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September 5, 2025

Via E-Mail and U.S. Mail

Donald Knight
Building Official
Planning and Building Department
El Dorado County
2850 Fairlane Court
Placerville, CA 95667

Karen Garner
Director
Planning and Building Department
El Dorado County
2850 Fairlane Court
Placerville, CA 95667

Re: Building Permits #0374255, 0376040, 0379718, 0380586 and
Grading Permits #0372970, 0376039, 0379717, 0380585

Dear Mr. Knight and Ms. Garner:

We submit this letter on behalf of Native Directions Inc. (“NDI”) and HomeCA Inc. (“HomeCA,” collectively “Proponents”), who are advancing four Native housing and services projects in El Dorado County (“County”). All four of these projects have received state funding that exempts them from local zoning review and the California Environmental Quality Act (“CEQA”). *See* Welfare & Inst. Code §§ 5960.3(a), 18999.97(l). Proponents have been waiting over a year and a half for the County to issue permits that are by statute ministerial and exempt from CEQA. During this period, County staff and representatives have been willfully and unlawfully obstructing what the Legislature intended to be a streamlined process.

Proponents submitted applications for building and grading permits for these projects as early as February 21, 2024, with the most recent applications submitted on December 30, 2024. *See* Attachment A for permit details. The County’s Building Division (“Building”) has already approved the building and grading permits for three of the four projects, but nonetheless refuses to issue those permits. The permits for the fourth project are still pending approval, despite their submission in December 2024. This unjustified obstruction is taking place at the direction of the County Board of Supervisors (“Board”) and Planning and Building Director Karen Garner.

As described below, the County has no authority or discretion to withhold these ministerial permits, yet it has refused to issue them in what appears to be an attempt to run out the clock on Proponents' state funding, which could be terminated if permits are not secured and ground broken by the end of 2025. But this egregious refusal to acknowledge the Legislature's CEQA and zoning exemptions for Proponents' projects—seemingly motivated by discriminatory misgivings about the disadvantaged populations these projects would serve—has exposed the County to a potential lawsuit. The County must issue the permits listed in Attachment A and a public statement concurring that Proponents' projects are exempt from CEQA **by 5:00 PM on September 19, 2025** or Proponents will be forced to take legal action against the County. In addition to seeking a judicial order for the permits, Proponents will diligently pursue any damages, costs, or fees available.

I. The County has no discretion to withhold or deny the requested permits.

A. The projects at issue received state funding under statutes that exempt them from local zoning and CEQA requirements.

As the County is aware, the four projects at issue all received state funding authorized by the California Legislature. The four projects include:

- The **Wellness Center** in Shingle Springs: a center promoting traditional healing practices (“the Wellness Center”);
- The **Youth Perinatal Facility** in Rescue: a 16-bed perinatal residential facility in for Native youth (“the Youth Perinatal Facility”);
- The **Adult Residential Facility for Native Women** in Rescue: a 30-bed adult residential facility Native women (“ARF Women”); and
- The **Adult Residential Facility for Native Men** in Shingle Springs: a 30-bed adult residential facility for Native men (“ARF Men”).

The Wellness Center and Youth Perinatal Facility are funded by the Behavioral Health Continuum Infrastructure Program (“BHCIP”) pursuant to ,Welfare and Institutions Code sections 5960 et seq., administered by the Department of Health Care Services (“DHCS”). The ARF Women and ARF Men projects are funded by the Community Care Expansion program (“CCE”) under Welfare and Institutions Code section 18999.97, administered by the California Department of Social Services (“CDSS”).

Under the BHCIP and CCE programs' enabling legislation, the four projects are exempt from local zoning requirements and CEQA review. Welfare & Inst. Code § 5960.3(a) (BHCIP projects); *id.* § 18999.97(1) (CCE projects).

1. **Community Care Expansion Program Projects**

The CCE statute governing the ARF Women and ARF Men projects provides that:

[A]ny project that receives funds pursuant to this section *shall be deemed consistent and in conformity with any applicable local plan, standard, or requirements*, and any applicable coastal plan, local or otherwise, *shall be allowed as a permitted use*, within the zone in which the structure is located, shall not be subject to a conditional use permit, discretionary permit, or any other discretionary reviews or approvals, and *shall be deemed as a ministerial action* under Section 15268 of Title 14 of the California Code of Regulations.

Welfare & Inst. Code § 18999.97(1) (emphasis added).

As stated in the statute, the County's only authority over these permits is ministerial. CEQA does not apply to ministerial actions carried out by public agencies. *See* Pub. Res. Code § 20180(b)(1). CEQA Guidelines¹ section 15268 plainly states that "[m]inisterial projects are exempt from the requirements of CEQA." *See also id.* § 15300.1 ("Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority."); *Mission Peak Conservancy v. State Water Resources Control Bd.* (2021) 72 Cal.App.5th 873, 882 ("CEQA does not regulate ministerial decisions—full stop.").

