

Final Environmental Impact Report for the

Ponte Palmero Project

SCH No. 2015082029

PREPARED FOR:

El Dorado County

Development Services Department, Planning Division

2850 Fairlane Court, Building C

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SEPTEMBER 2017

Ponte Palmero Project

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State Clearinghouse No: 2015082029**

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CHAPTER 1 INTRODUCTION

INTRODUCTION

This Final Environmental Impact Report (Final EIR) contains the public and agency comments received during the public review period for the Ponte Palmero Project Draft EIR.

The EIR is an informational document intended to disclose to the El Dorado County (County) and the public the environmental consequences of approving and implementing the Ponte Palmero Project (proposed project) or one of the alternatives to the project described in the Draft EIR. All written comments received during the public review period (January 17, 2017 through March 3, 2017) on the Draft EIR are addressed in this Final EIR.

The responses in the Final EIR clarify, correct, and/or amplify text in the Draft EIR, as appropriate. Also included are text changes made at the initiative of the Lead Agency (County). These changes (summarized in Chapter 2) do not alter the conclusions of the Draft EIR. This document has been prepared in accordance with the California Environmental Quality Act (CEQA; California Public Resources Code (PRC), Sections 21000–21177).

BACKGROUND

In accordance with CEQA, the City released a Notice of Preparation (NOP) on August 15, 2015, for the required 30-day review period. The purpose of the NOP was to provide notification that an EIR for the project was being prepared and to solicit guidance on the scope and content of the document. The Draft EIR was circulated for public review and comment for a period of 45 days from January 17, 2017 through March 3, 2017.

The comments and responses that make up the Final EIR, in combination with the Draft EIR, as amended by the text changes, constitute the EIR that will be considered for certification by the decision makers of El Dorado County.

CEQA REQUIREMENTS

Under CEQA, the Lead Agency must prepare and certify a Final EIR prior to approving a proposed project. The contents of a Final EIR are specified in Section 15132 of the CEQA Guidelines, which states that the Final EIR shall consist of:

- a. The Draft EIR or a revision of the Draft.
- b. Comments and recommendations received on the Draft EIR either verbatim or in summary.
- c. A list of persons, organizations, and public agencies commenting on the Draft EIR.

- d. The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- e. Any other information added by the Lead Agency.

The Lead Agency must provide each agency that commented on the Draft EIR with a copy of the Lead Agency's response to comments a minimum of 10-days before certifying the Final EIR.

USE OF THE FINAL EIR

The Final EIR allows the public and the County an opportunity to review revisions to the Draft EIR and the Responses to Comments. The Final EIR serves as the environmental document to support approval of the proposed project, either in whole or in part, or one of the alternatives to the project discussed in the Draft EIR.

As required by Section 15090 (a) (1)-(3) of the CEQA Guidelines, a Lead Agency, in certifying a Final EIR, must make the following three determinations:

1. The Final EIR has been completed in compliance with CEQA.
2. The Final EIR was presented to the decision-making body of the Lead Agency, and the decision-making body reviewed and considered the information in the Final EIR prior to approving the project.
3. The Final EIR reflects the Lead Agency's independent judgment and analysis.

As required by Section 15091 of the CEQA Guidelines, no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings (Findings of Fact) for each of those significant effects, accompanied by a brief explanation of the rationale for each finding supported by substantial evidence in the record. The possible findings are:

1. Changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Additionally, pursuant to Section 15093(b) of the CEQA Guidelines, when a Lead Agency approves a project that would result in significant unavoidable impacts that are disclosed in the Final EIR, the agency must state in writing the reasons supporting the action. The Statement of Overriding Considerations shall be supported by substantial evidence in the Lead Agency's administrative record.

The Findings of Fact and Statement of Overriding Considerations are included in a separate document that will be considered for adoption by the County's decision makers at the time of project approval.

PROJECT UNDER REVIEW

The proposed project is located on an approximately 9-acre site in the unincorporated community of Cameron Park in western El Dorado County. The proposed project consists of the following:

- A 44 unit, 50,510 square-foot (sf) community care facility;
- A 46-unit, 53,690 sf assisted living facility;
- An 11,450 sf clubhouse with an indoor pool, activity room, library, kitchen, dining room, office space, and outdoor patio.

A detailed project description is contained in the Draft EIR in Chapter 3, Project Description. The environmental impact analysis is included in Chapter 4 of the Draft EIR.

SUMMARY OF TEXT CHANGES

Chapter 2 in this Final EIR, Changes to the Draft EIR, identifies all changes made to the document by section. These text changes provide additional clarity in response to comments received on the Draft EIR, but do not change the significance of the conclusions presented in the Draft EIR.

RESPONSES TO COMMENTS

A list of public agencies and individuals commenting on the Draft EIR is included in Chapter 3 in this Final EIR. A total of four comment letters were received. Responses to comments received appear in Chapter 3 of this Final EIR. Each comment letter is numbered and presented with brackets indicating how the letter has been divided into individual comments. Each comment is given a binomial with the number of the comment letter appearing first, followed by the comment number. For example, comments in Letter 1 are numbered 1-1, 1-2, 1-3, and so on. As the subject matter of one topic may overlap between letters, the reader must occasionally refer to one or more responses to review all the information on a given subject. To assist the reader, cross-references to other comments and associated responses are provided.

MITIGATION MONITORING AND REPORTING PROGRAM

The Mitigation Monitoring and Reporting Program (MMRP) for the proposed project includes all of the mitigation measures required of the proposed project by the Draft EIR, included in Chapter 4 of this Final EIR.

If the Board of Supervisors chooses to approve the proposed project or one of the alternatives described in the Draft EIR, the Board will be required to adopt the MMRP at the same time it adopts its CEQA Findings, as required by Section 21081.6 of the Public Resources Code.

OVERVIEW OF THE PUBLIC PARTICIPATION AND REVIEW PROCESS

The County notified all responsible and trustee agencies and all known interested groups, organizations, and individuals that the Draft EIR was available for review. The following list of actions took place during the preparation, distribution, and review of the Draft EIR:

- The City filed a Notice of Completion (NOC) along with copies of the NOP stating the City's intention to prepare an EIR for the proposed project with the State Clearinghouse for the required 30-day public review period on August 15, 2015.
- A NOC and copies of the Draft EIR were filed with the State Clearinghouse on January 17, 2017 to start the required 45-day public review period. The County distributed a Notice of Availability (NOA) to interested groups, organizations, and individuals regarding the availability of the Draft EIR. Public notices were posted on the project site and a notice was placed in the Mountain Democrat newspaper on January 16, 2017.
- Copies of the Draft EIR were available for review on the County's website (<http://http://www.edcgov.us/>); and at the El Dorado County, Community Development Agency 2850 Fairlane Court, Building C, Placerville, California 95667.

CHAPTER 2 CHANGES TO THE DRAFT EIR

INTRODUCTION

This chapter presents minor corrections, additions, and revisions made to the Draft EIR initiated by the Lead Agency (El Dorado County), reviewing agencies, the public, and/or consultants based on their review. New text is indicated in underline and text to be deleted is reflected by ~~strike-through~~, unless otherwise noted in the introduction preceding the text change. Text changes are presented in the section and page order in which they appear in the Draft EIR.

It should be noted that the changes represent minor clarifications/amplifications of the analysis contained in the Draft EIR and do not constitute significant new information that, in accordance with CEQA Guidelines Section 15088.5, would trigger the need to recirculate portions or all of the Draft EIR.

Section 4.3, Biological Resources

The second paragraph on page 4.3-1 is revised as follows:

The United States Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (Corps), ~~and the Bureau of Land Management (BLM), Pine Hill Preserve Manager, and the~~ California Department of Fish and Wildlife (CDFW) all provided comments in response to the Notice of Preparation (NOP – see Appendix A). The USFWS requested the EIR evaluate the project's potential impact on wildlife and their habitat, impacts to special-status species, cumulative impacts, provide an analysis of alternatives that reduce impacts to biological resources, and an evaluation of the project's consistency with relevant land use or species recovery plans. The Corps requested a wetland delineation be prepared for the project site and a range of alternatives to avoid impacts to wetlands and waters of the U.S. be included in the EIR. The portion of the project site slated for development does not contain any wetlands or waters of the U.S.; therefore, a wetland delineation is not required (see the Biological Resources Technical Reports in Appendix D). The BLM Pine Hill Preserve Manager recommended that information currently included in the County's draft conservation strategy be reviewed to analyze impacts to protected plant species. The document referenced in the comment has not yet been approved by the County and is not available for preparation of this section. The commenter also requested the open space portion of the project site evaluate effects of habitat fragmentation, connectivity with existing conservation projects and management implications (including the current practice of burning fuel) be considered. CDFW requested the following be addressed in the EIR: impacts of the project on wildlife and their habitat; impacts of the project on special-status species that are state or federally listed as threatened or endangered; cumulative

impacts on wildlife and plants; analysis of alternatives that reduce impacts to wildlife and plants; and consistency with applicable land use or species recovery plans. All of these concerns are addressed in this section. A copy of the NOP and comment letters received in response to the NOP is included in Appendix A.

