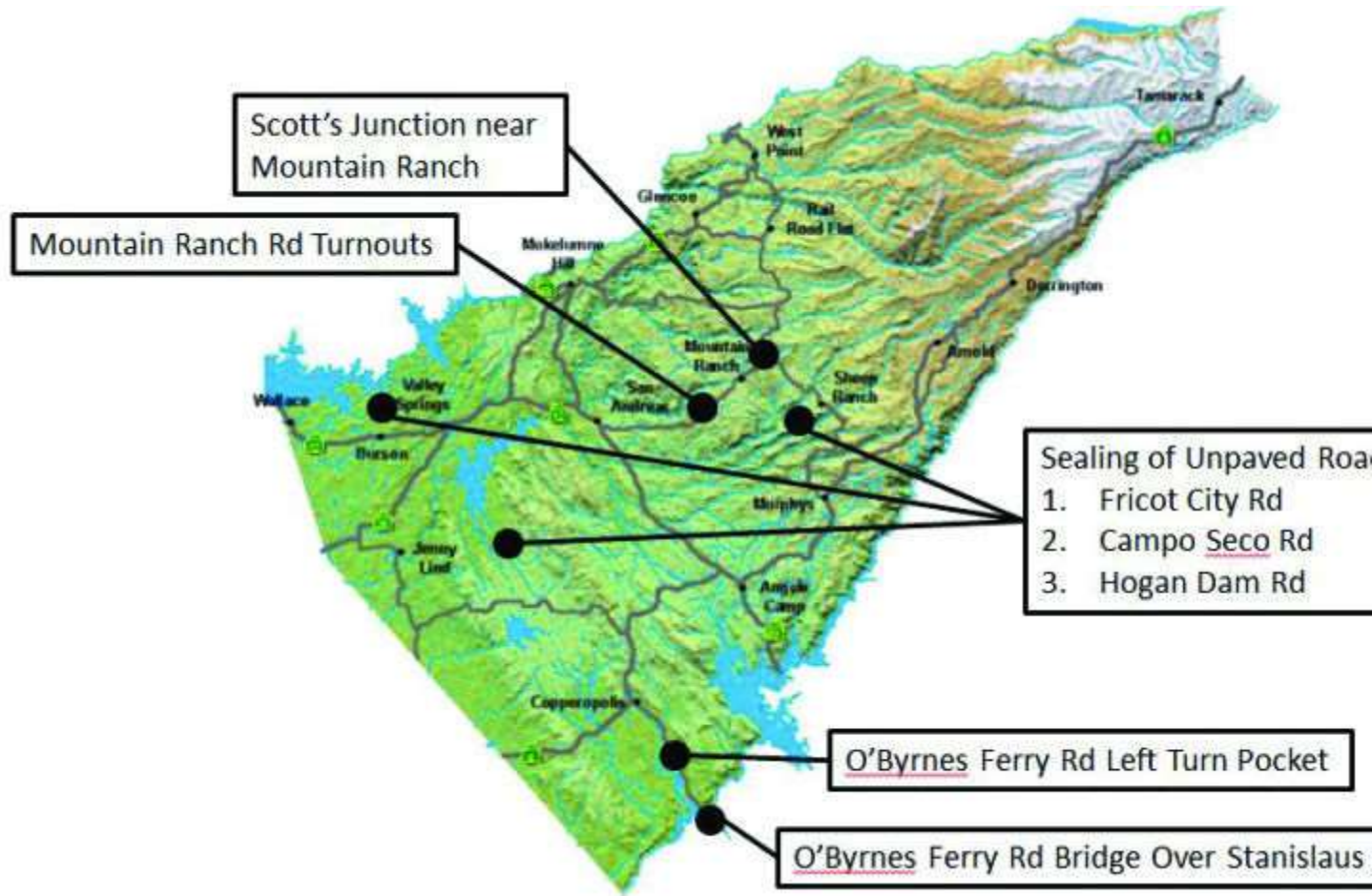
Ikeda stated that any project that impacts the highway should require a left turn lane whether or not access is directly from a county road.

A committee, composed of Stites and Wibiral, was set up to meet with Caltrans.

Exhibit 2- Millions in Road Projects on Hold, Calaveras Enterprise, May 30, 2014

Millions in road projects on hold

Posted: Friday, May 30, 2014 / Calaveras Enterprise/ Dana Nichols



Millions in road projects on hold

Major projects including a \$62 million bridge near Copperopolis may never be built after county leaders determined they were unable to come up with local dollars to match federal grants.

County may have to return \$740,000

Progress is stalled on more than \$68 million in road projects in Calaveras County, including a crucial replacement of an aging bridge linking the Copperopolis area to neighboring Tuolumne County.

County officials reported this week that the county's inability to move forward on the projects jeopardizes future federal funding for other projects here and raises the prospect that the county might have to repay as much as \$740,619 in federal grant funding that it has already spent.

The biggest problem: the county does not have the approximately \$10 million needed to pay its share to finish the projects. As a result, it will likely never receive almost \$57 million in federal funding.

A grim-faced Calaveras Board of Supervisors voted unanimously Tuesday to "deobligate" funding for projects.

"I sit here very embarrassed," said Board of Supervisors Chairwoman Debbie Ponte. Ponte noted that although the board over the years had approved the various projects, members were caught unaware that the county had bitten off more projects than it could deliver.

She said the way the county government manages its road funding is a "broken process."

At least some of the affected projects may never be built, or at least won't be built as currently designed. The largest is a planned \$62 million replacement for the bridge where O'Byrnes Ferry Road crosses the Stanislaus River on the east end of Lake Tulloch.

The other projects that are now dead – or at least in limbo due to the funding problems – are a left turn pocket planned for O'Byrnes Ferry Road in Copperopolis, improvements including a school bus stop at Scotts Junction where Sheep Ranch Road meets Mountain Ranch Road, turnouts on Mountain Ranch Road, and the asphalt paving of several gravel roads.

Interim Public Works Department Director Mike Miller said he's preparing a list of policies that could make such debacles less likely. Among them would be the requirement that the county government set aside funding for its match when it accepts a grant.

Miller said another policy he will propose is separating the ongoing road maintenance fund from the fund used for capital improvements, such as new bridges and road improvements. In the past, when money flowed more freely, county managers at times shifted money between uses to make a local match or complete a project.

Robert Pachinger, the interim Calaveras County surveyor and an engineer in the Public Works Department, said during a report on the issue that at times, the same funds were listed as local matches for more than one grant-funded project.

When progress on projects slows, California Department of Transportation officials who oversee the use of federal highway funds will check on them. If it appears that a local government can't finish a project then it will be put on a "red flag" list, Pachinger said.

Being on a red flag list means that the local government will be unable to get more grant funding until the problem is resolved. One way to resolve the red flag is to terminate – or "deobligate" – the project and return any grant money already spent.

Tuesday's vote was, in essence, a judgment that it was better to cut county losses while it was on the hook to return only \$740,619 than to continue with projects that would require more than \$10 million in local funds.

Pachinger and Miller said they are working with state highway officials to determine whether county work on the design phase of several of the projects can be deemed "complete," which would mean that the funds used for the purpose would not have to be returned. That would also mean the county has designs ready should funding come available in the future.

In addition to the money the county may have to return, it has also already spent \$765,514 in local funds on the five projects, money that has been effectively wasted if the designs are never used and the projects never built.

Miller said that this week's action addresses all the "red flags" of which he is aware. But he said there are other struggling projects that could draw scrutiny and be red flagged. The county is in the midst of efforts to replace or repair more than a dozen bridges, and Miller is scheduled soon to return to the board of supervisors to report on those projects.

Some other recent projects narrowly escaped red flag status. One was the Jenny Lind Elementary School Safe Routes to School project. That project created a sidewalk on a section of Highway 26 near the school.

That project faced numerous delays, in part because of disputes between county and school leaders on how to proceed. Supervisor Cliff Edson asked Miller if the Jenny Lind project had been at risk of a red flag.

"Yes, it was," Miller said.

Miller said Jenny Lind was completed, in part, because the California Department of Transportation wanted it to succeed and worked with county leaders to resolve problems.

The magnitude of the projects that didn't get rescued from red flag status came as a shock to some at Tuesday's Board of Supervisors meeting. Dave Haley, a vice president for the Castle and Cooke development company, said that failing to replace the existing O'Byrnes Ferry Bridge is a blow to the entire Copperopolis area.

"To date, there have been many traffic deaths on the bridge," Haley said.

Not everyone saw the cancellation of the projects as bad news.

Cynthia Sanchez of Mountain Ranch thanked the board for killing the Mountain Ranch Road turnouts project. That project, designed to create turnouts to allow a place for slow vehicles to get off the road, faced opposition from some area residents who either felt the design would fail to address safety issues or who didn't want it to cause damage to an American Indian burial ground.

