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Date: December 15, 2015
To: Board of Supervisors
From: Shawna Purvines, Principal Planner
Subject: Targeted General Plan Amendment and Zoning Ordinance Update (TGPA-ZOU) Adoption

PURPOSE

The purpose of this memorandum is to provide the Board of Supervisors (Board) with final documents and information to assist with review and certification of the Final Environmental Impact Report (FEIR) and adoption of the TGPA-ZOU (the "Project"). This memo is organized as follows:

- A. Summary of Final Project Documents
- B. Response to Comments Received During Board Hearing on the Project and FEIR, and Related Information
- C. Board Action

A. Summary of Final Project Documents

The following documents have been modified as necessary to accommodate the Board's tentative actions taken on November 13, 2015 and are attached to Legistar File No. 11-0356:

1. Resolution certifying the Final Environmental Impact Report for the Targeted General Plan Amendment and Zoning Ordinance Update (Resolution No. 195-2015); Making Environmental Findings of Fact (Exhibit A); Adopting a Statement of Overriding Considerations (Exhibit B); and Approving the Mitigation Monitoring and Reporting Program (Exhibit C); *See Attachment 21A for the Resolution and Attachment 21I for the FEIR*; and
2. Resolution adopting a Targeted General Plan Amendment to the El Dorado County General Plan (Resolution No. 196-2015); Modification to Camino/Pollock Pines Community Region to Rural Centers of Camino, Cedar Grove and Pollock

Pines (Exhibit A); Agricultural District Boundary Amendment (Exhibit B); List of Limited Land Use Designation (LUD) Revisions (Exhibit C); *See Attachment 21B*; and

3. Resolution for adoption of Mixed Use Design Standards and Guidelines (Resolution 197-2015) found in the Mixed Use Design Manual (Exhibit A), *See Attachment 21C*; and
4. Zoning Ordinance Update including the Zoning Map; *See Attachments 21J and 21K*.

The following documents regarding community design standards did not need to be modified to accommodate the Board's tentative actions and are unchanged from the versions presented during the Board Hearing on the Project:

- Landscaping and Irrigation (Resolution 198-2015), *See Attachment 21D*
- Outdoor Lighting (Resolution 199-2015), *See Attachment 21E*
- Mobile Home Park Design (Resolution 200-2015), *See Attachment 21F*
- Research and Development Zone Design (Resolution 201-2015), *See Attachment 21G*; and
- Parking and Loading (Resolution 202-2015), *See Attachment 21H*.

B. Response to Comments Received During Board Hearing on the Project and FEIR, and Related Information

On November 10 and 12, 2015, the Board held a public hearing and received and considered additional written and oral public comments regarding both the FEIR and Project. The Chair closed the public hearing on November 12, 2015 and continued this matter to Friday, November 13, 2015. On November 13, 2015, the Board tentatively approved various actions and directed staff to revise draft documents as necessary pursuant to this tentative action and return on December 15, 2015 for final action.

As discussed in the November 10, 2015 Staff Report, all individuals, groups and agencies desiring to comment on the Project and environmental review documents have been given adequate opportunity to submit oral and written comments since 2011. These opportunities for comment far exceed the requirements of the California Environmental Quality Act (CEQA) and the County's Environmental Review procedures, including additional hearings and longer periods to review and provide comments on the documents.

Staff has received, reviewed, and considered both written and oral comments provided during the Board Hearing, and found that the issues raised were previously addressed during the procedural processing of this project. However, in light of the time that has elapsed between the inception of the project and the proposed final action, it seems

appropriate to include the County's previous responses to comments, where applicable, in this memo. In addition, if any further response or clarification was deemed warranted, it is also included in this memo.

1. General Plan Implementation Requirements and Development Review Process

1-A Issue: A commenter raised concerns about the prioritization of General Plan Implementation Measures.

Response 1-A: The 2004 General Plan Implementation Table, which was included with the adoption of the 2004 General Plan outlines the general timeline and action plan for General Plan implementation. *(See Attachment 5 to Staff Report #4 Final Adoption of the El Dorado County General Plan at the following link:)*

http://www.edcgov.us/Government/Planning/Staff_Report_4_Final_Adoption_of_the_El_Dorado_County_General_Plan.aspx

Specific implementation actions (implementation measures) and timeframes for those actions are contained within each General Plan Element. The 2014 General Plan Implementation Annual Progress Report noted that "the General Plan currently has a total of 230 implementation measures including 5 additional measures since the 2013 Annual Progress Report (APR), resulting from adoption of a new Housing Element on October 29, 2013. Implementation of these measures is the collective responsibility of several County departments, divisions and agencies. Overall, the County has made significant progress toward implementation of the General Plan since its adoption in 2004. Of the 230 total measures, 145 (63 percent) have been implemented, 68 (30 percent) are in progress, and 17 (7 percent) remain to be initiated and implemented." The timeframe for implementing the Zoning Ordinance Update (Implementation Measure LU-A) includes the following clear direction: "Begin Zoning Ordinance rewrite immediately upon adoption of General Plan. By tiering off the General Plan EIR and relying on previous work completed for 1996 General Plan, adoption should occur within one year of General Plan adoption." The following is the response to this comment (and similar comments) from the FEIR.

"The other land use standards (including the biological policies review) are proceeding on separate schedules from the TGPA-ZOU. These proposed standards are in the process of being drafted and are not ready for CEQA review. Government Code Section 65860, which provides that a zoning ordinance must be revised to conform to the General Plan "within a reasonable time" of General Plan adoption, clearly contemplates that the ordinances necessary to implement the General Plan need not be adopted at the same time as the General Plan. The El Dorado County General Plan's Implementation Plan sets out an ambitious list of regulations and standards that will need to be

prepared in order to fully implement the General Plan. The County has been diligently progressing toward completing the list since adoption of the General Plan in 2004, as more fully described in the June 2014 "2013 General Plan Annual Progress Report" presented to the Board of Supervisors by the Community Development Agency.

