

PINE HILL PRESERVE – A BRIEF HISTORY & ISSUE PAPER

Prepared by El Dorado County Staff, March 23, 2007
U.S. Fish and Wildlife Service Comments-June 12, 2007 (in underlined italics)

Pine Hill Ecological Reserve - Attempts to set up an ecological reserve have been ongoing for more than 30 years. In the fall of 1977, the California Native Plant Society learned of plans to dispose of surplus California Department of Forestry and Fire Protection lands located on Pine Hill in El Dorado County (Howard 1979). Beginning in late fall of 1977, the California Native Plant Society united with other environmental groups to encourage the State of California to begin a coordinated effort to preserve significant natural areas. Through 1978 and into 1979, a multi-constituent committee, including the California Native Plant Society, Audubon Society, and California Resources Agency, met to set up a significant natural area for Pine Hill. Pine Hill Ecological Reserve (240 acres) was established in 1979 to protect the gabbro plants located on the summit of Pine Hill.

Plant Listings.-

Historic.- Most of the eight rare plant species were unknown to botanists until fairly recently. Five of the eight species were first described between 1965 and 1974 (Wilson, 1986). Since the 1960s, botany classes from local universities and community colleges have made regular trips to state-owned land on Pine Hill to examine this unique plant community.

In December of 1974, the California Native Plant Society (CNPS) published the first edition of the Inventory of Rare and Endangered Vascular Plants of California which included seven of the eight subject rare plants.

On January 9, 1975, the Smithsonian Institution presents to Congress a report listing four of the eight species as either endangered or threatened.

State Listings.- Between 1979 and 1982, five of the eight species were listed as rare or endangered by the State pursuant to Section 1903 (Native Plant Protection Act of 1977) of the California Fish and Game Code. The State of California listed *Fremontodendron californicum* ssp. *decumbens*, *Galium californicum* ssp. *sierrae*, and *Seneciolayneae* as rare in 1979. *Calystegia stebbinsii* was listed as endangered by the State of California in 1981 and *Ceanothus roderickii* was listed as rare in 1982 (California Department of Fish and Game 1992).

Federal listings.- On October 18, 1996, *Calystegia stebbinsii*, *Ceanothus roderickii*, *Fremontodendron californicum* ssp. *decumbens*, and *Galium californicum* ssp. *sierrae* were federally listed as endangered, and *Senecio layneae* was federally listed as threatened (U.S. Fish and Wildlife Service 1996).

EIP Report - In 1987, CNPS notified DFG's Region 2 staff of the apparent lack of botanical surveys being performed prior to development of areas in western El Dorado County which contained rare plant habitat. Since there were no botanical staff at the regional office and only two botanists on staff at the State headquarters, this matter was not immediately brought to the attention of County staff.

In 1989, County staff was informed of the need to pursue protection of these species, and were provided with the most comprehensive information available at the time by David Showers, a botanist with DFG's Endangered Plant Program. At the same time, the development community became aware of DFG's strong concern regarding this issue. There was general agreement among DFG, County staff and the development community that a regional solution should be sought for development projects which could accommodate off-site mitigation.

In the spring of 1990, EIP Associates was retained by a private development company to conduct a comprehensive field survey and study. The study was put on hold in August of 1990, due to delays in this company's proposed development project in Cameron Park. The County staff proposed to restart the study under County sponsorship. The funding was approved by the El Dorado County Board of Supervisors during the spring of 1991 and the report, Preserve Sites and Preservation Strategies for Rare Plant Species in Western El Dorado County was completed in November, 1991.

The California Natural Diversity Data Base, James Wilson's masters thesis (Wilson 1986), survey reports prepared by environmental consultants, interviews with local botanists, and EIP Associates' field surveys were used to determine the location of clusters of rare plants occurring on the Pine Hill formation (EIP Associates 1991). Twenty-two clusters of rare plant species were initially identified. Ten of these sites were rejected after review of additional data and aerial photographs because they had been developed. The remaining 12 sites were evaluated by a set of scored criteria. The criteria used to rank the potential preserves included: the number of target species present; the abundance of each target species present; the area of the potential preserve; the distance from the boundary of the potential preserve to target species; preserve shape; condition of the site; presence of managed natural areas near the site; presence of rare plants on more than one soil type within the potential preserve site; and/or presence of plants thought to be gabbro endemics on non-gabbro soil (EIP Associates 1991).