"We, the community, have been fighting this project for several years," Sanchez said.

Pachinger, during his report, referred to the controversy over the turnouts.

"We have been mired in an environmental process," Pachinger said of work related to the burial ground.

Pachinger said the extra environmental studies both delayed the project and increased costs – both factors in the eventual decision to de-obligate its funding. The county government had already spent \$365,014 in local funding and \$134,986 in federal grant funding on the turnouts project.

The entire project was expected to cost \$1.9 million, including an additional \$684,986 in local funding. If the county had another \$149,851 available, however, it could finish the design phase, thus creating a "shovel ready" project that would be eligible should grant funding become available again.

The history of the five projects varies. Some, like the O'Byrnes Ferry Bridge, were approved almost a decade ago, long before the economic downturn of 2008 dried up funding. The most recent was the Scott's Junction proposal, which was approved in 2012.

It is clear that by 2013, Public Works staff was aware that the projects were in trouble. Former Public Works Director Tom Garcia, who departed the agency in January for a job in Temecula, had already notified the California Department of Transportation, that Calaveras County was de-obligating funding for three of the projects.

Under broad power that the Board of Supervisors had granted the Public Works director to manage capital projects, Garcia was able “deobligate” or cancel the projects on his own. One likely fallout of this week’s events is that supervisors will revisit whether they want a department director to have that much power.

According to the staff report, county Public Works engineers concluded that they’d best get “explicit board concurrence” for the termination of all the projects. In part, that’s because the board would have to cope anyway with the financial impact.

The county government already has an \$8 million structural deficit in its general fund. While the road funds that might be used to repay the federal grants are a separate account, their loss also represents real pain for county residents.

The understated Public Works staff report said that if road maintenance funds that the county receives from the state gas tax are used to repay the grants, it will “detrimentally affect the department’s ability to function.”

Exhibit 3-Safer Tri-County Roads Map covers 2011 to 2016

http://www.safertricountyroads.com/uploads/8/7/7/8/87781356/calaveras_orig.jpg

Exhibit 4- Fatality rate doubles in Calaveras County, Calaveras Enterprise, Nov. 30, 2017

Fatality rate doubles in Calaveras County

Car crashes claim more lives

By Sean P. Thomas Sean@calaverasenterprise.com / Nov 30, 2017

Three people – an infant and two women – died in car crashes over a four-day period beginning on Thanksgiving evening, bringing the 2017 total of roadways deaths to 20, according the California Highway Patrol.

Sarah Rae Rohde, 27, of Copperopolis, her 19-month-old daughter, Arianna Harris, and Brenda McCann, 65, of Valley Springs, died in separate incidents over the holiday weekend.

On Thanksgiving evening, Rohde was driving west on Highway 4, west of Holiday Mine Road at 55-60 mph with two passengers, a 1-year-old girl and a 4-year-old boy. At the same time, a black bear entered the highway. The vehicle struck the bear, sending it through the windshield of the vehicle.

The driver and a the young girl were killed and the 4-year-old boy was flown to the University of California, Davis, Medical Center for treatment of minor injuries.

Just three days later on Monday, McCann was involved in a three-car crash near Valley Springs.

Mark Linnerman, 29, of Modesto was driving a 2005 Ford west on Highway 26, west of Vista del Lago Drive, the CHP said. At the same time, Wade McCann was driving a 1998 Jeep in front of Linnerman. According to a press release, McCann stopped to make a left turn onto a frontage road that runs parallel to Highway 26, which Linnerman failed to recognize, and the vehicles collided.

The force of the impact sent McCann's Jeep into the eastbound lane, where it was stuck by a 2014 Ford F150 pickup driven by Rudi Leon, 44, of Valley Springs.

Brenda McCann was riding in the front passenger seat of the 1998 Jeep and was transported to the Mark Twain Medical Center, where she was pronounced deceased. Highway 26 was subsequently blocked for an hour and 20 minutes.

No arrests were made and drugs or alcohol are not believed to be factors in either of the collisions over the weekend.

The Valley Springs incident is still under investigation, according to the CHP.

Unfortunately for the California Highway Patrol, fatal collisions are becoming far too common in Calaveras County. CHP San Andreas Public Information Officer Tobias Butzler said that this year, the number of fatalities has “skyrocketed.”

According to Butzler, the number of fatalities has doubled so far this year. In 2016, there were 10 fatal collisions. With about a month left in 2017, the CHP has responded to 19 fatal incidents in which 20 people have lost their lives.

The reasons are unknown, Butzler said. He and CHP lieutenants have racked their brains trying to find common themes to the fatalities, but so far, no commonalities have been discovered.

“We have had everything from bear collisions to people with toxic levels of methamphetamine in their system riding motorcycles,” said Butzler. “That will always end poorly.”

Highway patrol officials have discussed whether they need to focus on certain areas of the county or if they need to hone in on specific indicators.

Despite the CHP's best plans, they will not be able to catch everyone. Butzler called the Thanksgiving incident a rarity. He said that while animal-versus-vehicle collisions are more common in Calaveras County than in other areas, it's rare for bears to travel down the hill as far as the black bear was on Thanksgiving evening.

"That is one that is almost unavoidable," said Butzler. "Black bear. Black pavement."

According to a study by the University of California, Davis, Road Ecology Center, 135 black bears factored into incidents in 2016. That number was dwarfed by 6,119 deer and 377 coyotes involved in crashes. Elk, mountain lions and wild pigs were under 50 collisions a year. However, only five of the total collisions recorded in the study resulted in fatalities.

The Valley Springs incident is a different story, Butzler said. Unlike the black bear incident, the crash in Valley Springs was the result of human error, of which CHP must investigate.

"The fatality we had last night, someone was doing something wrong, and it is our job to figure out who that was," Butzler said.

"The overwhelming majority of collisions, someone was driving improperly and doing something wrong," he said.

Exhibit 5- County relinquishes control of public transit, Calaveras Enterprise, March 9, 2018

County relinquishes control of public transit system

By Jason Cowan Jason@Calaverasenterprise.com / Mar 9, 2018

City and county lawmakers have entered into an agreement with the Calaveras Council of Governments (CCOG) to allow the agency to take over management of the county's transit program.

The agreement will allow both county and Angels Camp representatives to have a say in the program through a Joint Powers Authority board, but will relieve the county of its burden of managing the system, said Amber Collins, executive director of CCOG.

The overall goal is to meet the community's needs, consolidate staff services and maximize the use of state and federal funding to meet transit demands, according to Collins.

Up to this point, the transit program has been funded primarily from the county's budget.

Funded by a \$1 million allocation, the county has had to lend the transit program money to make up for operational shortfalls as the Calaveras County Public Works Department managed day-to-day operations.

Calaveras County Administrative Officer Tim Lutz said the program has failed to meet the 10 percent fare box revenue mark needed to sustain the program. Though 90 percent of monies to fund public transit come from state and federal agencies, the fares

paid by passengers have only brought in enough to cover about 7 percent to 9 percent of the overall expense.

When the program falls behind in revenue generation, the debt increases. The county has had to loan the transit system money from the General Fund over the past three years because it has struggled to collect sufficient revenues. The program is eventually able to pay off the debt, but falls back into a hole the following year.

Last summer, Collins said the county paid transit \$300,000 out of the General Fund for operating costs.

Service execution, meaning fixed-route services or flexible transportation, as well as low ridership have been common issues with the transit system in recent years. Last year, a service line that took passengers from San Andreas to Stockton was discontinued after a year and a half because it did not reach adequate ridership numbers.

A change in management structure and organizational leadership was needed, said Collins. Transit needs to be someone's full time job, she added, referring to a change from the way the Public Works department managed the program alongside all of its other responsibilities in the county.

"It was really a small piece of what Public Works does," she said. "They struggled because they have not had that management support or leadership required to make the transit system successful."

The JPA removes all direct financial liability the county had for the program. The \$1 million or so the county budgeted for transit in 2018 will become available for other uses.

The CCOG will contract with an outside entity to handle day-to-day operations, just like the Public Works department did.

The expectation of the parties is that the CCOG will be able to streamline the processes for obtaining federal and state funds to run the program, Collins said. The agency has experience obtaining funds earmarked for specific purposes, and can fulfill requirements needed to properly spend the money.

“We cannot depend on the General Fund,” said Collins. “We have to budget accordingly, make sure we have a set reserve for three months operating, make sure we collect revenues.”

In relinquishing authority over the program, the county and the city of Angels Camp, which did not have as much of a say in the program before the JPA, will designate two representatives each to sit on the JPA board. Three citizen representatives will be elected to sit alongside city and county board members.