Both budget and staff limitations preclude the County from preparing and adopting all of the items identified in the [General Plan] Implementation Plan at the same time. In addition, the varying levels of public interest and controversy over different aspects of the Implementation Plan have resulted in some proposed programs, such as the proposed oak woodlands preservation fee program that was the subject of litigation, taking much longer than expected (FEIR, PP. 8-15 and 8-16)."

1-B Issue: A commenter contended that parcels currently zoned Exclusive Agricultural (AE) and designated with the IBC (Important Biological Corridor) overlay are being "up-zoned" under the ZOU. The commenter submitted a list of parcel numbers purported to represent parcels with current Agricultural (A) or AE zoning that are located within the IBC and are supposedly being "up-zoned".

Response 1-B: Staff has reviewed the list of parcels provided by the commenter and determined that much of the data in the list is inaccurate. For example, 75 of the parcels on the list are purportedly located in one of the Community Regions or Rural Centers. There is no IBC designated land within Community Regions and Rural Centers; IBCs are located within Rural Regions where less intensive development is planned. Further, the table also indicates that more than 70 parcels are currently zoned A with the IBC overlay; in fact, there are only 7 such parcels. Whatever the cause, the data supplied by the commenter appears inaccurate.

1-C Issue: Commenters expressed concerns that the ZOU expands the uses allowed by right in various zones. Others assert that the ZOU contains new provisions not found in the current ordinance that are being "hidden" from the public, such as the Bass Lake Hills (BLH) reimbursement fee.

Response 1-C: The comments suggest that the commenter may be unfamiliar with the County's existing zoning code, including uses currently allowed by right or by permit under the code, or uses allowed as a matter of right under state law. Most expanded uses allowed under the ZOU are subject to standards designed to minimize environmental effects and impacts on surrounding properties. Uses not meeting those standards are subject to further review or are prohibited.

For example:

- The BLH reimbursement fee is found in the existing County Zoning Code at Title 17.21.010, et seq. It has been transferred into the ZOU with only non-substantive changes.
- Vacation rentals in the unincorporated areas of the County are currently allowed by an administrative process under Title 5 of the County Ordinance Code.
- The Mobile Home Park (MP) zone is being eliminated, and land currently zoned MP is rezoned consistent with the underlying land use. Land designated Multi-Family Residential (MFR) is rezoned to the Multi-Unit Residential (RM) zone; within the High Density Residential (HDR) and Medium Density Residential (MDR) land uses, MP zoned sites will be rezoned to Single-Unit Residential (R1) or Residential One Acre (R1A) respectively. It is the land use designation, and not the current zoning, that drives the consistency rezone.

1-D Issue: A commenter expressed concern that ranch marketing activities, including special events, are being expanded under the ZOU, that these uses will be allowed on parcels electing to “opt-in” to agricultural zoning, and that the 2004 General Plan mitigation measure limiting ranch marketing is “undone” by the ZOU.

Response 1-D: The 2004 General Plan incorporated a policy recommended as a mitigation measure in the 2004 General Plan EIR to limit the potentially significant effect of unrestricted ranch marketing uses on agricultural operations:

Policy 8.2.4.4 – “Ranch marketing, winery, and visitor-serving uses (agricultural promotional uses) are permitted on agricultural parcels, subject to a compatibility review to ensure that the establishment of the use is secondary and subordinate to the agricultural use and will have no significant adverse effect on agricultural production on surrounding properties. Such ranch marketing uses must be on parcels of 10 acres or more; the parcel must have a minimum of 5 acres of permanent agricultural crop in production or 10 acres of annual crop in production that are properly maintained. These uses cannot occupy more than 5 acres or 50 percent of the parcel, whichever is less.”

This policy (incorrectly referenced as Measure AF-I in the comment letter) is not changed or “undone” by the TGPA or ZOU. The ZOU implements this policy by limiting the scope of uses allowed by right, ensuring that ranch marketing is subordinate to agricultural production by requiring minimum parcel sizes of 10, 20 or 40 acres, restricting acreage that can be devoted to ranch marketing uses, and requiring that the agricultural operation is a condition precedent to the ranch marketing activity. Review by either the Agricultural Commissioner or

Agricultural Commission is provided for both uses allowed “by right” and those requiring an additional permit.

The commenter refers to 2004 General Plan Draft EIR (DEIR) Mitigation Measure AF-I as requiring the limiting of ranch marketing activities. No such mitigation measure exists in that document. Although staff notes that there is a 2004 General Plan Implementation Measure AF-I, that measure does not refer to ranch marketing activities. Further, page 5.2-63 of the 2004 General Plan DEIR, as referenced by the commenter, refers to Impact No. 5.2-2, not Mitigation Measure 5.2-2. The 2004 General Plan DEIR Mitigation Measure 5.2-2 (pp. 5.2-64 and p. 5.2-69): “Limit Extent of Ranch Marketing Activities, Wineries, and Other Agricultural Promotional Uses within Agricultural Designations and Require Compatibility Review”, is being implemented through the Project, not removed or eliminated as suggested by comments received.

Marketing/promotional and special events are currently allowed by right for up to 250 persons and up to 24 times per year in certain agricultural zones under both the adopted General Plan and the adopted Zoning Ordinance (Ranch Marketing and Wineries). Special events are allowed “by right” only when they are: in compliance with defined standards, within specific zone designations, meet minimum parcel size requirements, and requirements for direct access to County maintained roads or an agreement that the operator will participate in the costs of road maintenance is in place. If these standards are not met, ranch marketing uses would require additional permits, up to and including a Conditional Use Permit (CUP). Ranch marketing uses for most agriculture “opt-in” parcels would require approval of a CUP if they do not meet the standards described above.

1-E Issue: Commenters expressed concern regarding Parcel Specific Rezones

Response 1-E: As addressed in the FEIR and in numerous other staff reports and presentations, the County applied a set of general mapping rules authorized by the Board when determining if or how parcels should be rezoned to bring them consistent with the General Plan and Project Objectives.