The following information is added to page 4.3-18 of the Draft EIR under the Regulatory Setting:

Native Plant Protection Act of 1977

The California Native Plant Protection Act (NPPA) of 1977 directed the CDFW to carry out the Legislature's intent to “preserve, protect and enhance rare and endangered plants in this State.” The NPPA gave the California Fish and Game Commission the power to designate native plants as “endangered” or “rare” and protect endangered and rare plants from take. The California Endangered Species Act of 1984 expanded on the original NPPA and enhanced legal protection for plants, but the NPPA remains part of the Fish and Game Code. To align with federal regulations, California ESA created the categories of “threatened” and “endangered” species. It converted all “rare” animals into the Act as threatened species, but did not do so for rare plants. Thus, there are three listing categories for plants in California: rare, threatened, and endangered. (See DFW “State and Federally Listed Endangered, Threatened, and Rare Plants of California” (April 2017).).

California Fish and Game Code sections 1900-1913 comprise the NPPA and seek to preserve, protect, and enhance rare or endangered California plants. The agency is responsible for establishing criteria to determine what native plants are rare or endangered, and for governing the take, possession, propagation or sale of such plants. The CNPS also identifies rare or endangered plants and lists them as 1A, 1B, 2, 3, and 4 species. Plants appearing on CNPS List 1A, 1B, or 2 meet CEQA significance criteria and CDFG¹ sections 1901, 2062 and 2067 criteria as rare or endangered species.

Also, pursuant to Title 14 of the California Code of Regulations section 786.9 (Take of Rare Plants) (2015), CDFW may issue permits, agreements, plans or programs that authorize rare plant impacts using the same procedures and under the same conditions as take authorizations issued pursuant to California Code of Regulations section 783 et seq., [regulations relating to incidental take permits], among others; thus, authorizing the ITP process pursuant to Section 2081 of the Fish and Game Code for the take of rare plants. As stated in subdivision (d) of section 786.9, however, “[n]othing in this section

¹ The California Department of Fish and Game (CDFG) was officially renamed the California Department of Fish and Wildlife (CDFW) as of January 1, 2013. Where references are made in this document to the agency for background information, documents, permits, consultations, etc. prior to January 1, 2013, the title “CDFG” is used and for references after January 1, 2013, “CDFW” is used.

requires a permit or other authorization for rare plant impacts where the rare plant impacts are otherwise allowed pursuant to Fish and Game Code Section 1900 et seq. (Native Plant Protection Act) including, but not limited to, those activities covered by Fish and Game Code Section 1913.”

Generally, the CDFW may authorize individuals or public agencies to import, export, take, or possess, any state-listed endangered, threatened, or candidate species. These otherwise prohibited acts may be authorized through permits or Memoranda of Understanding if: (1) the take is incidental to an otherwise lawful activity; (2) impacts of the authorized take are minimized and fully mitigated; (3) the permit is consistent with any regulations adopted pursuant to any recovery plan for the species; and (4) the applicant ensures adequate funding to implement the measures required by CDFW. The CDFW makes this determination based on available scientific information and considers the ability of the species to survive and reproduce.

The second paragraph on page 4.3-27 is revised as follows:

In the event the project is challenged via another petition for writ of mandate and the EIR mitigation reverts back to consisting solely of payment of the County’s rare plant mitigation fee and the transplanting of certain plants, prior to mitigation a direct **significant impact** to special-status plants would result, as would an indirect **significant impact** from the loss of gabbro soil habitat.

The last paragraph on pages 4.3-29 and 4.3-30 is revised as follows:

Mitigation Measure 4.3-1(a) is recommended to ensure preservation of special-status plants, specifically Stebbins' morning-glory (*Calystegia stebbinsii*), Pine Hill ceanothus (*Ceanothus roderickii*), Red Hills soaproot (*Chlorogalum grandiflorum*), Bisbee Peak rush-rose (*Crocanthemum suffrutescens*), and El Dorado County mule-ears (*Wyethia reticulata*) present in the area to be disturbed by construction of the project. Mitigation Measure 4.3-1(b) specifies payment of fees as required by the El Dorado County Ecological Reserve fee structure for Zone 1. Mitigation Measures 4.3-1(a) and (b) would only be required if the EIR is challenged. If a legal challenge is filed it would be known immediately after the close of the 30-day statute of limitations.

Mitigation Measure 4.3-1(c) applies if the proposed project is approved by the County and no litigation is filed, in which case donation of the additional land and payment of \$50,000 to the CNPS would ~~not~~ be required. Instead, Under this scenario, the applicant would be required to pay the fee required by the El Dorado County Ecological Reserve fee structure for Zone 1 described in Mitigation Measure 4.3-1(b). Under either scenario (litigation or no

litigation), implementation of these mitigation measures would reduce direct and cumulative impacts to **less than significant**.

Mitigation Measure 4.3-1(a) on page 4.3-30 has been revised as follows:

4.3-1(a): Special-Status Plant Conservation, Salvage, Seed Collection or Propagation. Pursuant to Section 2081 of the California Fish and Game Code and a As part of the Incidental Take Permit Authorization application process, a Special-Status Plant Conservation, Salvage, Seed Collection and Propagation Plan shall be developed by the applicant, working with CDFW, and provided to the County and CDFW in consultation with the CDFW. The plan shall include, but is not limited to, methods for plant conservation, seed and vegetative plant material propagation, and transplantation. Specific plant measures to be included are as follows:

- (i) *Calystegia stebbinsii*: The applicant shall conduct pre-construction surveys and transplant any *Calystegia stebbinsii* found within the developable footprint of the project site and including the emergency vehicle access (EVA) road, to the previously established (.385 acre) *Calystegia stebbinsii* Preserve established as per Phase I, Condition 8 (as illustrated in the Mitigation Monitoring and Reporting Program adopted for the Congregate Care facility) and consistent with past transplantation methods.

The applicant shall monitor the transplanted plants bi-annually for three years and submit an annual monitoring report to El Dorado County and the California Department of Fish and Wildlife. If dead *Calystegia stebbinsii* plants are found during the monitoring and reporting period, the same number of plants shall be propagated and planted by a qualified nursery, thus ensuring “no net loss” in the number of individual plants.

- (ii) *Ceanothus roderickii*: The applicant shall hire a qualified nursery, landscape contractor or consultant to take cuttings from the existing 3,119 *Ceanothus roderickii* plants in the project area. The cuttings of *Ceanothus roderickii* shall be propagated in a commercial nursery consistent with past practices for Phase I. The applicant shall then plant a minimum of 3,119 cuttings in the previously established 5.96 acre preserve, or within the 1.17 acre parcel (parcel 4), which shall also be restored to include *Ceanothus roderickii* plants. It is anticipated that in addition to the previously disturbed 1.17 acre parcel, 0.9 acre is available within the existing 5.96 acre preserve for future planting.

Mitigation Measure 4.3-1(c) on page 4.3-31 has been revised as follows:

4.3-1(c): Preservation of Habitat for Special-Status Plants

Consistent with the terms of the County Code and the 2010 Settlement Agreement in the matter of *CNPS v. County of El Dorado*, the applicant shall: (i) pay \$68,233.50 as the appropriate fee in lieu of Ecological Preserve Mitigation as required by Section 130.71.050 of the County Code; (ii) donate 10.64 acres of land in perpetuity to the Bureau of Land Management (BLM) for inclusion in the Pine Hill Preserve or, alternatively, to a signatory to the Pine Hill Preserve Cooperative Agreement for incorporation into the Pine Hill Preserve system for the purpose of Pine Hill Plant conservation; and (iii) donate \$50,000 to CNPS for conservation studies and/or conservation activities as deemed appropriate by CNPS. The applicant shall also agree to restore the 1.17 acre parcel 4 with cuttings of *Ceanothus roderickii* plants propagated in a commercial nursery as requested by the California Department of Fish and Wildlife.

Mitigation Measure 4.3-2(d) on page 4.3-32 has been revised as follows:

4.3-2(d): Nesting Bird Avoidance

If construction is proposed during the breeding season (February 1-September 30), a pre-construction nesting bird survey shall be conducted within ~~two weeks~~ three days prior to the beginning of construction activities by a qualified biologist in order to identify active nests in the project site vicinity. If no active nests are found during the pre-construction survey, no further mitigation is required. If active nests are found, a temporary buffer shall be established, depending on nest location, species, and construction activities in the vicinity of the nest and the nest will be flagged or protected with high-visibility fencing. Additionally, the designated biologist shall be on-site daily while construction related activities are taking place near active nests and shall have the authority to stop work if birds are exhibiting agitated behavior. Any trees containing nests that must be removed as a result of project implementation shall be removed during the non-breeding season (October 1-January 30).