Rare Plant Advisory Committee In 1992, following an El Dorado County Board of Supervisors's hearing and an informational workshop, the El Dorado County Board of Supervisors requested the formation of the El Dorado County Rare Plant Advisory Committee, consisting of members from the development community, various agencies (California Department of Fish and Game, Bureau of Land Management, U.S. Fish and Wildlife Service), El Dorado County planning staff, California Native Plant Society, Center for Sierra Nevada Conservation (formerly Friends Aware of Wildlife Needs), American River Conservancy, and others. This committee was established to identify feasible preserve sites, funding mechanisms, and management strategies for these preserves. The Rare Plant Advisory Committee used evaluations from the EIP

Associates 1991 report and recommendations from California Department of Fish and Game, and overlaid land use considerations on the biological information to arrive at their own set of recommendations to the Board of Supervisors. The Rare Plant Advisory Committee recommended three main preserve sites--Salmon Falls, Pine Hill, and Cameron Park/Shingle Springs--and two smaller satellite preserve areas--Martel Creek and Penny Lane. The total acreage of the five preserves that the Rare Plant Advisory Committee proposed was approximately 3,450 acres . In addition to the six species covered in this recovery plan, the Rare Plant Advisory Committee included *Helianthemum suffrutescens* (Bisbee Peak rushrose) and *Chlorogalum grandiflorum* (Red Hills soaproot). Five preserve sites were identified to protect more than one population of each species, to protect against catastrophic loss at any one site, maintain genetic diversity within the rare plant species, and preserve a representation of the geographic range, diversity of plant associations, and other potentially important site-specific conditions associated with the rare plants (Horenstein and Ehrgott 1997). Potential funding mechanisms/strategies identified to acquire the Salmon Falls preserve, Pine Hill preserve, and Cameron Park/Shingle Springs Preserve, included; density transfers, fee title sales of land or conservation easements by willing parties, donations of land and/or easements respectively. Other than the historic use of state and federal funds used to acquire land for rare plant conservation, no comprehensive funding mechanism that included the coordinated efforts of federal, state and local agencies was in place at that time. The recommendations of the Rare Plant Advisory Committee were presented to the El Dorado County Board of Supervisors in February 1993. The Board of Supervisors approved, in concept, four of the preserves and directed that the Salmon Falls, Martell Creek, Pine Hill and Penny Lane preserve units be included in the General Plan update. The Board did not approve the Cameron Park southern preserve site at that time. Also, the Board of Supervisors deferred to an unspecified date the consideration of local financing options for funding the acquisition or maintenance of the four preserves units they did conceptually approve.

Interim Water Contract Renewal.- A February 27, 1995 biological opinion on the interim renewal by Bureau of Reclamation of 67 water service contracts on the Central Valley Project (including water contracts for El Dorado County) identified implementation of a preserve system for the five federally listed gabbro plants as a critical need (U.S. Fish and Wildlife Service 1995). A critical need was defined as those actions needed immediately to avoid extinction or preclusion of recovery. The critical needs analysis for these plants specifically noted the importance of a preserve in the southern zone (Cameron Park) of the Pine Hill formation. During meetings held for technical review of the draft critical needs plan from the February 27, 1995, biological opinion for the Central Valley Interim Water Contract renewals, invited experts recommended all five of the preserves identified by the Rare Plant Advisory Committee as the critical need for the five federally listed gabbro species (which were proposed at the time of the meeting).

1996 General Plan - On January 23, 1996 the El Dorado County Board of Supervisors adopted Resolution No. 10-96 thereby approving the El Dorado County General Plan, including Policy 7.4.1.1 recognizing four ecological preserve units of the Pine Hill

Ecological Preserve, and establishing implementation strategies in accordance with El Dorado County General Plan, Volume II, Background Information, Appendix I, Rare Plant Preserve Program. The rare plant preserves are designated by the EP overlay shown on the land use map and defined by Policy 2.2.2 4.