A commenter raised a concern about parcels APN 327-211-14, 327-211-16 and 327-211-25 associated with a Rezone and Planned Development Application approved in 2012. The subject Planned Development Application approval was rescinded (Resolution No. 149-2012) by the Board following a challenge on the Mitigated Negative Declaration that was certified with the approval of the project. In conjunction with that Board action, the applicant agreed to resubmit the application and fund the cost of preparation of an EIR for the project. As of the date of this memo, a new application is being processed by the County. All three parcels have a General Plan designation of Commercial and a current inconsistent zone of R1A. The private applicant proposed a rezone to General

Commercial (GC) which differs from the TGPA-ZOU proposed zone of Community Commercial (CC). The proposed rezoning of the three parcels from an inconsistent residential zone (R1A) to a consistent commercial zone (CC) as part of the ZOU complies with the Project objectives.

The commenter also expressed concern that the previous project would be able to proceed “by right”, without addressing the issues that were raised with the legal challenge. However, the parcels identified are within a Design Control (-DC) area requiring a discretionary review, and the site is currently constrained by other General Plan policy and County ordinances (e.g. oak woodlands, wetlands, traffic, encroachment permits, etc.) that would need to be addressed and subject to environmental review under CEQA prior to approval of any project on the site. The Project does not relinquish or waive the County’s authority to address site planning issues as a result of having a consistent zone and land use designation.

Other commenters expressed concerns regarding individual parcels similar to what was discussed above. These parcels were reviewed and found to be consistent with the mapping rules (criteria) applied at the direction of the Board, necessary to meet the Project Objectives.

2. Adequacy of the FEIR

2-A Issue: Commenters reasserted previous claims that the Project would cause 38 new significant and unavoidable environmental impacts.

Response 2-A: Because the Project amends and implements the 2004 General Plan, the FEIR considered specific impacts related to the Project as well as the overall impact of future development according to the General Plan (FEIR p. 8-5). While there are 38 significant unavoidable impacts identified in the FEIR, most of these are associated with implementation of the 2004 General Plan and will occur with or without adoption of the Project. Five of these significant and unavoidable impacts are attributable solely to the Project (i.e., they would not occur if the Project were denied); they are primarily related to allowed uses on agricultural and natural resource lands to implement Project Objectives, including, but not limited to promoting and protecting agriculture, the creation of jobs and improving sales tax revenues. The remaining significant and unavoidable impacts are associated with implementation of the General Plan or include impacts related to greenhouse gasses which were not required to be analyzed at the time of the 2004 General Plan EIR, and would still occur regardless of any action on the TGPA-ZOU.

2-B Issue: Commenters reasserted concern that the EIR made findings that the Project further depletes groundwater resources and recommended the mitigation be revised to require the County to adopt a Countywide Groundwater Management Plan (GWMP) and implementing ordinance before any further implementation of the County's General Plan.

Response 2-B: Staff reviewed GWMPs for Butte (2004), Colusa (2008), Lassen (2007), and Sutter (2012) Counties. None extend beyond alluvial groundwater basins and none contain mandatory regulations. In addition, staff followed up with Water Resource and Information Management Engineering, Inc. (RIME), the firm that prepared the Calaveras County's GWMP for the Water District to discuss their findings for Calaveras County's GWMP. Based on staff's research, GWMPs were found to be generally:

- Voluntary, unenforceable plans that identify suggested means of managing groundwater supplies and best practices.
- Prepared for alluvial basin aquifers primarily, not on fractured rock aquifers similar to El Dorado County.
- Costs varied, depending on the scope of the GWMP, availability of groundwater data, and other variables, ranging from \$100,000 to \$500,000 not including an implementing ordinance.

These plans were prepared under 1992 Assembly Bill AB 3030. However, the authority of AB 3030 has been eliminated in favor of the regional sustainable groundwater plans described in the recently enacted Sustainable Groundwater Management Act of 2014. Current state law only requires groundwater management plans for groundwater basins, not for fractured rock aquifers similar to what exists in El Dorado County. The California Department of Water Resources (DWR) has focused on high and moderate priority areas and has not yet identified all of the state's low or very low priority basins
http://www.water.ca.gov/groundwater/casgem/basin_prioritization.cfm

The only DWR-identified basin in El Dorado County is a moderate priority basin on the south side of Lake Tahoe. The comment was addressed in the FEIR (p. 3.10-32) as follows:

“Adoption of a groundwater management plan would be infeasible within a reasonable period of time due to the current lack of the baseline data necessary to develop such a plan. Necessary baseline data would include multi-year sampling of water levels in groundwater wells on a countywide basis in sufficient sample numbers (i.e., data points) to be able to describe the outlines of the county's numerous fractured, non-contiguous aquifers, understand

the variations in groundwater supply during wet and dry years within those aquifers, and project the aquifers' safe yield rates.”

In response to several public comments received during both the September/October 2015 Planning Commission Hearing and the November 2015 Board Hearing asserting that preparation of a GWMP in a fractured rock aquifer is a “common” and “feasible” mitigation for the TGPA-ZOU’s impacts to groundwater, ICF International (ICF) staff conducted detailed research on existing GWMP’s for fractured rock aquifers in the northern California region. After extensive research, ICF staff could not identify any fractured rock aquifer GWMP’s in the Northern California region. Based on ICF staff’s research, it appears existing adopted GWMP’s within northern California primarily address alluvial groundwater basins, not fractured rock aquifers; (*See ICF memo to staff dated November 23, 2015, Attachment 21L*). Therefore, public comments asserting that fractured rock aquifer GWMP’s are “common” are inaccurate.