The first paragraph on page 4.3-33 is clarified to read as follows:

The loss of 9.11 acres of sensitive habitat under Impact 4.3-3 is considered a significant impact. Mitigation Measures 4.3-1 (a) through (c) specifies what steps the applicant would be required to take under either scenario (litigation or no litigation) to ensure impacts would be reduced to **less than significant**.

4.3-3 Implement Mitigation Measures 4.3-1(a) through 4.3-1(c).

The last paragraph on page 4.3-33 and Mitigation Measure 4.3-5 has been revised as follows:

Cumulative impacts to special-status species and sensitive habitats from construction of the proposed project could be significant because direct loss of sensitive habitats or protected special-status plant and wildlife species combined with take from other projects within the Sacramento Valley, including western Placer County could impact special-status species population range and distribution as a whole. Even with implementation of Mitigation Measures 4.3-1(a) through 4.3-1(c) and 4.3-3 (a) through (d) and 4.3-4 the cumulative loss of gabbro soil formation that supports California chaparral vegetation communities would be a significant and unavoidable impact.

4.3-5: Implement Mitigation Measures 4.3-1(a) through (c), 4.3-2(a) through 4.3-2(d), and 4.3-~~34~~.

CHAPTER 3 RESPONSES TO COMMENTS

FEDERAL

There were no comments received from federal agencies by the close of the comment review period (March 3, 2017).

STATE AGENCIES

1. Central Valley Regional Water Quality Control Board, Stephanie Tadlock, Environmental Scientist
2. California Department of Fish and Wildlife, Tina Bartlett, Regional Manager

LOCAL AGENCIES

3. Cameron Park Community Services District

CONSERVATION GROUPS/ INDIVIDUALS

4. California Native Plant Society, Susan Britting, Ph.D.

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Central Valley Regional Water Quality Control Board

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Comment Letter 1

23 February 2017

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EL DORADO COUNTY
DEVELOPMENT SERVICES DEPT

Jennifer Franich
El Dorado County
Development Services Department, Planning Division
2850 Fairlane Court, Building C
Placerville, CA 95667

CERTIFIED MAIL
91 7199 9991 7035 8487 3472

**COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT
REPORT, PONTE PALMERO PROJECT, SCH# 2015082029, EL DORADO COUNTY**

Pursuant to the State Clearinghouse's 17 January 2017 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Draft Environment Impact Report* for the Ponte Palmero Project, located in El Dorado County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases,

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCCE, EXECUTIVE OFFICER

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the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at:
http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacsjr.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

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II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan

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(SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

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drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements – Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

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http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$1,084 + \$6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

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Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

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For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of the waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit3.shtml

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If you have questions regarding these comments, please contact me at (916) 464-4644 or Stephanie.Tadlock@waterboards.ca.gov.



Stephanie Tadlock
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

**Letter 1: Central Valley Regional Water Quality Control Board, Stephanie Tadlock,
Environmental Scientist**

- 1-1:** The comment provides an overview of the CVRWCB's requirement to prepare a Basin Plan and the website where the plan is available for review, and information regarding the anti-degradation policy contained in the Basin Plan.

The information is noted and no additional response is required.

- 1-2:** Information pertaining to various permits including a Construction Storm Water General Permit, Clean Water Act Section 404 Permit, and Dewatering Permit are outlined in the comment.

As noted on pages 3-32 and 3-33 of the Draft EIR, the project applicant would obtain all necessary state and local permits required for the project. The information is noted and no additional response is required.

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State of California - Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 North Central Region
 1701 Nimbus Road, Suite A
 Rancho Cordova, CA 95670-4599
 (916) 358-2900
www.wildlife.ca.gov

EDMUND G. BROWN, Jr., Governor
 CHARLTON H. BONHAM, Director



Comment Letter 2

March 1, 2017

Rommel Pabalinas
 El Dorado County
 Community Development Agency
 2850 Fairlane Court, Building C
 Placerville, CA 95667

Subject: DRAFT ENVIRONMENTAL IMPACT REPORT, PONTE
 PALMERO PROJECT, STATE CLEARINGHOUSE #
 2015082029

Dear Mr. Pabalinas:

The Department of Fish and Wildlife (Department) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Ponte Palmero Project (project) (State Clearinghouse No. 2015082029), in El Dorado County. The Department is responding to the DEIR as a Trustee Agency for fish and wildlife resources (California Fish and Game Code (FGC) sections 711.7 and 1802, and the California Environmental Quality Act (CEQA) Guidelines section 15386), and as a Responsible Agency regarding any future discretionary actions (CEQA Guidelines section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code sections 1600 *et seq.*) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (California Fish and Game Code sections 2080.1 and 2081).

The project applicant proposes to develop a retirement village including a 50,510 square foot (sf) community care facility, a 53,690 sf assisted living facility, an 11,450 sf clubhouse, and associated parking lots, and an emergency vehicle access road on a 19.8-acre parcel. The development footprint is approximately 9.11 acres, and 10.76 acres are proposed to be designated as open space.

Comments and Recommendations

Following review of the DEIR, the Department offers the comments and recommendations presented below to assist the County of El Dorado (County; the CEQA lead agency) in adequately identifying and/or mitigating the project's significant, or potentially significant, impacts on biological resources:

Native Plant Protection Act

Plants designated as state-listed rare and endangered pursuant to the Native Plant Protection Act (NPPA) (Fish & Game Code §1900 *et seq.*) are known to occur on and

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Conserving California's Wildlife Since 1870

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adjacent to the project site. The NPPA prohibits the take or possession of state-listed rare and endangered plants, including any part or product thereof, unless authorized by the Department or in certain limited circumstances. Take is defined in section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill". Take of state-listed rare and/or endangered plants due to project activities may only be permitted through an Incidental Take Permit (ITP) or other authorization issued by the Department pursuant to California Code of Regulations, Title 14, section 786.9 subdivision (b).

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The Department recommends that the County condition the DEIR to require the project proponent to obtain an ITP or equivalent authorization of take from the Department prior to issuing a grading permit.

Impacts to Special Status Plant Species - Analysis

Several special-status plant species have been observed on-site, including state and federally endangered Stebbins' morning-glory (*Calystegia stebbinsii*), federally endangered and state rare Pine Hill ceanothus (*Ceanothus roderickii*), federally threatened and state rare Layne's butterweed (*Packera layneae*) (state rare), chaparral sedge (*Carex xerophila*), Red Hills soaproot (*Chlorogalum grandiflorum*), Bisbee Peak rush-rose (*Crocanthemum suffrutescens*), and El Dorado County mule ears (*Wyethia reticulata*). Additionally, suitable habitat has been identified on-site for federally endangered and state rare Pine Hill flannelbush (*Fremontodendron decumbens*), federally endangered and state rare El Dorado bedstraw (*Galium californicum* ssp. *sierrae*), big-scale balsamroot (*Balsamorhiza macrolepis*), and Van Zuuik's morning-glory (*Calystegia vanzuukiae*). The majority of the 9.11-acre project footprint occurs on suitable habitat for special-status plants, and the Department assumes that at least some of the species, particularly those thought to have a highly persistent seed bank, such as Stebbins' morning-glory and Pine Hill ceanothus (Ayres 2011)], are likely present within the seed bank over much of the project site.

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The most recent botanical surveys on the project site were conducted in 2015, during a period of severe drought. Due to drought conditions, some sensitive plant species potentially present on the site may have failed to bloom. Other species may have been present in the seedbank or in bulb/rhizome form. Annual and short-lived perennial plant species and plants with persistent long-lived seed banks may not germinate every year. In addition, the phenological development of some plants may be altered because of the drought. Because of these conditions, the 2015 surveys may have presented an incomplete accounting of the species actually present on-site. The above-average rainfall that has occurred so far during the 2016-2017 water year may change conditions on-site and may induce germination and/or blooming in species that were not previously identified on-site. In order to ensure that the plant species inventory for the project site is as accurate as possible, the Department recommends that botanical surveys be performed during the appropriate blooming periods this year. The surveys should be preceded by visits to reference sites to confirm that any potentially present listed plant species are currently blooming, evident, and identifiable.

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Impacts to Special Status Plant Species - Mitigation

In order to mitigate impacts to special-status plant species and their habitat, the County proposes to (a) require the project proponent to transplant Stebbins' morning-glory plants and cuttings of Pine Hill ceanothus into previously established preserves, (b) require payment of the County's Ecological Preserve Fee, and (c) allow the project proponent to donate 10.64 acres of land in perpetuity to the Bureau of Land Management (BLM) and \$50,000 to the California Native Plants Society (CNPS). The DEIR states that donation of land to BLM and money to CNPS is only required if the County approves the project and no litigation is filed by CNPS.