!1998 General Plan Amendment - On March 24, 1998 the El Dorado County Board of Supervisors adopted Resolution No. 57-98 thereby amending Policy 7.4.1.1 to recognize five ecological preserve units, and amending the land use map to include the Cameron Park unit of the Pine Hill Ecological Preserve.

El Dorado County Fee Program(1998) - During May 1997, the El Dorado County Board of Supervisors approved an agreement with Economic & Planning Systems to prepare an economic feasibility study for their approved ecological preserve program. On July 28, 1998, the El Dorado County Board of Supervisors adopted Ordinance 4500, which established an ecological preserve mitigation requirement or an in-lieu fee for certain development projects in western El Dorado County. The ecological preserve impact mitigation in-lieu fee calculation is based upon the 3,450 acre preserve, and cost sharing assumptions that allocates 25% of the program implementation cost to El Dorado County, 25% to El Dorado Irrigation District and 50% to Federal and State agencies. El Dorado County is currently implementing this impact fee program to augment the funds needed to fund the acquisition and administration of the preserve system The fees are:\$885 for singla family dwelling units, \$663.75 per unit for multifamily, and \$0.59 per square foot for commercial and industrial projects. El Dorado County also has successfully worked with the El Dorado Irrigation District to jointly participate with the County to help fund the acquisition of the Cameron Park Preserve (El Dorado County 1998).

The current fund balance available for land acquisitions is \$912,026. The endowment trust from which accrued interest is available to fund operations and management activities is in excess of \$1,000,000.

The ordinance set forth requirements for annual updates ***of mitigation fees*** and establishment of conservation easements within the Pine Hill, Salmon Falls and Martel Creek preserve units. The ordinance has not been updated since its approval date. The County Planning Department determined after adoption of the ordinance that conservation easements would be sought in conjunction with permit applications for new dwellings or new primary non-residential structures. County records reviewed to date indicate that ***although there were instances where the conservation easement requirement was appropriate***, no conservation easements have been obtained to date through this program.

Memorandum of Understanding- A report entitled, *El Dorado County Ecological Preserve Fee Estimate*, dated March 16 1998 prepared by Economic & Planning Systems includes information guiding the implementation of the rare plant program. The report includes a section, “Next Steps/Implementing Agreement” which recommends that after El Dorado County adopts the Fee Ordinance and the General Plan Amendment expanding the Ecological Preserve overlay to include the Cameron Park unit as the fifth preserve, an

“implementing agreement” involving all participating jurisdictions needed to be negotiated. The County will need to adopt an implementing agreement and maintain mitigation effort over time consistent with the implementing agreement. If it is decided later to prepare a comprehensive countywide HCP the implementing agreement prepared for the rare plant mitigation program could serve as the basis for a subsequent HCP implementing agreement. It was thought that the rare plant mitigation program implementing agreement would most likely be drafted as a Memorandum of Understanding (MOU) between the participating agencies (including the County of El Dorado, EID, County Water Agency, DFG, USFWS, BOR and BLM) and should contain the following elements:

- A Recital Section. Recitals will describe the intention and the purposes of the Agreement.
- A Definitions Section. Definitions will be provided for the key terms used in the Agreement
- Term and Renewal Section. The life span of the agreement will be defined and provisions for extension provided.
- Obligation of the Parties Section. The responsibilities of the County as an urban development permittee in requiring mitigation fees for loss of rare plant habitat must be described. This section includes the definition of the El Dorado County Rare Plant Off-Site Mitigation Program, the mitigation ratio, the Ecological preserve In-Lieu Fee which includes components for habitat acquisitions (conservation easements and fee title), fee administration, and mechanisms for fee adjustments.
- Habitat Management and Protection Section. This section describes how the rare plant mitigation program will be administered; how mitigation conservation easements will be selected and acquired; how the Ecological Preserves will be managed and operated (the Land Manager role); how habitat enhancement, if required, will be conducted; and how all these management and operations functions will be funded. This section will describe the responsibilities of the regulating and resource agencies in implementing the rare plant mitigation program.
- Mutual Assurance Section. This section describes what the agreement does and does not assure the parties regarding compliance with the provisions of the Federal Endangered Species Act (FESA), California Endangered Species Act (CESA), and CEQA.