As to the feasibility of preparing a GWMP for the County’s fractured rock aquifer, ICF hydrologist, Alexa La Plante, prepared a sample scope and cost estimate for preparation of an appropriate GWMP (*See Attachment 21L*). This document describes the copious amount of detailed technical data that would be required for preparation of a County GWMP, and outlines prescribed methods for collecting this data over a period of at least several years. The sample scope uses the best available science to illustrate why a GWMP would be infeasible for the western slope of El Dorado County due to intensive labor requirements, long timeframes (at minimum several years), high project cost, and unpredictable results of the groundwater monitoring process in fractured rock aquifers. A summary of the scope and cost of preparing a GWMP for western El Dorado County is described below.

This Scope of Work summary provides a practical example of the complex and technical effort required for development of a GWMP, including intensive neighborhood-level well monitoring requiring private landowner permission and assessment for each fractured rock aquifer (Task 1), using monitoring data to develop a groundwater management model and report (Task 1d), preparation of a GWMP (Task 2) and development of a Groundwater Management Ordinance to implement the adopted GWMP (Task 3, Part 1). The Scope would also include extensive public outreach, Planning Commission Hearings and Board Hearings at the end of the process (Task 3, Part 2).

If implemented, the GWMP would be the documentary basis for a groundwater management ordinance establishing new regulations for future development, including groundwater management measures to be imposed on property owners throughout the western slope of the County. The sample scope of developing a GWMP anticipates the need for at least six technical specialists to conduct an extensive, multi-year monitoring of groundwater wells within the

rock aquifers in order to develop a database necessary to support a groundwater model.

The cost of the GWMP, model development, and ordinance is estimated to be approximately \$2.6 million. As there are no examples of adopted and implemented GWMP's in the northern California region for jurisdictions such as El Dorado County which is primarily located on fractured rock aquifers, it is not readily known what is the practical worth, reliability or dependability a GWMP would provide.

2-C Issue: Commenters questioned the adequacy of the EIR analysis and findings of surface water supplies to support development under the TGPA-ZOU, as well as additional development planned for under the General Plan.

Response 2-C: "...The increase in [surface] water demand attributable solely to the TGPA is not substantial because the TGPA would not result in a substantial increase in the level of development analyzed in the 2004 General Plan EIR [already deemed a Significant and Unavoidable impact] and therefore the overall impact on supplies (FEIR Response to Comment O-1-410, p. 9-188)."

In the short term, the three west slope water purveyors forecast sufficient supplies, with incorporation of existing drought contingency plans, to meet near-term demand (FEIR, pp. 3.10-20 through 3.10-26). The FEIR also concludes that the El Dorado Irrigation District (EID), in particular, will have sufficient surface water supplies to meet cumulative needs to 2035, including proposed development projects within EID's district boundaries (FEIR, pp. 5-29 and 5-30). However, as the west slope water purveyors [EID, the Georgetown Divide Public Utilities District (GDPUD) and the Grizzly Flats Community Services District (GFCS)] are responsible for providing surface water to meet projected future demands, each water purveyor must forecast, using the best available data, when demand for surface water could exceed available supply, and incorporate those forecasts into their water supply planning efforts.

For purposes of long-term water supply planning, the El Dorado County Water Agency (EDCWA) was created in 1959 to ensure that the County as a whole has adequate water to serve current and future needs. As the boundaries of the water purveyors do not cover the entire County, the EDCWA works to develop and update countywide water supply plans and also participates in long-term water supply acquisition efforts. The EDCWA is empowered to negotiate water supply contracts from state and federal agencies for both water management and new facility construction (El Dorado County Water Agency website: <http://www.edcgov.us/water.aspx>, last accessed 11/24/15). However, as an application for use of additional water rights typically takes several years to negotiate, a demonstrated need for additional supply must first be established.

The FEIR states: “EDCWA's *Water Resources Development and Management Plan, 2014 West Slope Update* (“2014 Update”) examines the long-term availability of surface water to supply the forecasted future needs of customers in EID, GDPUD, and GFCSD.” In addition, “The 2014 Update’s forecast goes substantially beyond 2030 to offer an estimate of demand and supply under what it considers to be ‘build-out’ conditions, in which the maximum density of land uses permitted under the 2004 General Plan have been achieved.” (FEIR, p. 3.10-26).

2-D Issue: A comment was received related to groundwater supply as it relates to permits that have already been granted. The commenter stated that the Project will deplete groundwater supplies to the extent that the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted.

Response 2-D: The Commenter’s statement that there is not enough water to supply permitted uses misconstrues the intent of FEIR Impact No. WS-2: “Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)”.

Given that the General Plan anticipates additional development, it cannot be said with certainty that there is sufficient groundwater to support full build-out in all areas of the County that are outside of the water districts. Hence, the FEIR conservatively concluded that this will be a significant and unavoidable impact. To do otherwise would not meet the intent of CEQA to disclose potential future impacts. Conversely, at the scale of a Program EIR, “impacts on individual property owners cannot be determined with any certainty due to the complexity of the groundwater aquifers underlying the western slope and the lack of available information on groundwater supplies within those aquifers (FEIR Response to Comment R-3-18, p. 9-20).” As Terry Rivasplata of ICF stated at the Board Hearing on November 10, 2015, this conclusion regarding the Significant and Unavoidable finding in the FEIR stands whether the TGPA-ZOU is approved or not. The 2004 General Plan EIR reached the same conclusion regarding groundwater.

The TGPA would result in only a marginal increase in the development potential under the existing General Plan. The small amount of additional development authorized by the TGPA (primarily an increase due to mixed use development densities) and the increased demand from conditional uses under the ZOU (ski resort, for example) are not tipping points. They will simply contribute to the existing potential for localized impacts on aquifers.

There is water to support existing permitted uses. In addition, due to the complexity of the groundwater aquifers underlying the western slope (see above), there are several General Plan policies that act to restrict development in areas where public water supplies are not available. These include Policy 5.2.3.4, which states: "...The County shall not approve any discretionary or ministerial projects unless the County finds, based on evidence provided by the applicant, or other evidence that may be provided, that the groundwater supply for the project in question is adequate to meet the highest demand associated with the approval in question (FEIR, p. 8-27)."