The Department does not concur that the proposed mitigation is sufficient to reduce the impacts to a level that is less than significant for the following reasons:

- *Transplantation:* The Department does not recommend the use of transplanting special status plants as a means to mitigate any adverse project impacts to the above special status plants because of the lack of scientific evidence to suggest that these are viable mitigation measures. Transplantation of the above rare species has not been tested scientifically and should be considered experimental. While transplantation may be included as part of a robust mitigation plan in order to lessen the likelihood that genetic variation within the population will be reduced, it is not an appropriate method to address impacts related to habitat loss and fragmentation.
- A transplantation program for these plants, if proposed, should include a Transplant Plan including identifying high quality habitat receptor sites, a maintenance and monitoring schedule, success criteria, and specific technical details on planting techniques and culturing practices used to ensure the viability and persistence of these plants over time. The Department recommends that the Transplant Plan be included in the EIR. Please note that, if a transplantation program for state-listed rare or endangered plants is implemented, an ITP pursuant to FGC Section 2081(b) covering the transplanting activities will be required prior to taking cuttings and/or relocating plants.
- *Ecological Preserve Fee:* The Department understands that County Code Chapter 130.71 provides two options for project sponsors as a means to minimize and mitigate impacts on the suite of rare and endangered plants known as the 'Pine Hill plants', including: 1) payment into the County's in-lieu fee program, and 2) participation in the rare plant off-site mitigation program. The County's in-lieu fee program, in part, requires that fees be reviewed on an annual basis, and adjusted as necessary to ensure that the anticipated fees are appropriate to protect, improve, and maintain appropriate amounts of rare plant habitat. Specifically, Chapter 130.71.040 states "[t]here are hereby established an Ecological Preserve

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Mitigation requirement comprised of on-site and off-site mitigation standards and an ecological preserve fee in lieu of such mitigation. The amounts of the fee shall be established periodically by resolution of the Board and shall be based on the formula set forth in this Ordinance," and 130.71.070 states "[t]he fee amounts shall be reviewed on an annual basis and adjusted as necessary to insure that the anticipated fees are no more and no less than required for the purpose for which they are collected."

The current funds collected by the County's in-lieu fee program may not be adequate to offset the ongoing impacts to the Pine Hill plants and their habitat, or to meet the standard set forth by CEQA. To the Department's knowledge, the fee amount has not been adjusted since its establishment in 1998. Projects approved by the County over time have cumulatively led to the loss of rare plant habitat and rare plants throughout a significant portion of their limited range. Therefore, the Department recommends that the in-lieu fee program be re-evaluated and updated prior to its use to mitigate impacts to Pine Hill rare plants to below a level of significance.

- *Donation of Land and Money:* The DEIR states that the donation of 10.64 acres of land to BLM and \$50,000 to CNPS will occur only if the County approves the project and no litigation is filed by CNPS. While the Department understands that this condition is consistent with the 2010 Settlement Agreement in the matter of CNPS v. County of El Dorado, the fact that it may, under certain circumstances, not occur and that only the previously described two mitigation measures may be enforced leaves open the possibility that the impacts to special status plants may not be mitigated below a level of significance. CEQA Guidelines section 15126.4(a)(2) say mitigation measures must be enforceable through permit, agreement, or other legal instrument. In order to ensure that the mitigation reduces the impacts below a level of significance, the Department recommends that the County identify habitat that will be purchased, preserved, and managed in perpetuity.

The proposed mitigation areas occur in two distinct locations, the larger of which occurs to the west of the proposed project and the smaller of which occurs to the southeast. The Department notes that the smaller mitigation area may not be suitable for inclusion in the Pine Hill Preserve because (a) the project, as it is currently proposed, will largely isolate that portion of land from the larger Pine Hill Preserve, and (b) a large part of the smaller mitigation area is described as disturbed habitat (having been previously graded). If the smaller mitigation area is dominated by invasive species such as introduced annual grasses, it may function more as a source population of invasive species than habitat for special-status species. The Department recommends that the project proponent restore or provide funding to restore the smaller mitigation area if it is to be included in the project's mitigation package.

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Please note that CESA's standard requiring impacts to be fully mitigated is stricter than CEQA's standard of mitigating to a less-than-significant level. By law, the Department may not issue an ITP unless the impacts to the covered species are minimized *and fully mitigated*, and adequate funding has been assured to implement all of the mitigation measures [FGC section 2081(b)]. Therefore, the Department will likely require additional mitigation in order to issue an ITP.

2-8

Impacts to Mitigation Lands

The project's Biological Resources Technical Memo notes that an area directly south of the project has been designated as a mitigation area for Stebbins' morning glory in association with the Cameron Park Village project. This mitigation area is currently directly adjacent to natural open space. However, buildout of the project as it is currently designed would partially isolate the mitigation area from the Pine Hill preserve lands and would significantly increase the urban area bordering the mitigation area. This could reduce the mitigation area's function as a Stebbins' morning glory preserve by increasing urban-wildlands edge effects including, but not limited to, altering the hydrology of the site, increasing invasive species on or near the site, increasing potential exposure to pollutants and hazardous materials in runoff from the parking lot, reducing the gene flow between Stebbins' morning glory populations within the Pine Hill preserve and on the site, and increasing the presence of domestic predators and other urban-associated wildlife. The Department requests that the DEIR be revised to include a thorough and detailed analysis of the project's impacts on the Cameron Park Village mitigation area as well as appropriate avoidance, minimization, and/or mitigation measure to address those impacts.

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Alternate Project Design

The Department recommends that the County consider altering the project design to reduce the grading limit in the southern portion of Parcel 2. This would (a) allow greater conservation of the Pine Hill ceanothus population to the south, (b) allow greater connectivity to the proposed open space in the project's smaller mitigation area, and (c) reduce the urban-wildlands edge effects on the Cameron Park Village mitigation site to the south of the project site. Redesigning the project to minimize impacts to state-listed plants should facilitate the Department's ability to issue an ITP for the project as it would reduce the impacts of the Project to Pine Hill ceanothus and the amount of mitigation required to offset those impacts.

2-10

Nesting Birds

Migratory non-game native bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*). In addition, sections 3503, 3503.5, and 3513 of the FGC also afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by FGC or any regulation made pursuant thereto; section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-

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of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by FGC or any regulation adopted pursuant thereto; and section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

Mitigation Measure 4.3-2(d) requires a pre-construction nesting bird survey within two weeks prior to initiating construction if construction begins between February 1 and September 30. Please note that many bird species may initiate nest-building and begin laying eggs very rapidly (in as little as a few days in some passerine species). A preconstruction survey timed two weeks before initiation of project activities has a relatively high likelihood of missing some instances of nesting due to the length of time between the survey and the start of construction. Therefore, the Department recommends that nesting bird surveys be completed by a qualified biologist familiar with local bird species within three (3) days prior to commencing project activities. If nesting birds are identified on or near the project site, the qualified biologist should impose species-specific avoidance measures, which may include the use of avoidance buffers, sound walls, monitoring of project-related noise, and/or changes in project phasing.

Please note that the MBTA and FGC apply regardless of the time of year. If an active nest is discovered outside of the typical nesting season, it should be avoided using the same avoidance measures that would be applied during the typical nesting season until such time as the young have fully fledged and are foraging independently of their parents.

Further Coordination

The Department appreciates the opportunity to comment on the Ponte Palmero Project, and requests that the County address the Department's comments and concerns prior to circulating the final EIR. If you should have any questions pertaining to these comments, please contact Gabriele Quillman at (916) 358-2955 or gabriele.quillman@wildlife.ca.gov.

Sincerely,



Tina Bartlett
 Regional Manager

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cc: Jeff Drongesen, Jeff.Drongesen@wildlife.ca.gov
Kelley Barker, Kelley.Barker@wildlife.ca.gov
Gabriele Quillman, Gabriele.Quillman@wildlife.ca.gov
Department of Fish and Wildlife

State Clearinghouse, State.Clearinghouse@opr.ca.gov

Literature Cited

AYRES, D.R., 2009, January. EFFECTS OF FIRE ON THE DEMOGRAPHY OF THREE RARE CHAPARRAL PLANTS (CALYSTEGIA STEBBINSII, CEANOTHUS RODERICKII, AND WYETHIA RETICULATA). In *Proceedings of the CNPS Conservation Conference* (Vol. 17, p. 19).

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Letter 2: California Department of Fish and Wildlife, Tina Bartlett, Regional Manager

- 2-1:** The comment states that there are state-listed rare and endangered plants on and adjacent to the project site and, in the commenter's view and pursuant to Title 14 of the California Code of Regulations, section 786.9, subdivision (b), an Incidental Take Permit (ITP) is required to remove any protected plant species.¹ The comment goes on to request that the County require the project applicant obtain an ITP (or an equivalent authorization) from the California Department of Fish and Wildlife (CDFW) prior to issuing a grading permit. The commenter's recommendation will be forwarded to the decision makers for consideration.