During 2001, the Cooperative Management Agreement (CMA) was approved by the participants. The CMA addressed many of the above concerns but deferred more detailed descriptions of Habitat Management and Protection and Mutual Assurances to the future preparation of the Pine Hill Preserve Management Plan. The CMA has since been revised

twice by the participating agencies and the preparation of the preserve management plan is in progress. It is also thought that the preparation of the preserve management plan was further delayed by anticipation of the completion of the Federal recovery Plan that was expected to include recommendations concerning habitat management and protection and additional cost estimates for land acquisitions, and management operations.

Department of Fish & Game - The Department of Fish & Game, letter dated September 29, 1997, addressed the combined efforts of El Dorado County and El Dorado Irrigation District to establish, manage, and finance the five-preserve system to conserve eight rare plant species and the habitats that they are associated with. The DFG pointed out the unique opportunity to make a commitment to the acquisition and management, in perpetuity, of the entire five-preserve system and how that would resolve the DFG's concerns about the growth inducing effects/impacts on rare and endangered plants associated with additional water supplies. The DFG concludes that if El Dorado entities implement the acquisition and maintenance of the entire five-preserve system, the mitigation for these rare plants on gabbroic soils will be accomplished. In addition, the DFG letter lists five actions that would be necessary to implement the five preserve system. El Dorado County has complied with each of the five steps through adoption of a general plan amendment, authorizations to fund land acquisitions, and approval of a development impact fee ordinance. **An October 28, 1997 letter from the U.S. Fish and Wildlife Service stated that we support the efforts of everyone and the 5 recovery sites will protect the best quality of gabbro habitat. We did not conclude that the 3,450 acres would be sufficient for survival and recovery of the species.**

Writ of Mandate.- During the time period of July 1999 through September 2004 El Dorado County was subject to a Superior Court ruling that effectively curtailed the County's authority to approve or undertake land use and development projects. Accordingly, the County did not have authority to approve or issue any discretionary land use approvals or entitlements for residential housing development, including; general plan amendments, specific plans, rezones, development agreements, tentative subdivision and tentative parcel maps or time extensions thereof, planned development or design reviews. The County did retain limited authority to approve ministerial residential development, and discretionary and ministerial non-residential development. The effect of the Writ was to significantly slow the rate of new development and correspondingly affected rare plant impact mitigation in-lieu fee collection.

Management Agreement - In 2001, a cooperative management agreement for the Pine Hill Preserve in El Dorado County was signed by three Federal agencies (Bureau of Land Management, U.S. Fish and Wildlife Service, and U.S. Bureau of Reclamation), two State agencies (California Department of Fish and Game and California Department of Forestry and Fire Protection), El Dorado County, El Dorado Irrigation District, and the American River Conservancy. With this agreement, the signatories agreed to pool their resources to conserve the rare plant species and ecosystems that they inhabit. The primary goal of the Pine Hill Preserve is the preservation in perpetuity of the rare plant species and communities of the western El Dorado County gabbro formation. By separate

agreement, El Dorado County and the Bureau of Land Management, have created funding to employ an interim preserve manager, although this agreement has expired.

Under the terms of the CMA each agencies participation level is set forth. El Dorado County participation: Exercise authority via implementation of the adopted goals and policies of the General Plan and Zoning Ordinance with the intent of furthering the purposes of the Preserve. This includes implementing the following tasks: Preserve designation, Development Standards, Acquisition Management, Funding, General Plan Compliance, Technical Support, Management and INRMP.