2-E Issue: Commenters reasserted earlier remarks alleging that the Project would violate requirements of the State Water Resources Control Board's (SWRCB) Onsite Water Treatment Systems (OWTS) standards for septic systems. The comment was addressed in the FEIR.

Response 2-E: El Dorado County is bound by the requirements of the State Board's OWTS standards. The County is currently drafting Tier 2 Local Agency Management Program for New or Replacement OWTS standards consistent with the SWRCB's OWTS policies for eventual approval by the SWRCB. Until such time as those Local Agency Management Program Tier 2 standards are approved by the SWRCB, the County is bound by the requirements of the State Water Resources Control Board's OWTS Tier 1 standards for new or replacement systems. The Tier 1 standards are more restrictive in certain respects than the Project policies, and will limit, for example, the types of uses and minimum lot sizes in subdivisions of land occurring on steep slopes. The County will not approve development that violates the State Board's standards (FEIR Response to Comment O-1-114).

2-F Issue: A comment was received related to degraded water quality due to aquifers being easily contaminated by septic systems. The commenter cited a report and claimed that 63,000 people in the County rely on public well systems with contaminated groundwater and stated that "out of approximately 175 community water systems in the County, many small water system operators fail to comply with monitoring requirements". The comment was addressed in the FEIR.

Response 2-F: The 2013 report referenced was prepared by the SWRCB. Where this report refers to communities that rely on a contaminated groundwater source, it is referring to community public water systems that draw water from a contaminated groundwater source prior to any treatment. The findings in this report do not reflect private domestic wells or other unregulated water systems. The study notes that the State does not require these groundwater users to sample their wells, and consequently a comprehensive database for these groundwater sources does not exist. This study, which can be found at the link below, indicates that there are two public water systems in El Dorado County, South Tahoe Public Utilities District (STPUD) and Tahoe Keys Water District,

which serve all but 100 of the 63,000 people cited by the commenter. The third public water system, Gold Beach Mobile Home Park in Nashville, California serves 100 people. Subsequent reports by these public water systems have indicated the water quality meets drinking water standards. For example, STPUD publishes annual reports on drinking water quality. These reports have repeatedly indicated the water quality meets all EPA drinking water standards. http://d3n8a8pro7vhmx.cloudfront.net/communitywatercenter/pages/38/attachments/original/1394272808/xaxvc1nv_compressPdf.pdf?1394272808

As a final point, a majority of the affected areas served by the identified public water systems in the report are located within the City of South Lake Tahoe, not under the County's jurisdiction; therefore the concern raised would not be further affected by the Project as proposed. The County has adopted detailed regulations for the installation and maintenance of septic systems that avoid the potential for contaminating ground and surface waters (FEIR, p. 8-29, Section 8.7.3 – Water Quality).

2-G Issue: A commenter stated that a "recent study by the State Board of nearly 400 private wells revealed 30% failed primary drinking water standards."

Response 2-G: The Voluntary Domestic Well Assessment Project El Dorado County Data Summary Report September 2005 study prepared by the SWRCB Division of Water Quality (DWQ) was addressed and comments submitted in a letter prepared by the County's Environmental Management Department at the AB 885 Workshop held on December 9, 2005. (*See Attachment 21M*).

Environmental Management staff found that the results of the Voluntary Domestic Well Assessment Project, as well as other available data, does not support DWQ staff's claim that Onsite Water Treatment Systems (OWTS) are contaminating groundwater in El Dorado County. The response goes on to state:

"The data collected for the Voluntary Project does not indicate the global cause and affect between OWTS and groundwater contamination that is being asserted by DWQ staff. In fact, DWQ staff has ignored some of the Voluntary Project findings in pursuit of an agenda rather than conduct an open-minded analysis".

Environmental Management staff affirmed that the results of the Voluntary Project potentially makes the argument against the link between the degradation of groundwater quality and OWTS in the County, and determined that there is no correlation of, or a problem that exists between, a properly sited and constructed septic system and groundwater integrity, as suggested by the SWRCB. A connection has not been proven and the analysis prepared by SWRCB is fundamentally flawed.

On February 3, 2009, the Environmental Management Department provided additional information to the Board regarding AB 885. Following the discussion, the Board authorized the Board Chair to sign a letter for submittal to the SWRCB regarding the AB 885 onsite OWTS proposed regulations and “requested that the SWRCB work with the State Legislature to repeal AB 885. Should the repeal process fail, the Board requested that the legislation be amended to revert back to the original intent to protect the coastal zones or other known areas of impaired surface water or ground water where it has been scientifically proven that OWTS are the source of the water quality degradation” (*See Attachment 21N*).

3. Adequacy of the Travel Demand Model (TDM)

3-A Issue: A commenter provided the Caltrans letter dated March 16, 2015 as evidence that operational analysis should have been completed. The FEIR notes that Caltrans rescinded the referenced March 16, 2015 letter and replaced it with a letter dated May 5, 2015. The County’s responses are in reference to the May 5, 2015 letter.

Response 3-A: The FEIR previously addressed this issue as part of 8.15 Master Response 14: Traffic Analysis Methodology, TDM and U.S. Highway 50 LOS Calculations, 8.15.1 Traffic Analysis Methodology.

As noted at the November 10, 2015 Board Hearing, this comment contradicts guidance from the Federal Highway Administration (FHWA), Highway Capacity Manual (HCM), and the Institute of Transportation Engineers (ITE). The FHWA Traffic Analysis Toolbox provides guidance on the appropriateness of methods for a given analytical context. Based on the size of the study area (El Dorado County covers nearly 1,800 square miles) and the nature of the project, a Planning context reliant on the application of a TDM is identified by this industry standard as being the most appropriate approach.

3-B Issue: A commenter indicated that General Plan Policy TC-Xa requires that operational analysis be completed for the EIR.