As is stated on page 4.3-24 of the Draft EIR, "...consistent with the approach taken on the previously constructed Cameron Park Congregate Care facility, the applicant intends to submit a 2081(b) ITP application to CDFW for the "take" of certain plants that would be affected by the project." This applies to all plants with state rankings of threatened, endangered, or rare. In addition, please see Chapter 2 (Changes to the Draft EIR), noting that subdivision (d) of section 786.9 of the California Code of Regulations also provides that: "[n]othing in this section requires a permit or other authorization for rare plant impacts where the rare plant impacts are otherwise allowed pursuant to Fish and Game Code Section 1900 et seq. (Native Plant Protection Act) including, but not limited to, those activities covered by Fish and Game Code Section 1913." See also Response to Comment 2-2.

- 2-2:** The comment identifies the plant species present on the site and notes that a majority of the 9.11-acre project footprint occurs where protected plant species are present. The commenter also "assumes that at least some of the species, particularly those thought to have a highly persistent seed bank, such as Stebbins' morning-glory and Pine Hill ceanothus (Ayers 2011), are likely present within the seed bank over much of the project site." The commenter does not provide evidence specific to the project site to support the assumption that there is a seed bank "over much" of the site.

It has been noted in the Draft EIR and in the biological reports contained in Appendix D that the project site supports numerous occurrences of protected plant species, which are locally abundant. The soils on site may also support a substantial seedbank produced from the on-site plants. The project site has been surveyed extensively starting in 2005 through 2015, as reflected in the Draft EIR. During this time, populations of plant

¹ California Code of Regulations, title 14, section 786.9, subdivision (b) provides, in relevant part, that "[t]he department *may* issue permits, agreements, plans or programs that authorize rare plant impacts using the same procedures and under the same conditions as take authorizations issued pursuant to Section 783 et seq. of these regulations relating to incidental take permits . . ." (emphasis added).

species were identified and as indicated in the surveys the abundance and distribution of rare plants did not change significantly over the years. In the event the project is challenged, Mitigation Measures 4.3-1(a) and (b) would be required to ensure the plants would be propagated and transplanted to ensure no net loss. If the project is not legally challenged, Mitigation Measure 4.3-1(c) would be implemented because it ensures the requirements set forth in the Settlement Agreement are implemented which would also mitigate impacts to the special-status plant species. The local abundance of plant species will allow for vegetative propagation and seed collection to occur for mitigation. Based on past propagation results of the Pine Hill ceanothus (*Ceanothus roderickii*) required as mitigation for the adjacent existing Cameron Park Congregate Care facility (see Appendix A for a copy of the monitoring report), it is anticipated propagation and transplantation would be a feasible option for this project. Part of the salvage plan also includes topsoil salvage where appropriate.

- 2-3:** The comment states that because the plant surveys were conducted during a period of drought (2015) they may not provide an accurate accounting of the plant species present on the site, and recommends that additional botanical plant surveys be conducted during the appropriate blooming period this year given the amount of rain Northern California has received.

The most recent plant surveys were conducted in June 2015 (reported in December 2015) as stated in the Draft EIR. However, the area has a long history of plants surveys dating back over 10 years. The botanical surveys conducted of the site from 2005 through 2015, moreover, were conducted in accordance with current rare plant survey protocol (CDFW 2012, CNPS 2009, and USFWS 2001). Specifically, the surveys were conducted during normal rain years during years 2005, 2010 and 2011. Additionally, surveys conducted in 2015 did not show evidence of decreased emergence or abundance of rare plant species on the project site when compared to prior years. There is no evidence to show that further protocol-level surveys would identify new occurrences of previously-identified species, or new plant species within the project site.

The Draft EIR therefore includes substantial evidence documenting the existing conditions at the time of issuance of the Notice of Preparation, which are normally the conditions which make up the environmental baseline under CEQA. (See CEQA Guidelines, § 15125; see also *Citizens for Open Gov't v. City of Lodi* (2012) 205 Cal. App. 4th 296 [city not required to update baseline during EIR process].)

- 2-4:** The comment states that CDFW believes the proposed mitigation is insufficient to reduce impacts of the project to less than significant. Specifically, it questions the use of transplanting protected plant species due to the alleged lack of scientific evidence

documenting the feasibility of transplantation and believes it is not appropriate mitigation to address impacts associated with habitat loss and fragmentation. The commenter also appears to express, indirectly, concern with the ability to take cuttings, propagate those cuttings and plant them as a form of mitigation. Although the Draft EIR concludes that the impacts of the project on protected plant species and their gabbro soil habitat would be cumulatively considerable and, therefore, significant and unavoidable, the Draft EIR includes mitigation involving transplantation and propagation (under the litigation scenario) as a means of substantially reducing that impact. (DEIR, p. 4.3-29 [Impact 4.3-5].)

Plant propagation is a well-known field that is widely applied in both the academic and commercial realms. Several different general methods may be used, including starting from seed, starting from cuttings, root division, layering, and some other less common methods. A method is generally selected based on the biology and growth form or habitat of the plant to be propagated. The growth form and habit of a species of plant generally lend themselves to one method of propagation or another. The commonness or rarity of the subject plant species is not a significant factor in the propagation method chosen. Strictly speaking, simple transplantation of a plant might not be considered propagation because the number of the plant is not increased. For these responses, we include a discussion of transplantation below, and within the larger concept of plant propagation.

The Cameron Park Congregate Care Project, previously approved by the County (2006) and constructed, received an ITP from CDFW for Stebbins' morning-glory. The take permit approved propagation by seed and by transplantation. Both were conducted, both were successful, and the result was that more Stebbins' morning-glory were propagated than was required by the permit. These two propagation methods were proposed by the applicant in the ITP application, in part, because the use of multiple independent methods increases the overall chance of success. Propagation by seed was suggested because Stebbins' morning-glory often produces substantial amounts of seed that is relatively easy to collect in the field. In addition, study of the germination cues of Stebbins' morning-glory seed has been conducted (see Nosal, T. R. D. 1997. A demographic study of Stebbins' morning glory, [*Calystegia stebbinsii*, Brummitt, *Convolvulaceae*], a California State listed and federally listed endangered plant species. Master Thesis. California State University, Sacramento, CA).

Transplantation was also proposed because Stebbins' morning-glory grows from underground stems called rhizomes. Each dry season the green, aboveground parts of the plant die back, and the rhizome becomes dormant until the wet season begins again. Plants with rhizomes are often good candidates for transplantation because the rhizome is naturally adapted to regeneration. In this particular case, the transplantation was done with

a mechanical spade in order to maximize the soil around the rhizome that was transplanted, and hence minimize disturbance to the rhizome and attached roots.

Stem cuttings were also chosen as the propagation method for Pine Hill ceanothus as part of the previously approved Congregate Care project. Stem cuttings were chosen because Pine Hill ceanothus is a woody perennial shrub that naturally tends to form roots where above-ground stems come in contact with the soil. Species with this characteristic will often propagate well with stem cuttings. No transplantation was conducted as part of that prior project for Pine Hill ceanothus. The propagation of Pine Hill ceanothus by stem cuttings and by seed has also occurred on other, unrelated projects that CDFW has been involved with (see Cameron Park Village Annual Monitoring Report #5 (2002) prepared for CDFW, and letters to CDFW for the Steven Rhoads property from 1997 through 2002, prepared by Ms. Ruth Wilson).

As mentioned above, and as part of the previously approved Congregate Care Project, the applicant successfully transplanted four mature Stebbins' morning glory (*Calystegia stebbinsii*) to the Calystegia Preserve created for that project. 83 Seedlings were also transplanted by hand. (See 2007 Cameron Park Congregate Care project ITP No. 2081-003-02 Annual Monitoring Report, p. 3-4). When protected from herbivory, the transplant method was successful. Consequently, although there is limited research on the efficacy of transplanting gabbro soil endemic plant species specifically, there is no reason that common plant propagation methods used across countless plant species and varieties will not work for the Pine Hill Plants.

As noted above, past mitigation efforts for the adjacent Cameron Park Congregate Care Facility show evidence that seed collection and vegetative propagation can be effective methods of establishing or reestablishing rare plants and offsetting project impacts. (See also Appendix A). As indicated in the letter provided by Sycamore Environmental Consultants to mitigate the loss of Pine Hill ceanothus (*Ceanothus roderickii*) associated with development of the Cameron Park Congregate Care facility, 8,205 Pine Hill ceanothus cuttings that had been successfully rooted were planted in 2008. As of June 2015, a total of 5,052 plants were counted which achieved a 75% establishment goal for the plant. As the report notes "[m]ost of the plants have grown substantially and some have grown large enough that they are beginning to grow together and make it more difficult to discern individual plantings" (Sycamore 2017, p. 3). Propagation, including transplantation, where appropriate, is a feasible means for offsetting impacts to Stebbins' morning glory and Pine Hill ceanothus based on the results from multiple previous projects.