It may be too soon to say whether officials will change the schedule of transit operations in the near term. Collins said officials intend to spend the next year “thoroughly” reviewing transit services and could anticipate some changes either to the route structure or the way the services are provided.

Calaveras Transit currently operates routes from Rail Road Flat to Jackson; West Point through Mountain Ranch to San Andreas; Valley Springs to Columbia College; and Copperopolis to Arnold, among others. Collins said ridership is higher in those areas where the most residents dependent upon transit services.

Areas like West Point and Copperopolis, where populations are dispersed, have been difficult to serve, she said.

The county's transit program is among the few resources available for public transportation in Calaveras County. Online listings show the nearest hub for any kind of public transit or ridesharing services is in Stockton or Modesto.

The few taxi or limousine drivers in the county are based in Murphys and Copperopolis.

Exhibit 6, COG 2017 RTP and Appendix (attached in data file)

Exhibit 7, CPC comment on 2017 RTP (attached in data file)

Exhibit 8, San Joaquin County, 2016 Congestion Management Plan (attached in data File)

CHAPTER 6 - ALTERNATIVES ANALYSIS

6.2 Purpose of Alternatives

Significant Impacts Identified in the EIR

On pages 6-3 and 6-4, there are glaring omissions and self-contradictions in text and bullet points:

1) Page 6-3. The following issue areas of environmental impacts of the Draft General Plan are *incorrectly described* as “less than significant with mitigation incorporated.”

- **Biological Resources**
- **Cultural Resources**

“Less than significant with mitigation incorporated” directly contradicts Table 6-3 (pg 6-26) listing “Significant and Unavoidable” for Biological Resources and Cultural Resources; directly contradicts Table 2-1 “SU” after mitigation (pp 2-15 through 2-42); and directly contradicts the Biological and Cultural Chapter conclusions in this DEIR, “significant and unavoidable” (see Chapter 4.4 Biological Resources pp 30-49, and Chapter 4.5 Cultural pp 21-27). **Correct and move Biological Resources and Cultural Resources to the next section, and list all impacts that are “significant and unavoidable.”**

2) Page 6-4. **Noise.** Impacts listed for Noise are not complete, as per Chapter 4.10 impact listings (pp 17-33). Please include **all** impacts, as shown below in bold type:

Noise. Impacts related to the following were identified as significant and unavoidable: exposure of persons to or generation of transportation noise levels **and non-transportation noise levels** in excess of standards established in the Draft General Plan or the County’s Noise Ordinance; and creation of a substantial permanent increase **and substantial temporary or periodic increase** in ambient noise levels in the County above levels existing without implementation of the Draft General Plan.

6.3 Selection and Analysis of Alternatives

Alternatives Considered in this EIR

An EIR “must consider a reasonable range of potentially feasible alternatives”, even if they “would impede to some degree the attainment of project objectives, or would be more costly.” An alternative that is potentially feasible must be discussed in depth in the EIR. (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437.) A decision approving an EIR that “dismissively rejects” a feasible alternative precludes informed decisionmaking and public participation, and is therefore prejudicial. (*North Coast Rivers Alliance v. Kawamura* 243 Cal.App.4th 647 (2015) 670-671.) []

On page 6-5, the DEIR lists criteria for the selection and elimination of alternatives to the project. There are three alternatives considered and evaluated, and the first is the No Project Alternative, required by CEQA. The texts of the other two general plan alternatives are *identical* to the text of the Proposed Project. The action alternatives only differ in their Land Use Map. *None of the DEIR's action alternatives include policy options*, only alternative conceptual land use maps. (*Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1304-1305 [Failure to analyze any action alternatives does not comply with CEQA].)

The public has suggested other alternatives to the County for the General Plan Update, including the Mintier Draft General Plan, an Alternative Community Plan Element, and more alternatives, but these were not acknowledged or discussed 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); *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437 [A lead agency must explain why a suggested alternative is rejected as either unable to be accomplished, not satisfying the goals of the project, or not advantages to the environment.]; *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 205-206, [In rejecting an alternative the agency must disclose the analytic route it traveled from substantial evidence to action].) If the County persists in refusing to consider any policy alternatives in the Final EIR, please explain why they are infeasible, based upon substantial evidence in the record. Please reference this evidence and make it available to the public.

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. 15126.6, subd. (a).) Without any policy differences among the action alternative to the proposed general plan, the EIR will not have a reasonable range of alternatives.

Mintier Alternative. The DEIR’s action alternatives have no policy options. In contrast, **the 2011 Mintier Draft General Plan contains alternative policies and programs that may potentially avoid or substantially lessen the many “significant and unavoidable” project impacts.** 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. Why not? The public has been requesting this plan

be made available to examine for years. **The Mintier-Harnish General Plan draft was substantially complete when an administrative draft was submitted to the County in 2011¹.** It reflects years of public input and values of the community, includes draft General Plan goals & policies, and identifies specific implementation programs². Consistent with CEQA, “the discussion of alternatives *shall focus* on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.” (CEQA Guidelines, sec. 15126.6 subd. (b) (1).)

Consider, analyze, and discuss the Mintier Draft General Plan Alternative in the final EIR, and give reasons why it is feasible or not. If the County has “lost” its copy of the 2011 Mintier-Harnish Draft General Plan for Calaveras County, the MintierHarnish firm in Sacramento will be happy to supply it.



Community Plan Element Alternative This alternative was proposed during scoping comments. Please see DEIR Appendix B, Calaveras Planning Coalition Scoping Comments (pgs 2.3-10, 11, 12) for full comments and reasons for a Community Plan

¹ Letter from Mintier-Harnish, December 11, 2012. See attached file, MH Response to 11-13-2012 BOS mtg.pdf.

² Calaveras County 2035 General Plan Introduction, Administrative Review Draft, December 2010. See attached file CalGPU_2035GP_AD2_P1_Introduction_working draft.pdf.

Element Alternative (CPE). **A Community Plan Element Alternative would *include* the Draft General Plan's currently-excluded communities of Arnold, Avery-Hathaway Pines, Copperopolis, Murphys-Douglas Flat, and Valley Springs.** Excluding these major existing Calaveras County communities from the General Plan and Community Element will create **potentially significant negative impacts to these communities from future development.** The CPE Alternative, as proposed, also **would have actual implementation programs for community goals and policies,** unlike the Draft General Plan Community Element.



Valley Springs is the largest and fastest-growing area in Calaveras County, and should not be left out of the General Plan update. Reasons to include Valley Springs policy documents in an alternative Community Plan Element:

- **Support for inclusion of Valley Springs in the General Plan Update and EIR has already been given** by the Calaveras Planning Commission, Calaveras Board of Supervisors, and Planning Director Maurer (CPC Scoping pg. 2.3-11).
- **Valley Springs is unique** due to its most westerly location, lowest elevation, proximity to jobs in other counties, scenic resources, major highways, increasing population, increasing traffic, and greater development pressures
- **Unique community needs, natural resources, and historic characteristics are not addressed or protected in the Draft General Plan.** Impacts of future development will be significant and negative without adequate protections and

mitigations. **Specific community policies already written in the Valley Springs Community Plan could address its unique development pressures, reduce impacts, and increase opportunities**

- **The Valley Springs Community Plan is ready.** Two draft community plan update documents have already been combined and condensed into a draft Valley Springs Community Plan and Policies section³ for the Community Planning Element.

Consider, analyze, and discuss the Community Plan Element Alternative in the final EIR. Give reasons why this is feasible or not.



No-Growth Alternative. An additional Alternative has been asked for by the public and should be discussed as feasible or not: a **“No-Growth Alternative”** (July 31, 2018, General Plan Draft EIR Public Comment Meeting, speaker 13, Antonie Wurster; see video or transcription). The reasons given were (to paraphrase): “Calaveras County is mostly rural and elderly, we don’t have many jobs, there won’t be any growth here if people can’t have lawns because of (limited) water, and because there is a high fire danger; **there might actually be NO growth to 2035 or maybe 1/2%, that’s what we**

³ Planning Commission Staff Report for January 26, 2017. See file: PC Staff Report, Community Planning Element Valley Springs section 1-26-17.pdf

may be looking at, and there should be a no-growth alternative.” Please address this suggested No-Growth Alternative in the EIR and discuss its feasibility.

DOF Projections Alternative

Thank you for considering, analyzing, and discussing the DOF Projections Alternative. We believe the population of Calaveras County will **not** be increasing to over 100,000 within the project horizon, and in fact may actually **decrease**. We need to plan for a much smaller population increase than the Proposed Project does.