Response 3-B: The FEIR includes discussion specific to this issue on pages 3.9-10 to 3.9-14 and on pages 3.9-16 to 3.9-17. As discussed on page 3.9-12, Board adopted Resolution No. 194-2008 specifically clarifies the timing of the Capital Improvement Program and traffic improvement concurrency requirements related to TC-Xa. As described, TC-Xa requires analysis be performed during the approval process for a single family residential subdivision of five or more parcels. TC-Xa does not address the analysis requirements for a programmatic EIR. Separately, *El Dorado County’s Transportation Impact Guidelines, November 2014* addresses the use of operational analysis for specific development projects.

Likewise this Traffic Impact Guidelines do not address the analysis requirements for a programmatic EIR.

3-C Issue: The Caltrans letter dated March 16, 2015 has been provided by commenters as evidence that U.S. Highway 50 currently operates at LOS F. This letter specifically refers to Westbound AM Peak Hour volumes just west of Latrobe Road. The FEIR notes that Caltrans rescinded the referenced March 16, 2015 letter and replaced it with a letter dated May 5, 2015. The County's responses are in reference to the May 5, 2015 letter.

Response 3-C: The FEIR previously addressed this issue as part of 8.15 Master Response 14: Traffic Analysis Methodology, TDM and U.S. Highway 50 LOS Calculations, 8.15.3 U.S. Highway 50 Westbound LOS Calculations.

In the May 5, 2015 letter, Caltrans specifically recommends the use of an existing traffic volume that it recognizes will "result in an existing LOS D, which is appropriate for this analysis." County staff have updated the TDM post-processor spreadsheets with volumes based on data attached to the May 5, 2015 letter and are in agreement with Caltrans that analysis of this Freeway segment results in LOS D during the AM Peak Hour.

3-D Issue: The 2014 Caltrans *Transportation Concept Report and Corridor System Management Plan United State Route 50* (2014 TCR/CSMP) has been provided by commenters as evidence that U.S. Highway 50 currently operates at LOS F.

Response 3-D: The FEIR previously addressed this issue as part of 8.15 Master Response 14: Traffic Analysis Methodology, TDM and U.S. Highway 50 LOS Calculations, 8.15.3 U.S. Highway 50 Westbound LOS Calculations.

Based on the description of analysis methods provided in Appendix C of the 2014 TCR/CSMP, it is understood the LOS analysis was completed using the Peak Hour traffic data provided in Table 15 of this report. Table 15 includes estimated volumes from the *2012 Traffic Volumes on the California State Highway System*. These estimates are markedly higher than actual count data from Caltrans Performance Measurement System (PeMS), which collects real-time data from over 39,000 individual detectors across all major metropolitan areas of the State of California, and have remained largely unchanged since estimates for U.S. Highway 50 freeway segments in El Dorado County were first published by Caltrans in 2006. As an example, the U.S. Highway 50 segment west of Latrobe was estimated to have 8,600 vehicles in the peak hour for 2006, 2008, 2010, 2011, 2012, 2013, and 2014, respectively. Considering known variations in traffic volumes during these years (the Great Recession and subsequent recovery) and that these estimates contradict available Caltrans PeMS data for typical commute peak hours, it was determined that these estimates were not

appropriate for determining LOS within the EIR. Instead EIR freeway analysis relied on data obtained from the Caltrans PeMS system.

3-E Issue: A commenter provided the Caltrans letter dated March 16, 2015 as evidence that future traffic conditions have been understated on U.S. Highway 50. The FEIR notes that Caltrans rescinded the referenced March 16, 2015 letter and replaced it with a letter dated May 5, 2015. The County's responses are in reference to the May 5, 2015 letter.

Response 3-E: The FEIR previously addressed this issue as part of 8.15 Master Response 14: Traffic Analysis Methodology, TDM and U.S. Highway 50 LOS Calculations, 8.15.3 U.S. Highway 50 Westbound LOS Calculations.

3-F Issue: The 2014 Caltrans *Transportation Concept Report and Corridor System Management Plan United State Route 50* (2014 TCR/CSMP) has been provided by commenters as evidence that U.S. Highway 50 will operate at LOS F in the future.

Response 3-F: The FEIR previously addressed this issue as part of 8.15 Master Response 14: Traffic Analysis Methodology, TDM and U.S. Highway 50 LOS Calculations, 8.15.3 U.S. Highway 50 Westbound LOS Calculations.

In addition to the differences in data, methods and analysis approaches discussed in the master comment response and Issue Response 3-D, the 2035 LOS as provided in the 2014 TCR/CSMP relies on a growth rate (percentage) applied to a 2012 traffic estimate (*See Issue Response 3-D regarding the basis for these estimates*), which is considered a less preferential analysis method than adding estimated growth (an absolute value) to an actual traffic count, such as those based on Caltrans PeMS data as was done for the EIR. Furthermore, as the SACSIM model on which the growth rate is based does not include a peak hour model (the County model does), the daily growth rate was used as a proxy for peak hour growth in the future. Considering that peak hours/periods do not always grow at a rate consistent with daily growth and that this analysis relies on the use of a base year peak hour estimate, it would be commonly considered to result in a less robust forecast than that prepared for the EIR. Unlike the El Dorado County forecast which is based on post-processed TDM volumes, the Caltrans analysis includes methods that are more commonly considered to be "sketch planning" techniques. As noted in Issue Response 3-A, the FHWA Traffic Analysis Toolbox suggests that the direct application of a TDM is preferential for planning analysis at a regional scale.

If an analysis is performed for the freeway segment west of Latrobe Road using the same growth rate and methodology utilized by Caltrans in the 2014 TCR/CSMP, but actual 2010 count data (Caltrans PeMS data obtained by the County) is used instead of estimated Peak Hour values (*See Issue Response 3-D*), this exercise results in a 2035 Caltrans Peak Hour estimate within 1% of the

County's estimate. Based on this analysis, it is assumed that if the 2014 TCR/CSMP baseline was updated using the Caltrans PeMS data obtained by the County, that its results would be consistent with the LOS findings provided in the EIR.