2002 Recovery Plan for Gabbro Soil Plants of the Central Sierra Nevada Foothills – On December 12, 2002 the U.S. Fish and Wildlife Service provided notice of the approval of the final recovery plan. The Recovery Plan includes recommended actions considered necessary to recover and/or protect threatened and endangered species. The final plan sets forth the biology of the five federally listed species, reasons for their decline and current threats. The conservation measures and recovery strategies for these species are also discussed in the Recovery Plan. Criteria to determine when recovery has been achieved are outlined and particular recovery tasks are detailed in the Step-down Narrative. The five listed species covered are Stebbins’ morning-glory, Pine Hill ceanothus, Pine Hill flannelbush, El Dorado bedstraw, and Layne’s butterweed. The recovery strategy recommended the acquisition of approximately 5001 acres of land distributed throughout the known ranges of the rare plants, but was specifically tailored to address the recovery needs of individual species given their unique distribution patterns.

2004 General Plan - On July 19, 2004 The El Dorado County Board of Supervisors adopted Resolution No. 235-2004 thereby approving the 2004 General Plan including the five-unit ecological preserve and Policy 7.4.1.1 which states:

The County shall continue to provide for the permanent protection of eight sensitive plan species known as the Pine Hill endemics and their habitat through the establishment and management of ecological preserves consistent with County Code Chapter 17.71 and the USFWS’s *Gabbro Soils Plants for the Central Sierra Nevada Foothills Recovery Plan (USFWS 2002)*.

Other applicable General Plan policies include:

Policy 7.4.1.2 Private land for preserve sites will be purchased only from willing sellers.

Policy 7.4.1.3 Limit land uses within established preserve areas to activities deemed compatible. Such uses may include passive recreation, research and scientific study, and education. In conjunction with use as passive recreational areas, develop a rare plant educational and interpretive program.

Policy 7.4.1.4 Proposed rare, threatened, or endangered species preserves, as approved by the County Board of Supervisors, shall be designated Ecological Preserve (-EP) overlay on the General Plan land use map.

Policy 7.4.1.5 Species, habitat, and natural community preservation/conservation strategies shall be prepared to protect special status plant and animal species and natural communities and habitats when discretionary development is proposed on lands with such resources unless it is determined that those resources exist, and either are or can be protected, on public lands or private Natural Resource lands.

Policy 7.4.1.6 All development projects involving discretionary review shall be designed to avoid disturbance or fragmentation of important habitats to the extent reasonably feasible. Where avoidance is not possible, the development shall be required to fully mitigate (*emphasis added*) the effects of important habitat loss and fragmentation. Mitigation shall be defined in the Integrated Natural Resources Management Plan (INRMP) (see Policy 7.4.2.8 and Implementation Measure CO-M).

The County Agricultural Commission, Plant and Wildlife Technical Advisory Committee, representatives of the agricultural community, academia, and other stakeholders shall be involved and consulted in defining the important habitats of the County and in the creation and implementation of the INRMP.

Policy 7.4.1.7 The County shall continue to support the Noxious Weed Management Group in its efforts to reduce and eliminate noxious weed infestations to protect native habitats and to reduce fire hazards.

During review of the General Plan and General Plan EIR state DFG and local interest groups commented on the need to conserve rare plants and their habitats. Comments focused on the differences between the lands identified as EP, Ecological Preserve, in each of the four equal-weight General Plan alternatives and the land identified in the Federal Recovery Plan. In the final EIR, Master Response 20, the County provides a review of the history of the preserve, and the differences of the two plans, noting that most of the land designated for acquisition in the Recovery Plan is within the 7,000+ acres the County has designated within the EP overlay. The most significant exception was identified as land located south and north of Highway 50 which the County excluded from the EP overlay. The County proposed and adopted a number of proposed mitigation measures from section 5.12 of the General Plan EIR that were found to provide additional protection for sensitive plant species. In addition, in adopting the General Plan, the County also found that impacts from development would contribute to significant adverse impacts to rare plants, even after mitigation, and the County *adopted a statement of overriding considerations* citing numerous social and economic benefits that potentially outweighed the loss of rare plants and habitat.