The DOF Projections Alternative reduces significant project impacts, while still meeting basic project objectives. On page 6-12 on, the alternative is described as limiting anticipated growth to slightly less than half of buildout under the proposed Draft General Plan, and as a result, **there are ten environmental Issue Areas in which the DOF Alternative has “Fewer” environmental impacts than the Proposed Project.** NO environmental issue areas are identified in which the DOF Alternative has “Greater” impacts than the Proposed Project, unlike the Rural Character Alternative.

Also, the DOF Projections Alternative brings the general plan much more in line with the population projections used by Calaveras COG for the 2017 Regional Transportation Plan, and the CCWD Urban Water Management Plan.

We have read the DEIR explanation about altering the Land Use Map to limit anticipated growth in the DOF Alternative, but find it unclear exactly how and where changes to land use designations on the county land use map would be done to limit growth to the extent proposed. Please explain in more detail, select a sample area of the County, and alter the land use map to show how this proposal could work to reduce development potential by over 50%. **Analyze the DOF Projections Alternative in more detail in the final EIR as to how and where changes would be implemented through the Land Use Map and land use designations, giving map examples.** There needs to be sufficient information about the alternatives to allow the decisionmakers to make a rational choice. (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437 [A decision to approve an alternative analysis based upon the “barest of facts,” and “vague and unsupported conclusions,” precluded informed decisionmaking and public participation, and was therefore an abuse of discretion.])

Rural Character Protection Alternative

One of the alternatives considered in the DEIR is the **misnomer “Rural Character Protection Alternative”** (this should be called the “Rural Town Conversion to City”, or “Stack and Pack” Alternative). We don’t understand why this alternative was even created, and we do not consider it feasible. On page 6-18, the DEIR explains that under this alternative “anticipated buildout remains the same compared to the proposed Draft General Plan; however, development would be intensified and residential densities would

increase near community areas and town centers.” On page 6-5, in the first paragraph, “factors that may be used to eliminate alternatives” include “inability to avoid significant environmental impacts.” **With this alternative, there is no reduction in buildout potential from the Proposed Project, and there are even “Greater” significant and unavoidable environmental impacts compared to the Proposed Project, in three issue areas—Noise and Vibration, Population and Housing, and Transportation and Circulation** (Table 6-3, pg 6-26). *Why was buildout potential not reduced **at all** for this alternative? In NOP scoping comments, individuals and organizations⁴ asked for a Rural Character MODERATE Growth Alternative—an alternative that would allow far less development than the Draft GPU, but would allow more development than DOF projections. **Planning an alternative for the same unrealistic population of 117,045 as the Draft General Plan is absurd.** And then moving and concentrating an unnamed amount of development and density into existing towns and community centers, causing even greater negative environmental impacts, is a recipe for disaster.*

Again, the lack of a land use map for this map-based alternative makes it difficult to picture. The description calls for increasing densities in the RTA and RTB designations. However, the vast majority of the RTA and RTB lands are already subdivided and partially built out. It is hard to picture where the increased densities would be allowed, and where they would actually result in new and denser development. It is not clear what level of density would be allowed in the community centers and what the development would look like. Would it be two and three stories? Would it be attached units? Would it be mixed use? Also, there is no list of the communities considered to have sufficient water and sewer capacity to serve the increased density. There needs to be sufficient information about the alternative to allow the decisionmakers to make a rational choice. (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437 [A decision to approve an alternative analysis based upon the “barest of facts,” and “vague and unsupported conclusions,” precluded informed decisionmaking and public participation, and was therefore an abuse of discretion.].)

In Section 4.11 Population and Housing (pg 4.11-2), the DEIR recognizes that **the most recent February 2017 California Department of Finance (DOF) population projections for Calaveras County for 2035, the general plan horizon year, are even lower than their 2012 projections—numbers have been reduced from 55,541 to 47,851 population.** See the Population Projections Table 4.11-2 below.

Population Projections

The California DOF produces population projections for all counties in the State, including Calaveras County. Table 4.11-2 below shows the **DOF’s most recent population projections for Calaveras County**, including the incorporated City of Angels Camp, for 2020 through 2035. ³

Table 4.11-2
Population Projections for Calaveras County

Year	Population
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⁴ Shute, Mihaly & Weinberger letter on behalf of CSERC, Notice of Preparation of EIR for Proposed Calaveras County General Plan Update. February 8, 2017.

2020	45,162
2025	46,143
2030	47,129
2035	47,851

Source: California Department of Finance, 2017.

In fact, on page 4.11-1, the DEIR *acknowledges* that **Calaveras County’s population has actually been declining, “Between 2010 and 2016, the population slightly declined to 45,207.”**

Calaveras County population is projected to *decrease* in the future. There is a very recent population forecast that the final DEIR and General Plan should review and include as reference, the California Department of Transportation’s *California County-Level Economic Forecast 2017 – 2050*.⁵ **In this report, based on DOF figures, Calaveras County is considered a “Vulnerable County”, and its population is projected to decrease through the year 2050, lowering to a population of 42,132 for 2035, the general plan horizon year.**

“For the group of counties that have been identified as economically vulnerable, the combined population will have declined by nearly four percent by 2050, relative to the level that prevailed in 2016.” [see pages xiii-xvii for complete discussion]

“There are now more Calaveras County residents in the retirement cohort (people over age 65) than in the young professional group (people age 25 to 44). This has been the main contributor to the natural decrease, and over the next few decades, the age structure will become even more heavily weighted towards the retirement cohort. Over the forecast period, the population of Calaveras County is expected to continue to decline, placing the county at serious risk of economic stagnation.” [see pages 17-20 for Calaveras County discussion]

Based on these recent reports and population projections, there is no way the county’s population will grow to over 100,000 within the general plan horizon. These new, lower population projections, and the actual decline in Calaveras County’s population, reinforce the absurdity of planning for a population of over 100,000 in 2035, as the Rural Character Protection Alternative does.

The Rural Character Protection Alternative is not a feasible alternative:

- 1) It does not reduce buildout potential of the Proposed Project;
- 2) By increasing density and intensity of development in existing communities, it actually has “Greater” environmental impacts than the Proposed Project in at least three significant environmental issue areas: Noise and Vibration, Population and Housing, and Transportation and Circulation.

⁵ California Department of Transportation. *California County-Level Economic Forecast 2017 – 2050*. September 2017. [pgs xiii-xvii and pgs 17-20]. Accessed July 25, 2018. Available at: http://www.dot.ca.gov/hq/tpp/offices/eab/socio_economic_files/2017/FullReport2017.pdf

3) In addition, by *encouraging the transformation of Calaveras County rural small towns with historic character into higher-density small cities*, **the “Rural” alternative does not meet Project Objectives:**

a) It does not meet Project Objective “9. Preserve the *character of historic communities within the County.*” (pg 6-3);

b) It does not follow or help support the Draft General Plan Vision Statement, “*The historical character of the county’s communities...will create a high quality of life for residents and a remarkable and memorable experience for visitors to the county.*” (pg. 4.9-5);

c) It does not follow the Draft General Plan ‘Community Development’ Guiding Principle, “*The history of the Gold Rush era will be alive in the culture of distinctive communities that provide a high quality of life for generations of residents. The General Plan and the County values its heritage and the unique qualities of its individual communities. Community Plans, as developed by the local residents, will help preserve the character of historic communities and foster economic growth, delivery of services, and provision of infrastructure.*” (page 4.9-6).

The Rural Character Protection Alternative would *not* preserve the character of historic communities; it would lead to a *loss of rural community and historic character in our Rural Small Towns.* By moving a large (yet unnamed) portion of future population to community centers, development there would be greatly intensified. As the DEIR acknowledges, within communities, “new developments would be built at an increased density, potentially at greater building heights.” Much larger areas of higher-density residential densities would be allowed and encouraged in our small community areas and towns. *People and existing housing could be displaced, including historic homes, and the character of the town could change.* As the DEIR explains, “because less land would be available for housing, **impacts related to displacement of existing people or housing would be slightly greater** under the Rural Character Protection Alternative. Overall, population and housing impacts would be greater under the Rural Character Protection Alternative compared to the proposed project.”

Our existing low-density small communities, small, older or historic homes, and lots with “rural character” will be transformed into high-density towns and small cities. This is not what county residents want. We do not want our small towns to turn into Stocktons. This alternative would have a very negative impact on Calaveras County rural community character, historic communities, rural small towns, and rural values. The Rural Character Protection Alternative is **not** a feasible alternative. **Either remove the Rural Character Protection Alternative altogether, or do some serious reductions in buildout potential and population to be realistic and “Moderate”, as requested, and to reduce “Greater” significant environmental impacts than the Proposed Project.**

6.4 Environmentally Superior Alternative

We do ask for additional Alternatives to be considered in the final EIR, but we agree that, *out of the alternatives considered in this DEIR*, **“the DOF Projections Alternative would be considered the Environmentally Superior Alternative.”** The DOF Projections Alternative has the fewest environmental impacts as a result of project implementation, and it still provides opportunities to achieve the project objectives.