These laws together make clear that the ARF Men and AFR Women projects are exempt from County zoning and CEQA. The County has a mandatory duty to issue the permits and has no discretion to withhold them or to impose CEQA review.

2. **Behavioral Health Continuum Infrastructure Program Projects**

¹ The CEQA Guidelines appear in California Code of Regulations, Title 14.

The BHCIP statute similarly forecloses County discretion. Welfare and Institutions Code section 5960.3(a), which governs the Wellness Center and Youth Perinatal Facility projects, states:

Notwithstanding any other law, a facility project funded by a grant pursuant to this chapter *shall be deemed consistent and in conformity with any applicable local plan, standard, or requirement, and allowed as a permitted use*, within the zone in which the structure is located, and *shall not be subject to a conditional use permit, discretionary permit, or any other discretionary reviews or approvals.*

(Emphasis added.)

Under CEQA Guidelines section 15002(i)(1), ministerial projects are those for which “the law requires [an] agency to act...in a set way without allowing the agency to use its own judgment...” *Cf.* CEQA Guidelines § 15357 (a project is discretionary when an agency is required to exercise judgment in deciding whether to approve an activity). The permits here are ministerial under this definition, where Welfare and Institutions Code section 5960.3(a) mandates that the Wellness Center and Youth Perinatal Facility projects “*shall be deemed consistent*” with local zoning and “allowed as permitted use,” and “*shall not be subject to...discretionary review or approvals,*”

Like the CCE statute, the plain language of the BHCIP statute thus prohibits the County from using local zoning to block the projects, or from engaging in any other type of discretionary review or CEQA process. Under Welfare and Institutions Code section 5960.3(a), the County has no justification for its wrongful refusal to issue permits for these projects.

Assemblymember James Ramos, the Chair of the California Native American Legislative Caucus and member of the Assembly Budget Committee that introduced the relevant legislation, confirmed this understanding in a letter explaining that the BHCIP statute “clearly mandates that projects like [the Youth Perinatal Facility] be prioritized to serve vulnerable populations and has designated this residential facility as a ministerial project, *exempting it from local zoning and CEQA requirements to expedite development.*”²

² Letter from Assemblymember James Ramos to County Board Chair Wendy Thomas, November 21, 2024 (emphasis added).

Both of the CCE and BHCIP statutes assign the County a purely ministerial role in which it has no discretion to require CEQA review. Thus, the County's persistent delay in issuing the permits on the basis of CEQA violates state law.

B. The County's reliance on Welfare and Institutions Code section 5960.3(b) to deny or withhold the requested project permits is misplaced.

In correspondence with Proponents over the last 18 months, the County has claimed that Welfare and Institutions Code section 5960.3(b) requires the Youth Perinatal Facility project to meet additional requirements before it may be exempt from CEQA review. This position is contrary to the plain language of section 5960.3(a), basic principles of statutory interpretation, and longstanding tenets of CEQA.

First, "statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible." *People v. Lashon* (2024) 98 Cal.App.5th 804, 810-11; *see also* Cal. Code of Civ. Proc. § 1858 ("where there are several provisions or particulars" in a statute, California law requires "such a construction is, if possible, to be adopted as will give effect to all."). The County's interpretation violates this canon of statutory interpretation by placing 5960.3(b) in direct conflict with 5960.3(a). As discussed above, section 5960.3(a) wholly exempts BHCIP projects from CEQA. But the County interprets section 5960.3(b) to mean that BHCIP projects *are* subject to CEQA unless they satisfy that section's requirements.

By asserting that projects not subject to discretionary review are still subject to CEQA, the County's interpretation would also silently amend Public Resources Code section 20180(b), which explicitly provides that CEQA does not apply to ministerial actions. It would also render meaningless section 5960.3(a)'s language about the projects not being subject to any discretionary reviews or approvals. This highly selective and inconsistent reading of the statute cannot stand.

Section 5960.3(a) exempts BHCIP projects from CEQA review. Section 5960.3(b) does the same, but through different means. Nothing about this redundancy lessens the CEQA exemption provided in section (a). "An interpretation that contains a redundancy does less violence to the statutory text and is therefore preferred over an interpretation" that "directly contradicts" other parts of the statute. *Cisneros v. Department of Motor Vehicles* (2024) 104 Cal.App.5th 381, 416. The County's interpretation creates direct contradictions and therefore must not be applied.

Proponents have the right to receive ministerial permits from the County under section 5960.3(a). Section (b) cannot be used to justify the County's refusal to do so. The County has no authority to withhold the permits, and its delay is clearly wrongful under the law.