In response to CDFW's comment that the mitigation is not sufficient to mitigate impacts to protected plant species, Mitigation Measure 4.3-1(a) has been updated to include coordination with CDFW and to implement a Salvage and Translocation Plan and measure 4.3-1(c) revised to note the applicant's willingness to restore Parcel 4.

Mitigation Measure 4.3-1(a) has been revised as follows:

4.3-1(a): Special-Status Plant Conservation, Salvage, Seed Collection or Propagation. Pursuant to Section 2081 of the California Fish and Game Code and as part of the ITP application Authorization process, a Special-Status Plant Conservation, Salvage, Seed Collection and Propagation Plan shall be developed by the applicant, working with CDFW, and provided to the County and CDFW in consultation with the CDFW. The plan shall include, but is not limited to, methods for plant conservation, seed and vegetative plant material propagation, and transplantation. Specific plant measures to be included are as follows:

- (i) *Calystegia stebbinsii*: The applicant shall conduct pre-construction surveys and transplant any *Calystegia stebbinsii* found within the developable footprint of the project site and including the emergency vehicle access (EVA) road, to the previously established (.385 acre) *Calystegia stebbinsii* Preserve established as per Phase I, Condition 8 (as illustrated in the Mitigation Monitoring and Reporting Program adopted for the Congregate Care facility) and consistent with past transplantation methods.

The applicant shall monitor the transplanted plants bi-annually for three years and submit an annual monitoring report to El Dorado County and the California Department of Fish and Wildlife. If dead *Calystegia stebbinsii* plants are found during the monitoring and reporting period, the same number of plants shall be propagated and planted by a qualified nursery, thus ensuring "no net loss" in the number of individual plants.

- (ii) *Ceanothus roderickii*: The applicant shall hire a qualified nursery, landscape contractor or consultant to take cuttings from the existing 3,119 *Ceanothus roderickii* plants in the project area. The cuttings of *Ceanothus roderickii* shall be propagated in a commercial nursery consistent with past practices for Phase I. The applicant shall then plant a minimum of 3,119 cuttings in the previously established 5.96 acre preserve, or within the 1.17 acre parcel (parcel 4), which shall also be restored to include *Ceanothus roderickii* plants. It is anticipated that, in addition to the previously disturbed 1.17 acre parcel, 0.9 acre is available within the existing 5.96 acre preserve for future planting.

4.3-1(c): Preservation of Habitat for Special-Status Plants

Consistent with the terms of the County Code and the 2010 Settlement Agreement in the matter of *CNPS v. County of El Dorado*, the applicant shall: (i) pay \$68,233.50 as the appropriate fee in lieu of Ecological Preserve Mitigation as required by Section 130.71.050 of the County Code; (ii) donate 10.64 acres of land in perpetuity to the Bureau of Land Management (BLM) for inclusion in the Pine Hill Preserve or, alternatively, to a signatory to the Pine Hill Preserve Cooperative Agreement for incorporation into the Pine Hill Preserve system for the purpose of Pine Hill Plant conservation; and (iii) donate \$50,000 to CNPS for conservation studies and/or conservation activities as deemed appropriate by CNPS. The applicant shall also agree to restore the 1.17 acre parcel 4 with cuttings of *Ceanothus roderickii* plants propagated in a commercial nursery as requested by the California Department of Fish and Wildlife.

- 2-5:** The comment questions if the funds collected in the County's in-lieu fee program are adequate to offset impacts to the Pine Hill plants and their habitat, or to meet the standard set forth under CEQA. The CDFW recommends that the County's in-lieu fee program be re-evaluated and updated to ensure payment of the required fees would mitigate impacts to the Pine Hill plants to less than significant.

The proposed project's approach to mitigation does not rely solely on payment of the County's in-lieu fee, and instead provides multiple methods to offset impacts that result from project development including, in addition to paying the County's in-lieu fee, also providing for propagation, transplantation and preparation of a salvage and transplantation plan for existing rare plants (if the project is subject to legal challenge), or donating an additional 10.64 acres of land to the adjacent Pine Hill Preserve with a \$50,000 monetary donation to the California Native Plant Society (CNPS) pursuant to the prior Settlement Agreement if the project is approved by the County and not subject to legal challenge. Substantial evidence therefore supports the Draft EIR's conclusion that direct impacts from the proposed project on rare plants and their habitat are less than significant after mitigation, although the cumulative impact remains significant and unavoidable.

It is important to also understand that the County's fee program is only one source of funding for the preservation and acquisition of gabbro soil habitat. By way of background, and as described in briefing by the County and real party in interest before the El Dorado Superior Court and the Third District Court of Appeal, in 1993, the Rare Plant Technical Advisory Committee, which included stakeholders from the United States Fish and Wildlife Department (USFWS), California Department of Fish and Game (DFG), the Appellant, CNPS, and the County, agreed that an approximately 3,450 acre

rare plant preserve system of five preserve units would ensure preservation of the eight rare Pine Hill endemics and their habitat. In 1997, DFG Regional Manager, Banky Curtis, agreed that if the County adopted an in-lieu fee program to establish, manage and fully finance a five-preserve system in perpetuity, “the mitigation for those rare [Pine Hill endemic] plants on these soils will be accomplished.” DFG concluded:

The Department considers the proposed five preserve system to be sufficient to prevent jeopardy to the rare and endangered plants associated with the gabbroic and serpentine soils in western El Dorado County, and . . . shall not request additional mitigation for the take of the identified species due to development projects in western El Dorado County. . . . The Department will not thereafter assert adverse impacts on the identified rare and endangered plants . . . as a basis for opposing the acquisition or use of any present or future water supplies in El Dorado County or as a basis for opposing any development project in western El Dorado County.

(See Administrative Record (“AR”) lodged in *CNPS v. County of El Dorado* (2009) 170 Cal.App.4th 1026 at AR 3:692-693.)

In 1998, after completion of a detailed economic study by Economic and Planning Systems, Inc. to ensure the adequacy of the fee (AR 4:901-905), the County Board of Supervisors adopted the Ecological Preserve in-lieu fee program to fund the acquisition and management of the five preserve system. (AR 4:826.) The intent was twofold: (i) to eliminate the need for applicants to conduct individual project surveys and mitigation, often resulting in fragmented, small and isolated mitigation areas; and (ii) to streamline the environmental review process and provide certainty to developers that if they pay the required in-lieu fees, the impacts of their project would be ensured to be mitigated to less than significant under CEQA. (AR 3:692-693, 4:873.)

The in-lieu fee previously codified in Chapter 17.71 of the El Dorado County Code (AR 4:906-909) is now provided within Chapter 130.71.010-.130.) An applicant may take advantage of paying the Ecological Preserve Fee only if their project is located outside the critical 6,000 acre Ecological Preserve overlay (i.e., Mitigation Area O) identified by the County. (AR 4:907-908; 1028-1029.) Project applicants with projects located within “Mitigation Areas 1 and 2,” however, may pay fees, upon issuance of a building permit, in lieu of the Ecological Preserve Mitigation (e.g., recording on-site conservation easement(s), clustering development etc.). Applicants within Mitigation Area 1 pay more than those within Mitigation Area 2.

In the County's view, payment of the fee for projects located in Mitigation Area 1, as the project here, fully mitigates the direct and indirect effects of the project to all eight Pine Hill endemics, including ceanothus, calystegia and gabbro soil habitat, to less than significant. No substantial evidence has been provided showing that the amount of the fee payment is inadequate, particularly as it applies to the proposed project.

The County's fee is only one of several multi-agency funding sources used to generate the funds needed for acquisition of additional preserve lands. Other fee sources include the El Dorado Irrigation District. (AR 4:1028 [County fee program generates approximately 25% of total funds used for acquisition; state, federal and other local agencies also participate].) The County's Ecological Fee Program contains approximately \$1.6 million dollars (Pabalinas email 7/21/17). The interest from the fees fund the operation, maintenance and management of the five preserve areas, including salary for a Pine Hill Preserve manager. (AR 4:1028.)

The County's Fee Program has been successful to date. BLM manages over 4,832 acres preserved in perpetuity for the Pine Hill endemics and their habitat - 3,339 of which lie within a USFWS 5,001-acre area designated for the recovery of the federally listed rare plants. (DEIR, p. 4.3-21.) As part of the Congregate Care project, an additional 23 acres was donated by the applicant to BLM and included in the Pine Hill Preserve. Thus, the total acreage identified by USFWS for recovery of all the plants in the "Recovery Plan for Gabbro Soil Plants of the Central Sierra Foothills (2002)" (Recovery Plan) has nearly been achieved.