3-G Issue: A commenter indicated that U.S. Highway 50 traffic volumes were not analyzed or documented on a directional basis.

Response 3-G: U.S. Highway 50 analysis was analyzed and documented on a directional basis. Table 3.9-3 shows the directional service volumes used to determine LOS. Table 3.9-3 Footnote (c) specifically indicates "Service volumes are for a single direction." Additionally, analysis volumes for U.S. Highway 50 are presented on a directional basis in Table 3.9-13 (note that both general purpose lanes and high occupancy vehicles lanes are reported separately for each direction).

3-H Issue: A commenter indicated that non-freeway traffic volumes were averaged and then analyzed in a manner that does not account for traffic flow directionality (during the peak hour traffic volumes are typically higher in one direction).

Response 3-H: All 2-way LOS service volumes included in Table 3.9-3 reflect the effect of directionality during the Peak Hour. As described in the footnotes to this table, the 2010 HCM was used as a primary source, including LOS service volume thresholds that specifically account for D-factors (directionality factors) as provided for in Chapters 10, 15, and 16 of the 2010 HCM.

3-I Issue: A commenter provided photos as evidence that traffic operations are LOS F on U.S. Highway 50 and elsewhere in the County.

Response 3-I: The static nature and a lack of context related to these photos does not provide sufficient information to determine if they are representative of reoccurring congestion. Incidents or atypical occurrences (construction activity, crashes, special events, etc.) often result in non-reoccurring congestion. Given that the time of day, location, and other factors are unknown it is not possible to ascertain LOS from the provided photos.

3-J Issue: A commenter indicated that the improvements included in future analysis scenarios for U.S. Highway 50 are more extensive than those planned by Caltrans.

Response 3-J: U.S. Highway 50 improvements included in the analysis are based on those provided for in Sacramento Area Council of Governments (SACOG) *2012 Metropolitan Transportation Plan/Sustainable Communities Strategy* (2012 MTP/SCS). As this document is required to consider financial constraints and Caltrans is a member of SACOG and provides direct input into its preparation it is

understood that it is consistent with Caltrans' stated plans for future improvements.

County staff also reviewed EIR assumptions for consistency with U.S. Highway 50 improvements as identified in the 2014 TCR/CSMP. This review noted the following facilities were missing from the existing facilities description on page 7 (they are constructed today): (1) Segments 7 and 8 under "Existing Facility" do not include the eastbound auxiliary lanes (or "transition lane") from E. Bidwell to Bass Lake Road; and (2) Segment 13 does not include the auxiliary lanes in the westbound and eastbound directions between Missouri Flat Road and Forni/Placerville Drive. On page 7, under the "20-year Build Facility" it was noted that the 2014 TCR/CSMP includes auxiliary lanes from Greenstone to Missouri Flat which are not included in the County CIP or in the 2012 MTP/SCS.

3-K Issue: A commenter indicated that the model inputs were not appropriately reviewed.

Response 3-K: The FEIR previously addressed this issue as part of 8.15 Master Response 14: Traffic Analysis Methodology, TDM and U.S. Highway 50 LOS Calculations 8.15.3 U.S. Highway 50 Westbound LOS Calculations.

As discussed in this Master response, letters of concurrence for the travel demand base model were received by both SACOG (February 3, 2014) and Caltrans (February 4, 2014 and September 22, 2014), a consultant peer review was completed (May 2013). Additionally, the TDM has been applied by multiple accredited transportation professionals (who are not employed by El Dorado County and are not members of the project team that developed the model) since its public release in 2013 without the identification of an error substantive enough that it would require altering the fundamental methodologies on which Caltrans and SACOG based their concurrence.

3-L Issue: A commenter indicated that the land use and circulation elements are inconsistent as General Plan land use designations are an input rather than outcome of traffic analysis.

Response 3-L: Travel demand models are based on the fundamental presumption that traffic is the result not the cause of trips being made. Given that the County's TDM requires land use related assumptions on which to base model inputs, it is not possible to determine traffic estimates without first making assumptions regarding the location and intensity of uses. The TDM scenarios prepared for this EIR are based on detailed land use analysis that was prepared and documented as part its development. All land use scenarios prepared for the EIR have as a baseline requirement that the assumed intensity and location of uses must be consistent with their underlying General Plan land

use designation (General Plan land use designations were not changed during the course of the analysis).

The commenter implies that the traffic analysis should be completed first and then an acceptable land use determined. The TDM included detailed land use analysis prepared as part of its development. For the Community Regions, land use was analyzed and future scenarios were prepared with data at the parcel level. This level of detail significantly exceeds many jurisdictions that still rely on more gross approaches to aggregate and forecasting future land use inputs.

4. Project Cost and Timeline

4-A Issue: Comments received included concerns about the staff and resources that have been expended on the Project while simultaneously requesting additional analysis and new studies to be completed.

Response 4-A: The Program has consumed significant resources to date. The approximate total cost of the TGPA-ZOU project beginning on July 1, 2008 and including budgeted amounts through June 30, 2016 is conservatively \$3,400,000. Of this amount, approximately \$830,000 will have been spent on Professional Services, and \$2,570,000 on County staff charges. Staff costs include Community Development Agency staff (Development Services, Long Range Planning, Transportation), as well as staff from County Counsel, Agriculture Department, Surveyor's Office and the Chief Administrative Office. The total cost for staff time does not include upper management and the majority of administrative functions.