II. The County's unwarranted delay in issuing permits has harmed and continues to harm vulnerable Native communities.

In clarifying the County's legal obligations, we also note the grave impact that the County's unwarranted delay has had on disadvantaged Indigenous populations. The pending projects will provide essential, lifesaving services specifically tailored for marginalized Native communities. For example, the two sites for Native women and pregnant youth in Rescue were intentionally selected to offer a rural, peaceful environment conducive to healing, including through cultural and spiritual connection with the land. As Assemblymember Ramos wrote, El Dorado County has "43 residential facilities serving various vulnerable populations, yet none of them serve the specific needs of Native American pregnant teens" as the Youth Perinatal Facility would.³

These projects are urgently needed to fill the gap in care for vulnerable Native communities, yet the County has refused to facilitate the kind of streamlined, CEQA-exempt permitting the Legislature intended for these types of projects. *See* Welfare & Inst. Code § 5960.05 (grant funding intended to help "expand the community continuum of behavioral health treatment resources...[including] clinically enriched longer term treatment and rehabilitation options..."). Every day that the County blocks the progress of these projects further harms those under-resourced Native populations.

Further, the County's attempts to stop these projects over the past year and a half evince a bad faith, discriminatory intent. Dozens of similar licensed residential facilities in El Dorado County that serve other groups have not faced the same level of scrutiny and delays obstructing these projects intended to serve Native communities. Some of this disparate treatment has come at the hands of County leadership, as the Board of Supervisors and Planning Commission have sought to influence the permit process.

By the State Legislature's design, the Board and Planning Commission have no role in the issuance of the nondiscretionary ministerial permits at issue. Yet on April 23, 2025, Planning Manager Aaron Mount disclosed that "Planning is waiting for direction form [sic] County Counsel and the Board of Supervisors." Proponents asked to clarify

³ Letter from Assemblymember James Ramos to County Board Chair Wendy Thomas, November 21, 2024.

whether “the decisions for our ministerial exemptions...have been decided internally from [Planning] already or if [Planning] is waiting on the [Board] and Counsel to begin the decision process.” On May 6, 2025, Mount answered, “We are waiting.”

By the County’s own admission, the Board has halted progress on this ministerial process, a wholly inappropriate step for the Board to take. This unlawful interference from County leadership in what should be a rote, ministerial process is further delaying critical care for the Native communities who need these projects the most. Not only has the County impeded Proponents’ ability to address these community needs, it has jeopardized the projects’ very existence. The state may terminate funding for these projects if construction has not commenced by December 31, 2025, and funding will expire altogether as early as December 31, 2026—a fact that the County understands and seeks to exploit through its strategic delay.

III. Conclusion

In sum, the County’s delay in issuing the requested permits for Proponents’ projects is both unjust and unjustified. Under the plain language of the state funding statutes, the County has no discretion to withhold permits for any of the four projects, none of which are subject to local zoning requirements or CEQA review. Its refusal to determine that the projects are CEQA-exempt has also caused undue delay from other authorities, as the El Dorado Irrigation District refuses to process Proponents’ application for public water until the County confirms the CEQA exemption. The County’s actions clearly constitute unlawful obstruction of state law and must be rectified. We intend to pursue all available judicial remedies against the County if it does not immediately correct these egregious errors.

On behalf of Proponents, we once again request that the County issue the permits described in Attachment A and a public statement concurring that Proponents’ four projects are exempt from CEQA **no later than 5:00 PM on September 19, 2025** or face immediate legal action.

Donald Knight
September 5, 2025
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Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Gabriel M.B. Ross
Tori Ballif Gibbons
Yeji Jung

Encls: Attachment A – List of Requested Permits
Attachment B – California Public Records Act Request

cc: Ramona Valdez, Executive Director, Native Directions Inc.
Gina Wasdyke, CEO, HomeCA Inc.
David Livingston, County Counsel, El Dorado County
Nichole Ebrahimi-Nuyken, Behavioral Health Director, El Dorado County
Board of Supervisors, El Dorado County
Alex Fisch, Special Assistant Attorney General
David Pai, Supervising Deputy Attorney General
Issac Bojorquez, Acting Director of the Office of Native American Affairs

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ATTACHMENT A

Attachment A: Permit Information

1. Project: Youth Perinatal Facility

Project Address: 2761 Sands Road, Rescue, CA
Grant Program: BHCIP Round 4
Capacity: 16 young mothers and up to 24 infants/children

Grading Permit #: 0372970 (2 acres)
Grading Application Submission Date: 02/21/24
Building Approval Date: 07/30/24
Rescue Fire Dept. Approval Date: 07/30/24

Building Permit #: 0374255 (7200 sq ft house, 16 bedrooms)
Building Permit Application Submission Date: 04/16/24
Building Approval Date: 08/30/24