The last sentence in this section, “the DOF Projections Alternative would still result in the same significant and unavoidable impacts identified in this EIR for the proposed project” is misleading, as it implies the DOF alternative would result in “the same” impacts as the proposed project. The *issue areas* of impacts are the same, but *the impacts themselves are not*—impacts are *reduced in intensity*, and impacts are *fewer*. **Please rewrite and correct the last sentence. Thank you.**



CHAPTER 7 – REFERENCES

An EIR is supposed to be written so that decisionmakers and the public can rapidly understand the document. (CEQA Guidelines, sec. 15140; (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal. 5th 918, 941 [The DEIR must present data in a manner calculated to inform the public and decisionmakers, not “buried in an appendix.”].) This is especially important, when as in this case, the DEIR is evaluating a general plan that will have 25 significant adverse impacts that may persist for decades across an entire County, and the public review period is only 45 days. To assist in this rapid understanding of the document, section 15148 of the CEQA Guidelines indicates that, “The EIR shall cite all documents used in its preparation including, where possible, the page and section number of any technical reports which were used as the basis for any statements in the EIR.”

It is clear that some of the EIR authors are aware of how this is done. For example, it was done correctly in the footnote on page 4.1-14. However, there are no page references in 2 footnotes later in that same section on page 4.1-16.

Similarly, Section 4.12 (Public Services and Utilities) also fails to provide page citations with technical references in two footnotes on pages 4.12-11 and 4.12-28.

Section 4.8 (Hydrology and Water Quality) fails to provide page citations with technical references in a whopping 6 footnote on pages 4.8.-3, 4.8-5, 4.8-6, 4.8-8, and 4.8-19

Not to be outdone, Section 4.3 (Air Quality and Greenhouse Gas Emission) fails to provide page citations to technical report references with 7 footnotes on pages 4.3-13, 4.3-15, 4.3-23, 4.3-27, and 4.3-29. (See attached.)

The purpose of an EIR is to inform decisionmakers and public participation. Thwarting public participation is a prejudicial abuse of discretion. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 672 [The decision to approve an EIR with an inadequate project description precludes informed decisionmaking and public participation and is therefore a prejudicial abuse of discretion.]) Failing to provide page citations to lengthy technical reports places an undue burden on the public trying to review a two inch thick DEIR in 45 days. This was highly prejudicial, as the unnecessary burden of aimlessly wandering through voluminous documents to fact check the DEIR caused CPC to have to skip commenting on the air quality and water quality impact sections during the 45-day comment period. The County has prejudicially abused its discretion by failing to proceed as required by law, to the detriment of the public participation in the CEQA process.

In addition to the communities listed in Table 4.1-1, other communities exist within Calaveras County that the U.S. Census Bureau has not designated as official census places. Among the undesignated places are rural hamlets (e.g., Cave City or Campo Seco), housing developments adjacent to other towns (e.g., Douglas Flat or Hathaway Pines), and dispersed rural communities (e.g., Paloma and Sheep Ranch). Individual neighborhoods within larger Calaveras County towns such as Arnold, Copperopolis, the incorporated city of Angels Camp, and others may in some cases self-identify as distinct communities.

4.1.3 REGULATORY CONTEXT

Specific federal regulations do not directly pertain to the visual quality of an area. However, the following State and local regulations provide a framework for evaluation of aesthetic resources within the County.

State Regulations

The following State program is applicable to the proposed project.

California Scenic Highway Program

The goal of the California Scenic Highway Program is to preserve and enhance the natural beauty of California.⁵ The State Scenic Highway System includes a list of highways that are either eligible for designation as Scenic Highways or have been so designated. Both eligible highways and officially designated State Scenic Highways are identified in Section 263 et seq. of the California Streets and Highways Code. Roadways designated as State Scenic Highways are protected under CEQA.

Local Regulations

The following local goals and policies are applicable to the proposed project.

2013 Ebbetts Pass National Scenic Byway Corridor Management Plan

An Ebbetts Pass National Scenic Byway Corridor Management Plan (CMP) was originally adopted in 2004 and was updated in 2013. The CMP provides the vision, goals, and management recommendations for protecting and enhancing the Ebbetts Pass National Scenic Byway. The CMP is designed to provide guidance to federal, state, and local agencies, private landowners, and interested businesses in showcasing the scenery, historical significance, and extensive recreation opportunities present along the route.

The Ebbetts Pass Scenic Byway Association, is the local management organization for the Ebbetts Pass National Scenic Byway. The group was formed in 2006 to implement preservation and enhancement programs to protect the scenic and recreational resource. The updated CMP acts as the guiding document for the Association.

⁵ California Department of Transportation. *Scenic Highway Guidelines* [pg. 2]. October 2008.

Method of Analysis

The section below gives full consideration to the implementation of the Draft General Plan and acknowledges the physical changes to the existing setting. Impacts to the existing environment of the project area are to be determined by the contrast between the site's visual setting before and after buildout of the Draft General Plan. In addition, the following analysis utilizes a methodology based upon a Federal Highway Administration (FHWA) publication, *Visual Impact Assessment for Highway Projects*, as well as a USFS publication, *Landscape Aesthetics*.^{6,7} Together, both sources provide the key analytical framework and guide the visual impact assessment process for the Draft General Plan. The visual quality of aesthetic resources within the County are assessed based on the following criteria:

- Vividness — the visual interest and memorability provided by landscape components;
- Intactness — the visual integrity of the natural and human-built landscape and freedom of the landscape from encroaching elements; and
- Unity — the visual coherence and order of the landscape.

The following discussions include an assessment of the anticipated changes in visual quality, evaluating such changes with respect to anticipated viewer response. The standards of significance listed above are used to delineate the significance of any anticipated visual or aesthetic alterations that would occur as a result of buildout of the Draft General Plan.

Impacts and Mitigation Measures

The following discussion of impacts related to visual resources is based on buildout of the Draft General Plan in comparison to existing conditions and the standards of significance presented above.

- 4.1-1 Substantial adverse effect on a scenic vista, or substantial damage to scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway. Based on the analysis below, the impact is less-than-significant.**

Buildout of the Draft General Plan would result in population growth within County as well as development of previously undeveloped areas. Such growth and development has the potential to affect scenic vistas, natural resources, and resources within State Scenic Highways.

The sole scenic vista identified by the County consists of the Ebbetts Pass National Scenic Byway. As noted previously, the Byway is covered by the 2013 CMP, which provides guidance for maintaining and managing the Byway. It should be noted, however, that the 2013 CMP does not provide regulations or restrictions. Similarly, while the 1988 Special

⁶ Federal Highway Administration. *Visual Impact Assessment for Highway Projects*. 1988.
⁷ United States Department of Agriculture, Forest Service. *Landscape Aesthetics, A Handbook for Scenery Management*. December 1995.

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potential of a gas. The common indicator for GHG is expressed in terms of metric tons of CO₂ equivalents (MTCO_{2e}).

Climate Change in California

Uncertainties exist as to exactly what the climate changes will be in various local areas of the State. According to the Intergovernmental Panel on Climate Change's Working Group II Report, *Climate Change 2007: Impacts, Adaptation and Vulnerability*,⁵ as well as the California Natural Resources Agency's report *Safeguarding California: Reducing Climate Risk*,⁶ climate change impacts to California may include:

- Increasing evaporation;
- Rearrangement of ecosystems as species and ecosystems shift northward and to higher elevations;
- Increased frequency, duration, and intensity of conditions conducive to air pollution formation (particularly ozone);
- Changes to statewide precipitation patterns including diminishing Sierra snowpack, which is anticipated to decline by 70 percent to 90 percent, threatening the State's water supply;
- Increased average surface temperatures and more frequent heat waves;
- Increased growing season and increased growth rates of weeds, insect pests and pathogens;
- Inundation by sea level rise, and exacerbated shoreline erosion; and
- Increased incidents and severity of wildfire events and expansion of the range and increased frequency of pest outbreaks.

The foregoing environmental impacts would have far reaching and interconnected consequences for Calaveras County.

4.3.3 REGULATORY CONTEXT

Air quality is monitored and regulated through the efforts of various international, federal, State, and local government agencies. Agencies work jointly and individually to improve air quality through legislation, regulations, planning, policy-making, education, and a variety of programs. The agencies responsible for regulating and improving the air quality within the project area are discussed below.

Federal Regulations

The most prominent federal regulation is the FCAA, which is implemented and enforced by the USEPA.

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⁵ Intergovernmental Panel on Climate Change. *Climate Change 2007: Impacts, Adaptation, and Vulnerability*. 2007.