- 2-6:** The comment questions if direct impacts from the project would be less-than-significant to protected plants if the terms of the Settlement Agreement, under the "no litigation" scenario (involving the voluntary donation of an additional 10.64 acres of land to the BLM for inclusion in the Pine Hill Preserve, and payment of \$50,000 dollars to CNPS), does not occur. CDFW recommends that the County identify habitat to be purchased, preserved and managed under this scenario to ensure impacts are reduced to less than significant.

As stated above in Response to Comment 2-5, the approach to rare plant mitigation is proposed to be conducted through different avenues to ensure adequate compensation is provided regardless if the project is approved and not legally challenged or if it is approved and challenged. In the event the EIR is legally challenged, in addition to payment of the Ecological Preserve Fee, additional rare plant mitigation would be required consistent with Mitigation Measures 4.3-1(a) and (b) to offset project impacts on rare plants. (See Response to Comment 2-5.) Additional mitigation as suggested by the commenter would therefore not be required to ensure the direct impacts of the project are less than significant. As explained in the Draft EIR and in Response to Comment 2-5, moreover, due to other projects and the cumulative development of gabbro soil habitat, the cumulative impact would remain significant and unavoidable under CEQA. Requiring

additional mitigation in the form of land acquisition under the “litigation scenario,” may lack rough proportionality to the incremental impacts of the project considering the mitigation already required in the EIR and is therefore infeasible. (See CEQA Guidelines, §15041.)

If the EIR is not legally challenged, the applicant will, pay the fee and (i) donate 10.64 acres of land in perpetuity to the BLM for inclusion in the Pine Hill Preserve or, alternatively, to a signatory to the Pine Hill Preserve Cooperative Agreement for incorporation into the Pine Hill Preserve system for the purpose of Pine Hill Plant conservation; and (ii) donate \$50,000 to CNPS for conservation studies and/or conservation activities as deemed appropriate by CNPS. Regarding the adequacy of the plan for mitigation in the event that a lawsuit challenging the EIR is filed, please see Response to Comment 2-5. Under either option, the mitigation measures would be enforceable through the project’s Mitigation Monitoring and Reporting Program (see Chapter 4).

- 2-7:** The comment states that the smaller area proposed for mitigation located in the southeastern portion of the project site (Parcel 4) may not be suitable for inclusion in the Pine Hill Preserve because it is isolated from the other area proposed for mitigation (Parcel 5) and contains disturbed habitat and may be dominated by invasive plant species. CDFW recommends the applicant either restore this area or provide funding to restore this area as part of the mitigation.

As described in the Draft EIR, the 1.17 acre parcel (Parcel 4) contains previously disturbed slopes with sparse nonnative vegetation, as well as dense native vegetation along a channel. This 1.17 acre parcel is contiguous with the approximately 2.02 acre Cameron Park Village Apartments Rare Plant Preserve land, owned by the Cameron Park Village Ltd., was required to be set aside as open space for preservation of protected plants that were removed to accommodate development of the apartment project, but this land is privately owned and was not dedicated to the Pine Hill Preserve (see Draft EIR Figure 3-2 p. 3-5, which shows an aerial view of the project site. The Rare Plant Preserve is shown behind the Cameron Park Village Apartments). The 1.17 acre parcel, therefore, would not be ecologically isolated from open space to the west and north of the project site, including the greater Pine Hill Preserve. This area also provides optimal opportunity for restoration because it is disturbed and contains non-native plant species.

The applicant is willing to engage in restoration of this parcel, including planting Pine Hill ceanothus (*Ceanothus roderickii*) cuttings. This has been added to Mitigation Measure 4.3-1(a) in Chapter 2, Changes to the Draft EIR. Planting Pine Hill ceanothus in this area would help minimize and displace invasive weeds and grasses that could otherwise attempt to colonize the disturbed areas. This parcel is located contiguous with the land owned by Cameron Park Village Ltd. (behind the Cameron Park Apartments) that was

populated with ceanothus plants (see Appendix A), approved by CDFW and required for mitigation as a part of the prior project. This previously preserved area is also located adjacent to lands to the west (Parcel 5) which are proposed to be donated as part of the 10.64 acres set forth in the Settlement Agreement, thereby ensuring connectivity of open space and preserved habitat that otherwise would not exist. The potential for significant adverse impacts due to potential “edge effects” of the previously preserve parcel is therefore not supported by the evidence under these circumstances.

- 2-8:** The comment notes that the California Endangered Species Act (CESA) is more stringent than what is required under CEQA to reduce impacts to less than significant and, by law, CDFW may not issue an ITP unless impacts are minimized and fully mitigated and adequate funding is identified to implement the required mitigation measures.

The comment is noted. In the opinion of the preparers of the EIR, the mitigation measures proposed for the project would fully mitigate the impacts of the proposed project on special-status plants.

- 2-9:** The comment raises a concern that the area directly south of the project site behind the Cameron Park Village Apartments has been designated as a mitigation area for one of the protected plant species. According to the comment, buildout of the proposed project would partially isolate this area from the Pine Hill Preserve and could adversely affect the viability of this area as a preserve by altering the hydrology, increasing potential exposure to pollutants and hazardous material runoff, and introducing invasive plant species. CDFW recommends the Draft EIR include an analysis of the project’s impacts on this area and provide mitigation measures that address these potential impacts.

The parcel of land located behind the Cameron Park Apartments, owned by the Cameron Park Village Ltd., was required to be set aside as open space for preservation of protected plants that were removed to accommodate development of the apartment project, but this land is privately owned and was not dedicated to the Pine Hill Preserve. If the proposed project is approved, and a lawsuit is not filed, the dedication of the additional 10.64 acres would create additional connectivity to the Pine Hill Preserve by linking the land behind the apartments with the 1.17 acre parcel (Parcel 4) located to the east and the remaining 9.47 acres (Parcel 5) located to the west for a total of 10.64 acres, as shown in Figures 3-6 and 3-10 in the Draft EIR. Please refer to Response to Comment 2-7 for additional information regarding the claim that the habitat would be fragmented. There is, moreover, no evidence that the potential impacts suggested by the commenter are reasonably foreseeable under the circumstances of the project and proposed mitigation.

To address stormwater runoff from the project site associated with project construction and operation that may include an increase in pollutants and hazardous material runoff, the project's storm drain infrastructure would be designed to meet current County standards and would include post-construction storm water design elements, per the County's Site Design Measures Manual for El Dorado County Post-Construction Storm Water Requirements, as discussed in Chapter 3, Project Description, on page 3-31. The Preliminary Drainage Report, included in Appendix D to the Initial Study provided in Appendix B to the Draft EIR, also describes the design components that would minimize pollutants. Compliance with the County's Stormwater Quality Ordinance No. 5022, which requires best management practices be employed would also reduce pollutants from entering local waterways.

- 2-10:** The comment recommends that the County consider requiring the project to be redesigned to reduce the amount of grading in the southern portion of Parcel 2. The comment states doing so would help facilitate CDFW's ability to issue an ITP for the project.

Specifically, CDFW proposes that the site plan be revised to "reduce the grading limit in the southern portion of Parcel 2" to, in CDFW's view, allow greater conservation of the ceanothus plant population to the south, allow greater connectivity to the proposed open space in the smaller mitigation area, and reduce the urban wildlands edge effects on the Cameron Park Village mitigation site to the south of the project site. CDFW does not quantify the amount of the area to be graded it believes should be reduced. Reduction in grading limits, including in the southern portion of Parcel 2, is not necessary to mitigate impacts and would be infeasible. The site plan has already been revised and condensed after numerous early conversations and meetings between the County, applicant and CNPS representatives regarding where, exactly, the proposed donation of the 10.64 acres would be located. Specifically, the proposed project was revised to eliminate approximately 100 Skilled Nursing Facility beds in order to propose a more compact project and developable footprint. Given these prior changes in the project design, the relatively constrained nature of the site, and existing geographic constraints, further reducing the grading limits of the project site while retaining a fiscally viable project is not feasible.

There would also be no opportunity to further reduce grading while meeting most of the project objectives because the site is, and would be, surrounded by retaining walls. The grading and drainage plan in the Draft EIR (see DEIR Figure 3-11, p. 3-27), for example, illustrates the retaining walls surrounding nearly the entire project footprint. Retaining walls are an engineering method that may be used to minimize a grading footprint by largely eliminating the need for engineered slopes. Retaining walls are already adjacent to existing structures and parking areas in other development throughout the County. Part of the purpose of these retaining walls is to minimize project grading in order to maximize retention

of the chaparral habitat. It is therefore infeasible under these circumstances to reduce the grading limit of the project site, including the southern portion of Parcel 2.

- 2-11:** The comment is addressing the required pre-construction nest surveys included under Mitigation Measure 4.3-2(d) and is recommending that the surveys be done by a qualified biologist three days prior to construction versus two weeks as indicated in the mitigation measure.