2. Project: Wellness Center

Project Address: 3655 North Shingle Road, Shingle Springs, CA
Grant Program: BHCIP Round 3
Capacity: 250 (day program, equine therapy)

Grading Permit #: 0376039 (2 acres)
Grading Application Submission Date: 06/26/24
Building Application Approval Date: 08/08/24

Building Permit #: 0376040 (5200 sq ft, single story, multi-purpose building)
Building Application Submission Date: 06/26/24
Building Application Approval Date: 08/08/24

3. Project: Adult Residential Facility (ARF) Men

Project Address: 3659 North Shingle Road, Shingle Springs, CA
Grant Program: CCE
Capacity: 30 beds (semi-private rooms)

Grading Permit #: 0379717 (2 acres)
Grading Application Submission Date: 11/13/24
Building Application Approval Date: 12/12/24

Building Permit #: 0379718 (5500 sq ft single story house, 15 bedrooms)
Building Application Submission Date: 11/13/24
Building Application Approval Date: 12/12/24

4. Project: Adult Residential Facility (ARF) Women

Project Address: 3480 Deer Valley Court, Rescue, CA
Grant Program: CCE
Capacity: 30 beds (semi-private rooms)

Grading Permit #: 0380585 (2 acres)

Grading Application Submission Date: 12/30/24
Building Application Approval: In Progress

Building Permit #: 0380586 (5500 sq ft, 15 bedrooms)
Building Application Submission Date: 12/30/24
Building Application Approval: In Progress

1964160.1

ATTACHMENT B

September 5, 2025

Via E-Mail, U.S. Mail, and Electronic Submittal

Donald Knight
Building Official
Planning and Building Department
El Dorado County
2850 Fairlane Court
Placerville, CA 95667

Karen Garner
Director
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330 Fair Lane
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Nicole Ebrahimi-Nuyken
Behavioral Health Director
Health and Human Services Agency
768 Pleasant Valley Rd, Suite 201
Diamond Springs, CA 95619

Re: Public Records Act Request

To Whom It May Concern:

We request the following public records pursuant to the California Public Records Act ("PRA"), Government Code Sections 7920.000 *et seq.*, and the amendments to the California Constitution provided by Proposition 59:

- All records related to the following projects and permit applications dating back to August 1, 2022:
 - Project: Youth Perinatal Facility (2761 Sands Road, Rescue, CA)

- Applicants: HomeCA and Native Directions
- Grading Permit #: 0372970 (2 acres)
- Building Permit #: 0374255 (7200 sq ft house, 16 bedrooms)
- Project: Wellness Center (3655 North Shingle Road, Shingle Springs, CA)
 - Applicants: HomeCA and Native Directions
 - Grading Permit #: 0376039 (2 acres)
 - Building Permit #: 0376040 (5200 sq ft, single story, multi-purpose building)
- Project: Adult Residential Facility (ARF) Men (3659 North Shingle Road, Shingle Springs, CA)
 - Applicants: HomeCA and Native Directions
 - Grading Permit #: 0379717 (2 acres)
 - Building Permit #: 0379718 (5500 sq ft single story house, 15 bedrooms)
- Project: Adult Residential Facility (ARF) Women (3480 Deer Valley Court, Rescue, CA)
 - Applicants: HomeCA and Native Directions
 - Grading Permit #: 0380585 (2 acres)
 - Building Permit #: 0380586 (5500 sq ft, 15 bedrooms)

Government Code section 7920.530 and 7920.545 broadly defines the records and writings to be disclosed under the Public Records Act. The term “records” includes, but is not limited to, documents, letters, e-mails, text messages, voice messages, memoranda, and handwritten notes.

The Public Records Act requires disclosure of responsive records, even if they are located only on an official's or employee's personal accounts or devices. Thus, personal accounts and devices must also be searched for responsive records. *City of San José v. Superior Court* (2017) 2 Cal.5th 608. In this request, the plural includes the singular, and the singular includes the plural.

Pursuant to Government Code section 7922.535, please make a determination on and respond to this request within 10 days of your receipt of it. If you determine that any of the information is exempt from disclosure under the PRA, pursuant to Government Code section 7922.540, provide a written response describing the legal authority on which you rely.

If any of the requested records are currently in electronic format, we request electronic transmission of these records. Electronic records may be placed on an FTP site, e-mailed, or mailed on a CD to the above address. Please notify me of the direct cost of making paper copies of requested records that do not exist in an electronic format before such copies are made. *See* Gov't Code § 7922.575 (fees may only be charged for the direct costs of duplication).

Thank you for your attention to this request. Please contact me at gibbons@smwlaw.com if you have any questions.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Tori Gibbons