⁶ California Natural Resources Agency. *Safeguarding California: 2018 Update*. January 2018.

local air pollution control districts have been granted explicit authority to adopt and implement transportation controls. The CARB, California's air quality management agency, regulates and oversees the activities of county air pollution control districts and regional air quality management districts. The CARB regulates local air quality indirectly using State standards and vehicle emission standards, by conducting research activities, and through planning and coordinating activities. In addition, the CARB has primary responsibility in California to develop and implement air pollution control plans designed to achieve and maintain the NAAQS established by the USEPA. Furthermore, the CARB is charged with developing rules and regulations to cap and reduce GHG emissions.

Air Quality and Land Use Handbook

CARB's *Air Quality and Land Use Handbook: A Community Health Perspective* (CARB Handbook) addresses the importance of considering health risk issues when siting sensitive land uses, including residential development, in the vicinity of intensive air pollutant emission sources including freeways or high-traffic roads, distribution centers, ports, petroleum refineries, chrome plating operations, dry cleaners, and gasoline dispensing facilities.⁸ The CARB Handbook draws upon studies evaluating the health effects of traffic traveling on major interstate highways in metropolitan California centers within Los Angeles (I-405 and I-710), the San Francisco Bay, and San Diego areas. The recommendations identified by CARB, including siting residential uses a minimum distance of 500 feet from freeways or other high-traffic roadways, are consistent with those adopted by the State of California for location of new schools. Specifically, the CARB Handbook recommends, "Avoid siting new sensitive land uses within 500 feet of a freeway, urban roads with 100,000 vehicles/day, or rural roads with 50,000 vehicles/day" (CARB 2005).

Importantly, the Introduction section of the CARB Handbook clarifies that the guidelines are strictly advisory, recognizing that: "[l]and use decisions are a local government responsibility. The Air Resources Board Handbook is advisory and these recommendations do not establish regulatory standards of any kind." CARB recognizes that there may be land use objectives as well as meteorological and other site-specific conditions that need to be considered by a governmental jurisdiction relative to the general recommended setbacks, specifically stating, "[t]hese recommendations are advisory. Land use agencies have to balance other considerations, including housing and transportation needs, economic development priorities, and other quality of life issues" (CARB 2005).

Assembly Bill 1807

Assembly Bill (AB) 1807, enacted in September 1983, sets forth a procedure for the identification and control of TACs in California. CARB is responsible for the identification and control of TACs, except pesticide use, which is regulated by the California Department of Pesticide Regulation.

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⁸ California Air Resources Board. *Air Quality and Land Use Handbook: A Community Health Perspective*. April 2005.

Local

Regulations from the applicable Calaveras County agencies are presented below.

CCAPCD

Air Quality in Calaveras County is protected by the CCAPCD. The primary goal of the CCAPCD is to protect public health by managing the County's air quality, and achieving or maintaining NAAQS and CAAQS. Air quality management is achieved through public education and enforcement of rules and regulations. The CCAPCD promulgates and enforces rules and regulations, and enforces the CARB's Air Toxic Control Measures.

The CCAPCD permits and inspects stationary sources of air pollution. Stationary sources subject to CCAPCD regulation include gasoline dispensing facilities (gas stations), rock quarries, paint spray booths, and diesel generators greater than 50 break horsepower. The district disseminates burn day information from the CARB and issues burn permits for areas greater than five acres.

The CCAPCD and CARB rules and regulations most relevant to the Draft General Plan include, but are not limited to:

- Rule 202 – Visible Emissions;
- Rule 205 – Nuisance;
- Rule 207 – Particulate Matter;
- Rule 210 – Specific Contaminants;
- Regulation III – Open Burning;
- Regulation IV – Authority to Construct Regulations;
- Regulation V – Permit to Operate Regulations; and
- Regulation IX – Air Toxics Control Measures.

Assessing Impacts from Land Use Projects

The CCAPCD maintains guidelines for the assessment of land use projects within the County. The guidelines present expectations and methodologies for project analysis based on a project's compliance with the CCAPCD's SIPs. The multi-step project analysis process includes project screening, estimation of emissions, comparison of estimated project emissions to the CCAPCD's emissions thresholds, and selection of mitigation measures.¹⁵

The CCAPCD provides standard mitigation measures that may be applied to projects found to exceed district mass emissions thresholds. The standard mitigation measures are divided into several categories as presented below:

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Calaveras County Air Pollution Control District. *Guidelines for Assessing and Mitigating Air Quality Impacts of Land Use Projects*.

thresholds would present a conservative analysis for the proposed project. Therefore, in the absence of other applicable emissions thresholds, the estimated emissions under buildout of the Draft General Plan will be compared to the CCAPCD's thresholds of significance presented in Table 4.3-6.

GHG Emissions

The CCAPCD has not adopted thresholds of significance for the analysis of GHG emissions related to implementation of a proposed project. However, as discussed above, the 2017 Scoping Plan identifies per capita emissions rates that may be used in local planning for the assessment of GHG emissions. As discussed in the 2017 Scoping Plan, if a plan results in annual per capita emissions of no more than six MTCO_{2e} by the year 2030 and no more than two MTCO_{2e} by the year 2050, the proposed plan would be considered in compliance with all adopted State requirements for the reduction of GHG emissions. Such State requirements include AB 32, SB 32, and related executive orders discussed above.¹⁶

Method of Analysis

The analysis protocol and guidance provided by the CCAPCD's *Guidelines for Assessing and Mitigating Air Quality Impacts of Land Use Projects* was used to analyze the proposed project's air quality and GHG emissions impacts. Where potentially significant air quality or GHG emissions impacts are identified, mitigation measures are required that would reduce or eliminate the impact.

Build-out of the Draft General Plan would include short-term construction related emissions as well as long-term operational emissions. Although potential impacts from construction activity are qualitatively considered in this EIR, the uncertainty of construction activity related to buildout of the Draft General Plan prohibits the quantification of such emissions. Operational emissions related to build-out of the Draft General Plan are subject to some uncertainty; however, a sufficient amount of information exists related to land use estimates for build-out of the Draft General Plan that long-term operational criteria pollutant and GHG emissions from various sources may be estimated. The long-term operational criteria pollutant and GHG emissions from buildout of the Draft General Plan were estimated using the California Emissions Estimator Model (CalEEMod) software version 2016.3.2 - a statewide model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify air quality emissions, including GHG emissions, from land use projects. The model applies inherent default values for various land uses, including trip generation rates based on the ITE Manual, vehicle mix, trip length, water use, solid waste generation, etc. However, where project-specific data was available, such data was input into the model. It should be noted that for the purposes of air quality and GHG emissions assessment, buildout of the Draft General Plan was assumed to occur by 2035. Assuming that buildout would occur by 2035 allows for a conservative analysis of potential emissions from all potential development within the County under the Draft General Plan. Therefore, if buildout of the entire County does not occur by 2035, the actual Countywide emissions would be less severe than the emissions analyzed in this chapter.

from wildfires. The most recent NEI data is available from the year 2014.¹⁷ All NEI data is presented in Appendix C of this EIR.

It should be noted that differences exist between the USEPA and CARB definition of certain organic compounds. Whereas the USEPA regulates VOCs, the CARB regulates ROG. Although differences exist between the nomenclature of such emissions, the constituents of such emissions are substantively similar between VOCs and ROG.¹⁸ Therefore, while the NEI presents emissions for VOCs within the County, such emissions are presented as ROG in this analysis to maintain consistency with the CARB's guidance regarding such pollutants.

Emissions from Natural Lands

As noted above, both the NEI and CalEEMod include emissions estimation from anthropogenic sources such as vehicle usage. However, CalEEMod does not include emissions estimation from biogenic sources, such as emissions of volatile organic compounds (VOCs) from vegetation, nor does CalEEMod estimate emissions from wildfires or prescribed burns. Calaveras County includes heavily vegetated areas, which represents a significant source of natural VOCs, and, as discussed in Chapter 4.7, Hazards and Hazardous Materials, are subject to wildfire risks. Furthermore, prescribed burns are used within the County to manage fire risk. Buildout of the Draft General Plan may result in the conversion of natural lands for other uses, see Chapter 4.2, Agricultural, Forest, and Mineral Resources; nevertheless, biogenic VOC emissions as well as pollutant emissions related to wildland fires and prescribed burns are anticipated to continue into the future. Although changes to the existing wildland fire regime and the rate of biogenic VOC emissions, or alterations to the application of prescribed burns for fire control could occur, future changes to emissions from such sources are uncertain and speculative. Therefore, due to the lack of comprehensive data regarding changes to such emissions and because CalEEMod does not include estimations of emissions related to biogenic VOCs, wildland fires, and prescribed burns, the NEI estimates for such emissions were added to the CalEEMod emissions estimates for buildout of the General Plan.