Professional Services agreements include:

- 1) **ICF International:** Agreement to complete an environmental review of the TGPA-ZOU with a not-to-exceed amount of \$460,101.
- 2) **Kimley Horn and Associates, Inc.:** A portion of an agreement with Kimley Horn and Associates, Inc. to complete the El Dorado County traffic model update was used for this project, in the amount of \$178,618. Kimley Horn and Associates, Inc. participated in the environmental review of the TGPA-ZOU, and integrated the land use forecast update and rural land use area forecasting into the traffic model.
- 3) **Abbott and Kindermann:** Agreement to perform legal services with a not-to-exceed amount of \$150,000.
- 4) **Bay Area Economics:** Agreement to complete an existing conditions analysis with a not-to-exceed amount of \$60,000.
- 5) **Kittelson and Associates, Inc.:** Approximately \$16,000 of an existing contract with Kittelson and Associates, Inc. was used to prepare a response to comments on the transportation related sections of the TGPA-ZOU.

5. California Supreme Court CEQA Case (*Center for Biological Diversity v. California Department of Fish and Wildlife*)

On November 30, 2015, the California Supreme issued a new CEQA decision addressing greenhouse gas analysis as required by CEQA. This decision is not considered final until December 30, 2015, and is subject to a petition for reconsideration. This new decision (*Center for Biological Diversity v. California Department of Fish and Wildlife* or “*CBD v DFW*”) addresses the sufficiency of the analysis of climate change in an EIR prepared for a specific development project. The Supreme Court did not address the specifics of climate change analysis for a Program level EIR, like that prepared for the TGPA-ZOU Project, other than to affirm the use of the state Scoping Plan as a legitimate analytical tool. The CBD decision recognizes that compliance with a Sustainable Communities Strategy (“SCS”), along with numerical standards, is a legitimate tool for evaluating significance. The Project EIR discusses extensively the empirical evaluation measured against the El Dorado County Air Quality Management District (EDCAQMD) formulated standards, as well as the relationship of the County’s General Plan (pre and post Project) with the Sacramento Area Council of Governments (SACOG) Metropolitan Transportation Plan (MTP)/SCS. The methodology and protocols employed by the County in the Project EIR followed the recommendation of the EDCAQMD and statewide practices. The conclusions in the Project EIR remain unaffected by the CBD decision.

C. Board Action

The Board is responsible for certifying the FEIR, making the CEQA Environmental Findings of Fact, adopting the CEQA Statement of Overriding Considerations, and approving the Mitigation Monitoring and Reporting Program. The action of certifying the EIR does not approve or deny the Project; it finds that the EIR adequately analyzed the Project as described in the Project Description. The CEQA document must be certified before the Project is approved.

As the County’s legislative body, the Board is responsible for project adoption and may consider a range of action(s) on the Project including, but not limited to: 1) approval of the Project as scoped, 2) approval of the Project with the revisions recommended by the Planning Commission and/or as deemed necessary by the Board, 3) selective approval of specific Project components, 4) revisions to the Project outside of the scope of the FEIR, or 5) denial of the Project.

On November 13, 2015, the Board tentatively approved various actions and directed staff to revise draft documents as necessary pursuant to this tentative action and return on December 15, 2015 for final action.

Pursuant to the Board's tentative action, staff recommends that the Board take the following final actions:

1. Adopt Resolution certifying the Final Environmental Impact Report for the Targeted General Plan Amendment and Zoning Ordinance Update (Resolution No. 195-2015); Making Environmental Findings of Fact (Exhibit A); Adopting a Statement of Overriding Considerations (Exhibit B); and Approving the Mitigation Monitoring and Reporting Program (Exhibit C); *See Attachment 21A for the Resolution and Attachment 21I for the FEIR* ; and
2. Adopt Resolution adopting a Targeted General Plan Amendment to the El Dorado County General Plan (Resolution No. 196-2015); Modification to Camino/Pollock Pines Community Region to Rural Centers of Camino, Cedar Grove and Pollock Pines (Exhibit A); Agricultural District Boundary Amendment (Exhibit B); List of Limited Land Use Designation (LUD) Revisions (Exhibit C); *See Attachment 21B*; and
3. Adopt Resolutions to approve community design standards for:
a) Mixed Use Design (Resolution 197-2015), b) Landscaping and Irrigation (Resolution 198-2015), c) Outdoor Lighting (Resolution 199-2015), d) Mobile Home Park Design (Resolution 200-2015), e) Research and Development Zone Design (Resolution 201-2015), and f) Parking and Loading (Resolution 202-2015); *(See Attachments 21C – 21H)*; and
4. Adopt the Zoning Ordinance Update including the Zoning Map, *(See Attachments 21J and 21K)*.
5. Direct staff to return to the Planning Commission and Board within approximately one year of adoption or earlier, if necessary, to review implementation of the Project.

Attachments/Exhibits (Legistar File 11-0356)

- 21AResolution – Certifying the Final EIR; Making Environmental Findings of Fact (Exhibit A); Adopting a Statement of Overriding Considerations (Exhibit B); and Approving Mitigation Monitoring and Reporting Program (Exhibit C)
- 21BResolution – Adoption of a Targeted General Plan Amendment to the El Dorado County General Plan (inclusive of proposed General Plan amendments shown on Exhibits A, B, C)
- 21CResolution for Mixed Use Design Standards
- 21DResolution for Landscaping and Irrigation Design Standards
- 21E.....Resolution for Outdoor Lighting Standards
- 21F.....Resolution for Mobile Home Park Design Standards
- 21GResolution for Research and Development Zone Design Standards
- 21HResolution for Parking and Loading Design Standards
- 21IFinal Environmental Impact Report**
- 21JZoning Ordinance Update 12/15/2015
- 21KZoning Ordinance Map 12/15/2015
- 21L.....ICF International memo to staff dated November 23, 2015
- 21MLetter to State Water Resources Control Board dated December 15, 2015
- 21NLetter to State Water Resources Control Board dated February 9, 2009
- 21OStaff Memo – Targeted General Plan and Zoning Ordinance Update

**Due to the large file size of the entire FEIR, the FEIR is posted on the Long Range Planning webpage on the County website at:
http://www.edcgov.us/Government/LongRangePlanning/LandUse/TGPA-ZOU_FEIR.aspx