Pine Hill Preserve Management Plan.- The BLM is in process of the preparation of a public review draft preserve management plan. The Plan will focus on publicly owned lands within the Pine Hill Preserve boundaries, and it will serve as a guide for management of adjacent public and private lands within the gabbro soil formation that can be set aside and/or managed for rare plant conservation purposes. The purpose of the Plan is to coordinate management activities at the Preserve with action undertaken by federal, state and local agencies, conservation organizations and private land owners to fulfill the mission of the Preserve. The Plan will also guide management activities at the Preserve and will serve as the basis for future consultation with State and federal wildlife agencies to evaluate impacts of management on the rare plants. The Plan describes physical and biological characteristics of the Preserve. It also identifies management challenges and funding needs, outlines implementation of management activities and proposed strategies designed to conserve the rare plants and their habitats. The Plan will be updated every five years or more frequently as needed to allow for changes in management strategies as identified through monitoring and research projects, and evaluation of implemented management activities.

Acquisition of Preserve Lands/Mitigation Areas

The American River Conservancy (ARC) is a member of the preserve multi-agency management team and maintains property acquisition summary records on behalf of all the member agencies. The ARC provided a table, attached, entitled *Pine Hill Preserve Acreage as of 2004*. The table shows that 1853 acres have been purchased from 1991 through 2006 at a total expenditure of \$19,301,000. Total preserve land area, according to the table is 3,156 acres. Further examination of the table shows: El Dorado County has purchased 59 acres at a cost of \$ 755,000; the State of California has purchased 266 acres for \$1,281,000; a partnership of Federal/EID and El Dorado County purchased 180 acres for \$4,286,000 of which the County contributed \$1,343,000; Federal/State funds were used to purchase 476 acres at a cost of \$4,221,000; Federal purchases include 799 acres for \$8,118,000; Federal and the Wildlife Conservation Board jointly funded the purchase of 23 acres for \$390,000; and NFWF funds were used to acquire 40 acres at a cost of \$250,000. El Dorado County is negotiating the purchase of land from Avatar, LLC consisting of approximately 20 acres (purchase price is unknown at this time). To date, El Dorado County has expended \$2,098,000, or about 11% of the total program cost. (Most land acquisitions have been accomplished by fee title, and one conservation easement agreement – DiFilippo, was granted to DFG affecting a land area of less than 10 acres.) County staff is not aware of any circumstances when lands tendered for purchase for the Preserve were not able to be acquired due to lack of available County funding through the existing mitigation fee program.

Public/protected land acreage estimates (EDC DSD 3/23/2007) **protected within the Service's recovery plan boundary:**

Our estimate based on info provided by BLM and ARC:

• Cameron Park	458 acres	<u>454</u>
• Martel Creek	699 acres	<u>2108 (includes salmon falls)</u>
• Pine Hill	402 acres	<u>426</u>
• Salmon Falls	1860 acres	<u>(combined with Martel creek)</u>
• Penny Lane	165 acres	<u>166</u>
		<u>3154 Total</u>

The El Dorado County Ecological Preserve program includes three mitigation areas known as: Mitigation Area 0, Mitigation Area 1 and Mitigation Area 2. Mitigation Area 0 is defined as parcels included within the Ecological Preserve Overlay of the General Plan. Mitigation Area 0 consists of approximately 7,724 acres of which 3584 acres are under public ownership. Mitigation Area 1 includes land that is located outside of Mitigation Area 0 but within the gabbro soils series. Mitigation Area 1 consists of approximately 42,492 acres. Finally, Mitigation Area 2 includes land that is located outside of the gabbro soils series but is located within EIDs service district that encompasses approximately 121,232 acres. (The above acreage estimates are the most current based upon updated Pine Hill Recovery Plan maps supplied by FWS during March 2007 and EP/Mit 0, EP/Mit 1 and EP/Mit 2 maps maintained on an on-going basis by the County).

(Note: The comments from Fish and Wildlife Service indicate a discrepancy between their records and County records regarding the amount of acreage in the preserves. This matter will be resolved through further review/discussion among the parties).