Impacts and Mitigation Measures

The following discussion of impacts related to air quality is based on buildout of the Draft General Plan in comparison to existing conditions and the standards of significance presented above.

4.3-1 A violation of any air quality standard or substantial contribution to an existing or projected air quality violation during operations, and a conflict with or obstruction of implementation of applicable air quality plans through the emission of a cumulatively considerable amount of criteria pollutants. Based on the analysis below, even with mitigation, the impact is significant and unavoidable.

¹⁷ United States Environmental Protection Agency. *Air Emissions Inventories: National Emissions Inventory (NEI)*. Available at <https://www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei>. Accessed March 2018.

¹⁸ California Air Resources Board. *Definitions of VOC and ROG*. January 2009.

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Watersheds within Calaveras County include the following:

- Upper and Lower Mokelumne;
- Upper and Lower Calaveras;
- Upper and Lower Stanislaus; and
- Lower San Joaquin River.

The watersheds listed above represent all or part of a surface water drainage basin or distinct hydrologic features. Boundaries of the watersheds are not coterminous with the boundaries of the County. The watersheds primarily consist of a major river system (the Mokelumne, Calaveras, Stanislaus, or San Joaquin), together with the tributaries of the river systems. Each of the aforementioned river systems are discussed below in further detail.

Mokelumne River

The Mokelumne River runs in three forks (North, Middle, and South) from the Sierra Nevada Mountains in Alpine County. Snowmelt serves as the primary source of water for the Mokelumne River. An area of approximately 660 square miles is drained by the Mokelumne River, which flows southwest, with the forks all joining near Lodi, then turns northwest to end in the Sacramento River delta lands, and finally empties into the San Joaquin River approximately 20 miles north of Stockton. The Mokelumne River forms the County's northern boundary with neighboring Amador County, and was considered the division between the southern and northern mining districts during the Gold Rush. The river passes through several reservoirs in the County, including Salt Springs Reservoir, Pardee Reservoir, and Camanche Reservoir.³

Calaveras River

The Calaveras River originates in the Sierra Nevada Mountains, extends west-southwest approximately 60 miles toward and through the Stockton metropolitan area, and terminates at the San Joaquin River, outside of Calaveras County. Within the County, the Calaveras River runs in two forks (North and South). The river is fed almost entirely by rainfall and encompasses approximately 550 square miles. In the Upper Calaveras watershed, above New Hogan Dam and within the County, the primary tributaries are Esperanza, Jesus Maria, Calaveritas, San Antonio, and San Domingo Creeks. Below New Hogan Dam, in the Lower Calaveras watershed, the main tributaries conveying runoff in the County are the Cosgrove, Indian, and South Gulch Creeks.

Stanislaus River

The Stanislaus River drains a narrow basin of approximately 980 square miles above the foothills on the western slope of the San Joaquin River, forming the southern boundary of the County. Elevations along the river range from 15 feet above sea level at the river mouth to 10,000 feet at the crest of the drainage area. The three tributary forks (North, Middle, and South) of the Stanislaus

³ RMC. *Mokelumne/Amador/Calaveras Integrated Regional Water Management Plan: Public Draft*. December 14, 2006.

irrigation and domestic water supply. Tulloch Reservoir is located in Copperopolis on the lower Stanislaus River below New Melones Reservoir. Capacity of the reservoir is approximately 67,000 af.

New Melones Reservoir

New Melones Reservoir was completed in 1978 and is owned and operated by the U.S. Bureau of Reclamation. With a capacity for 2,420,000 af, New Melones Reservoir is one of California's largest reservoirs, located behind the 625-foot New Melones Dam on the Stanislaus River. Irrigation water, flood control, and hydroelectric power are provided by New Melones.

Salt Springs Reservoir

Salt Springs Reservoir was completed in 1931 and is owned and operated by the Pacific Gas and Electric Company (PG&E) for hydroelectric power purposes. The reservoir is located at a high elevation within the Stanislaus National Forest along the North Fork of the Mokelumne River on the Calaveras/Amador County border. Salt Springs has a capacity of approximately 140,000 af.

Spicer Reservoir

Spicer Reservoir is owned by the Calaveras County Water District and operated by the Northern California Power Agency for power generation. The reservoir is located at a high-elevation on the Stanislaus River system, eight miles southwest of State Route (SR) 4.

In addition to the reservoirs described above, a number of smaller older reservoirs built for irrigation and flood control purposes are found throughout the County. Such reservoirs include Hunter Reservoir, Salt Springs Valley Reservoir, Tiger Creek Reservoir, Calaveras Reservoir, Emery Reservoir, Schaads Reservoir, Old McCormick Reservoir, Copperopolis Reservoir, and the Goodwin Diversion Dam. In addition, several reservoirs were created as part of mine reclamation, such as Mine Run Reservoir near Camanche Reservoir.⁴

Major Streams and Diversion Canals

Below is a list of 23 major streams and diversion canals. Lesser perennial and seasonal creeks are not included in the list.

- Airola Creek
- Angel's Creek
- Bear Creek
- Blue Creek
- Calaveras Public Utility Ditch
- Calaveritas Creek
- Cherokee Creek

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U.S. Geological Survey. *Hydrogeology and Geochemistry of Acid Mine Drainage in Ground Water in the Vicinity of Penn Mine and Camanche Reservoir, Calaveras County, California: Summary Report, 1993-95.* 1999.

- Dutch Creek
- Esperanza Creek
- Forest Creek
- Indian Creek
- Jesus Maria Creek
- Licking Fork
- McCarty Creek
- Moore Creek
- Murray Creek
- San Antonio Creek
- San Domingo Creek
- Steele Creek
- Spring Valley Creek
- Swamp Creek
- Telegraph Creek
- Utica Ditch

Surface Water Quality

Typically, water quality issues stem from runoff during wet weather events, direct discharge associated with industrial/commercial activities, resource extraction activities, leaking sewer infrastructure, and illicit dumping. Additional potential sources of polluted water within the County include past waste disposal practices, agricultural chemicals, and chemicals and fertilizers applied to landscaping. Characteristic water pollutant contaminants may include sediment, hydrocarbons and metals, pesticides, nutrients, bacteria, and trash.

The State Water Resources Control Board (SWRCB), in compliance with the Clean Water Act, Section 303(d), prepared a list of impaired water bodies in the State of California. The list was approved by the US EPA in 2003. The Lower Stanislaus River is listed as being impaired by Diazinon, Group A pesticides, and mercury. Group A pesticides include chlordane, toxaphene, heptachlor, endosulfan, and several other pesticides. Diazinon and the Group A pesticides likely resulted from agricultural applications. Mercury likely originated from mining activities. The Central Valley Regional Water Quality Control Board (CVRWQCB) is required to develop and implement a plan to lower the amounts of the known contaminants in the Lower Stanislaus River to an acceptable level.⁵

Findings from a watershed assessment report prepared for the Upper Mokelumne River watershed provide information regarding the quality of water in the watershed.⁶ Contaminants and characteristics of concern identified by the watershed assessment include turbidity, alkalinity, aluminum, nitrate, and pathogens. Each of these constituents is found in elevated levels throughout the watershed. High levels of turbidity and low alkalinity were determined to be the result of the

⁵ Central Valley Regional Water Quality Control Board. *CWA Section 303(d) List of Water Quality Limited Segment*. Approved July 2003.

⁶ Upper Mokelumne River Watershed Authority. *Technical Memorandum Number 9: Watershed Assessment*. Upper Mokelumne River Watershed Assessment and Planning Project. April 2007.

Although groundwater resources occur in other parts of the County, officially delineated groundwater basins do not exist to define such areas. According to the Calaveras County Water District (CCWD) 2015 UWMP *Urban Water Management Plan*, local groundwater systems within Sierra Nevada foothill areas occur mostly in poorly permeable fractured rock, within which groundwater storage is limited to the small volume represented by the fracture openings. Natural recharge occurs seasonally from the deep percolation of precipitation during the winter.

The bulk of Calaveras County is underlain by the faulted and folded igneous and metamorphic rocks of the Sierra Nevada. A portion of the County is within the Calaveras County Water District Groundwater Management Plan area, which is underlain by westward thickening alluvial sediments. Groundwater occurs in the faults and fractures of the Sierra Nevada rocks and in the pore space of alluvial sediments in the Plan area. Wells drilled into the Sierra Nevada rocks may yield small amounts of water to domestic wells; however, water supply and availability are unpredictable.

Wells drilled into the alluvial sediments found in the County are more reliable than wells drilled in the Sierra Nevada rocks, but are becoming less reliable as the demands placed on the aquifer have increased. In the northwest portion of Calaveras County, the bedrock of the Sierra Nevada is overlain by the alluvial sediments of the Central Valley. The alluvial aquifer yields more water than the bedrock aquifer, and is more reliable and manageable. Groundwater wells in the unincorporated County typically extract water from such eastward-thinning alluvial deposits.⁷

Groundwater Quality

The water quality in the Eastern San Joaquin groundwater sub-basin is impaired and has been directly affected by the severe overdraft that has occurred in the sub-basin. As water levels in the sub-basin have declined, a saline front originating in the western portion of the basin has moved eastward. From 1994 through 2000, samples taken from wells within the impacted area of the sub-basin yielded water quality results that exceed maximum contaminant levels (MCLs) for constituent pollutants. Constituent pollutants include inorganic and radiological pollutants, nitrates, pesticides, volatile organic compounds (VOCs), and semi-volatile organic compounds (SVOCs).

Continuous monitoring of the groundwater quality from the Wallace Community Services District (WCSD) wells shows little change in the last 15 years. The water from the wells generally has iron and manganese concentrations above the MCL. However, implementation of industry standard treatment practices using a potassium permanganate additive and filtering results in concentrations typically in the range of 10 percent of the MCLs.

The quality of the remainder of the groundwater found throughout the County, in addition to the Eastern San Joaquin groundwater sub-basin, may be affected by activities that include Class V injection wells, abandoned mines, abandoned wells, underground storage tanks, hazardous waste sites, on-site septic systems, failing septic systems, and solid waste sites. Contaminants that may

⁷ Calaveras County Water District. 2015 *Urban Water Management Plan*. May 2016.

Method of Analysis

The hydrology and water quality impact analysis below is primarily based on information provided by the Calaveras County Local Agency Groundwater Protection Program, the *Mokelumne/Amador/Calaveras Integrated Regional Water Management Plan Update*,¹² and the Calaveras County Water District's *2015 Urban Water Management Plan Update*.¹³ Impacts to groundwater, water quality, and drainage associated with the buildout of the Draft General Plan are evaluated below, and impacts are identified if the above standards of significance would be exceeded as a result of buildout.

Impacts and Mitigation Measures

4.8-1 Buildout of the Draft General Plan would violate water quality standards or waste discharge requirements or otherwise substantially degrade water quality. Based on the analysis below, the impact is *less-than-significant*.

Implementation of the Draft General Plan could result in additional water pollutant discharges from construction activities, underground storage and septic tanks, municipal and industrial point sources, agricultural activities, and urban runoff. Such discharges could pollute the watersheds shown in Figure 4.8-1, including the Lower Stanislaus River, which is listed as impaired per the SWRCB.

Construction Activities

Construction activities such as grading, excavation, and trenching for utilities associated with buildout of the Draft General Plan would occur throughout the County, and such activities would result in the disturbance of soils. Exposed soils have the potential to affect water quality in two ways: 1) suspended soil particles and sediments transported through runoff; or 2) sediments transported as dust that eventually reach local water bodies. Spills or leaks from heavy equipment and machinery, staging areas, or building sites also have the potential to enter runoff. Typical pollutants include, but are not limited to, petroleum and heavy metals from equipment and products such as paints, solvents, and cleaning agents, which could contain hazardous constituents. Sediment from erosion of graded or excavated surface materials, leaks or spills from equipment, or inadvertent releases of building products could result in water quality degradation if runoff containing the sediment or contaminants should enter receiving waters in sufficient quantities.

Septic Tanks

On-site septic systems are highly prevalent within the County, and mapping septic systems is of high priority when considering contaminant sources. Currently, CCEHD oversees the Underground Storage Tank Program for the County and provides oversight of remediation

¹² Upper Mokelumne River Watershed Authority. *Mokelumne/Amador/Calaveras Integrated Regional Water Quality Management Plan Update*. January 2013

¹³ Calaveras County Water District. *2015 Urban Water Management Plan Update*. June 2016.

The District uses a response time goal of four minutes. The actual response time from dispatch to on-scene is approximately nine minutes in rural areas of the Calaveras Consolidated Fire District service area and three to four minutes within the developed areas of Jenny Lind and Valley Springs. The District received approximately 1,400 emergency calls in 2017.¹¹

The District's current ISO rating is six in areas where fire hydrants are within 1,000 feet and eight where hydrants are not within 1,000 feet. Calaveras Consolidated has formal mutual aid and automatic mutual aid agreements with neighboring fire districts, including San Andreas FPD (auto aid—structure fires only), Linden, and Clements FD (mutual aid on request).¹²

Ebbetts Pass Fire District

The Ebbetts Pass Fire District (FD) covers an approximate 205-square mile area. The western boundary lies at an elevation of approximately 2,000 feet above sea-level east of Murphys and the eastern boundary terminates at the Alpine County line at an elevation of approximately 8,000 feet above sea-level. The southern border adjoins the Tuolumne County border and the North Fork of the Stanislaus River Canyon. California SR 4 bisects the District and runs approximately 40 miles from the eastern boundary to the western boundary. The District provides advanced life support (ALS) service and transport to the western section of Alpine County including Bear Valley, the Carson-Iceberg Wilderness, and Mokelumne River Canyon Wilderness. This adds approximately 400 square miles to the District's response area. Additionally, the Ebbetts Pass Fire District provides mutual aid response to wildland and structure fire to the areas of Alpine County and the Murphys Fire District.

The Ebbetts Pass FD has four fire stations, two of which are staffed 24 hours a day, seven days a week with full-time paid firefighters and firefighter paramedics, which provide structural and wildland fire protection and ambulance service. The Ebbetts Pass FD is a combination fire department with both a paid division and a volunteer division. The paid division has a staff of 24, which consists of 21 firefighter/firefighter-paramedics, a Fire Chief, an Executive Administrator, and a part-time Fire Prevention Officer. Additionally, the District has a five-member Board of Directors. The breakdown of positions is as follows:

- One Fire Chief;
- Two Battalion Chiefs;
- Three Captains;
- Six Engineers; and
- One Executive Administrator.

Additionally, the Ebbetts Pass FD provides the following services to the communities of the Ebbetts Pass FD:

¹¹ Dickinson, Richard, Fire Chief, Calaveras Consolidated Fire Protection District. Personal communication [phone] with Jacob Byrne, Raney Planning and Management. March 8, 2018.

¹² Calaveras County Local Agency Formation Commission. *Calaveras Fire Municipal Service Review*. Adopted June 17, 2013.

3. Ebbetts Pass;
4. West Point;
5. Sheep Ranch; and
6. Wallace Service Area.

CCWD also provides wholesale water to Snowshoe Springs, Fly-In Acres, and on an emergency basis to Blue Lake Springs Mutual Water Company and Valley Springs Public Utility District. In addition to the foregoing service areas and wholesale customers, the CCWD provides irrigation water to 92 customers (1,955 acre-feet) and maintains three systems with recycled water that provide water to Saddle Creek, Forest Meadows and La Contenta Golf courses (1,057 acre-feet). Although the latter two golf courses recently closed, CCWD has contractual rights to continue disposing of recycled water at the courses.

Water System Descriptions

The following descriptions of CCWD's six independent water systems in Calaveras County are taken from CCWD's 2015 *Urban Water Management Plan* (UWMP),³⁴ which is an update to the District's 2010 UWMP in accordance with California's Urban Water Management Planning Act.

Jenny Lind

The Jenny Lind system, located in the northwest region of the County, receives surface water from New Hogan Reservoir through a non-Central Valley Project (CVP) contract with the United States Bureau of Reclamation (USBR). The diversion point is an infiltration gallery located on the lower Calaveras River, approximately one mile downstream of the New Hogan Dam. The Jenny Lind Water Treatment Plant serves the area with an existing capacity of 6.0 million gallons per day (mgd), with plans to expand the plant capacity to meet near-term and long-term demands. According to the 2015 UWMP, the area's proximity to existing transportation networks is anticipated to encourage large growth within the Jenny Lind system area. The distribution system is divided into five tank service zones and contains two clear wells, six storage tanks, eight booster pumping stations, and 16 pressure reducing valves. The system hydraulic grade line varies from 485 to 918 feet.

Copper Cove and Copperopolis

One connected water system serves the two areas of Copper Cove and Copperopolis, located in the southwest sub-region of the County. The Copperopolis improvement district was formed on April 4, 1952, and the Copper Cove improvement district was formed on July 2, 1969. Both systems are physically connected and as such are treated as one system. The service area is approximately 4,000 acres and serves the communities of Copperopolis, Copper Cove, Conner Estates, Copper Meadows, Saddle Creek, and Lake Tulloch.

³⁴ Calaveras County Water District. 2015 *Urban Water Management Plan*. May 2016.