To address the concern raised by the CDFW, Mitigation Measure 4.3-2(d) on page 4.3-32 has been revised as follows:

4.3-2(d): Nesting Bird Avoidance

If construction is proposed during the breeding season (February 1-September 30), a pre-construction nesting bird survey shall be conducted within ~~two weeks~~ three days prior to the beginning of construction activities by a qualified biologist in order to identify active nests in the project site vicinity. If no active nests are found during the pre-construction survey, no further mitigation is required. If active nests are found, a temporary buffer shall be established, depending on nest location, species, and construction activities in the vicinity of the nest and the nest will be flagged or protected with high-visibility fencing. Additionally, the designated biologist shall be on-site daily while construction related activities are taking place near active nests and shall have the authority to stop work if birds are exhibiting agitated behavior. Any trees containing nests that must be removed as a result of project implementation shall be removed during the non-breeding season (October 1-January 30).

- 2-12:** The comment requests that the County address the comments raised in this letter prior to circulating the Final EIR. The comment is noted and no further response is required.



Date: March 1, 2017

To: El Dorado County Community Development Agency,
Development Services Division
Attention: Ms. Jennifer Franich and Mr. Mel Pabalinas

From: Cameron Park Community Services District

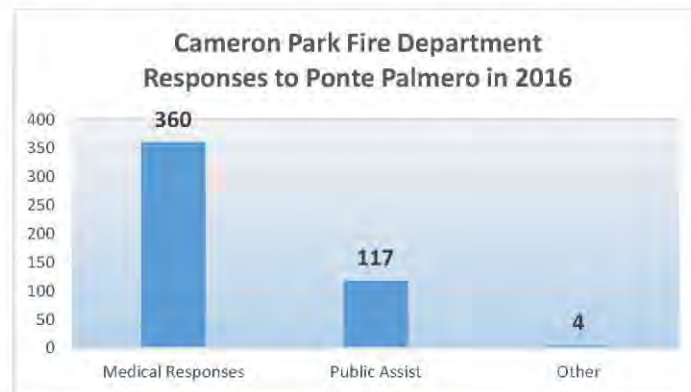
Regarding: Draft Environmental Impact Report for the Ponte Palmero Project
(State Clearinghouse No. 2015082029)

Comment Letter 3

The Cameron Park Community Services District (CPCSD) would like to respond to the draft Environmental Impact Report for Ponte Palmero (State Clearinghouse No. 2015082029).

Fire Services

Approximately 20% of all the Cameron Park Fire Department's responses are to Ponte Palmero (an average of 1.3 per day). As demonstrated below, the responses to Ponte Palmero in 2016 totaled 481.



Approximately 24% of the calls are for public assist. Public assist calls include situations such as lifting a resident who has fallen and needs assistance off the floor. CPCSD wants to ensure that the County of El Dorado assesses non-ad valorem charges (direct charges) with the correct risk modifiers per correctly counted until type. The District has requested that the facility hire and/or train staff to be able to provide this service to minimize the calls to the fire department. It can be argued that the general public may not receive the appropriate response time due to time spent on these types of calls. Ponte Palmero is expected to fully comply with the California Code of Regulations Title 22, Division 6, and their licensing requirements through the California Department of Social Services.

Page 1 of 2

District Revenue

The District also has also expressed a concern about receiving a portion of the property taxes for parks as well as a contribution to the Cameron Park Community Center bond. The CPCSD provides services to the Cameron Park community, which includes residents of Ponte Palmero. It would be desirable to review the funding contribution by Ponte Palmero for service provision within Cameron Park. This consideration will be important for continuing to support the services to all who live within the area.

3-2

Pine Hill Preserve

Additionally, the Pine Hill Preserve, which is adjacent to the Ponte Palmero property, may provide recreational services to the community in the future. Ponte Palmero has an area which can provide access to the property. An example would be a trail connection that could provide interpretative opportunities to the community as well as residents of Ponte Palmero. A staging area could be a collaboration between Ponte Palmero and the Bureau of Land Management and other partners to provide access in the future. This could include a parking area or walking access. It is important to recognize this now so that consideration could be made as part of this review process.

3-3

cc: Cameron Park Community Services District Board of Directors

Letter 3: Cameron Park Community Services District

- 3-1:** The comment indicates that approximately 20% of the Cameron Park Fire Department's responses are attributed to the existing Cameron Park Congregate Care facility located to the east of the project site. The majority of the calls are to assist someone who has fallen. The CPCSD wants to ensure the County assesses the direct charges associated with the project and that the facility hire and/or train staff to assist residents that fall. The comment goes on to note the project is expected to comply with the CCR Title 22, Division 6.

The project applicant has indicated that on-site staff would include a Registered Nurse and a Licensed Vocational Nurse that would be available in the event of a fall to determine if the resident can be moved without causing an injury (Kasner email 3/22/17). This would help reduce the number of calls requesting emergency personnel be dispatched to assist a resident who has fallen. In addition, as noted in the Initial Study (see Appendix B), the proposed project would pay the required Fire Prevention Fees. Thus, there would be no potentially significant impacts on the environment requiring additional mitigation.

- 3-2:** The comment notes the Cameron Park Community Services District (CPCSD) has expressed a concern regarding their share of property taxes for parks and to the District and have requested to review the projects contribution to service provisions within Cameron Park.

The project is required to pay County development fees including fees to the CPCSD and school impact fees. Regarding the commenter's request to review the project's contribution to the CPCSD, this is outside of the scope of this EIR. Please contact the County directly for more information.

- 3-3:** The comment indicates there may be recreational or interpretive opportunities in the adjacent Pine Hill Preserve for the community and access could be provided from the project site, but does not offer any evidence that such opportunities are proposed at this time or otherwise reasonably foreseeable.

The Pine Hill Preserve (Preserve) was established to protect rare native plants in El Dorado County that occur on a particular soil type known as gabbro soils. The Preserve is centered around Green Valley Road and stretches from Folsom Lake in the north to Highway 50 in the south. The proposed project site is located adjacent to the Cameron Park Unit. In accessible areas, the Preserve receives considerable use by hikers, wildlife observers, and other visitors year-round. As indicated in the Pine Hill Preserve Management Plan, existing trails providing access within the various Preserve units will continue to be maintained and/or restored. Trails not required for management or public

non-impacting recreation will be restored to natural habitat by (1) closing the trails, (2) controlling erosion and weeds if needed, and (3) planting native plant species. Creation of new trails will be considered only if absolutely needed for management or public use, and if the associated effects on the rare plants can be minimized or avoided (Hinshaw, pp. 38-39). Due to the steep topography within the land to be preserved as part of the proposed project it is unlikely either the County or the BLM would support constructing trails in this portion of the Preserve to provide public access. The comment is nevertheless noted.



CALIFORNIA
NATIVE PLANT SOCIETY

Comment Letter 4

March 2, 2017

County of El Dorado Community Development Agency
Planning Services
Attention: Jennifer Franich
2850 Fairlane Court
Placerville, CA 95667

Sent via email: jennifer.franich@edcgov.us

Dear Ms. Franich:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (DEIR) for the Ponte Palmero Project. We have reviewed the DEIR and relevant specialist reports and have the following comments.

We have a longstanding interest in this project since development of the site will affect significant numbers of rare plants and their habitat which is associated with the gabbro soil complex located in El Dorado County. Here we generally refer to these as the "Pine Hill plants" with specific impacts described in the DEIR for several species that occur on the undeveloped property. We last communicated with your agency about this project in August 2014 in response to the initial consultation package provided to us.

The principle issue we raise in the comments below concerns the protection and conservation of four plant species that are identified as rare, threatened or endangered (under state and/or federal regulation). These rare species occur within the proposed project area and the impacts to them are not adequately disclosed or mitigated. Furthermore, the proposed project and alternatives do not avoid the take of species listed under the California Endangered Species Act or the Native Plant Protection Act as required by law.

Specific Comments

I. Failure to Recognize and Comply with the Native Plant Protection Act.

Table 4.3-2 of the DEIR (p. 4.3-10) appropriately identifies two species that occur on the project site, *Ceanothus roderickii* and *Packera layneae*, as "California rare" species, as denoted by "R" in the table. This means that these species are protected under the Native Plant Protection Act. The Act provides protection for plants designated as "rare" and regulations issued by the California Department of Fish and Wildlife (CDFW) provide a permitting process, e.g., the 2081 permitting process used for the California Endangered Species Act, that ensures compliance with the law. The DEIR does not describe the Native Plant Protection Act. Furthermore, the project design and environmental analysis does not take this regulation into account.

4-1

We reviewed the comments received on the Notice of Preparation to prepare and EIR (Appendix A). The CDFW provided comments on September 3, 2015 that are specific to this issue:

Plants designated as a state-listed rare pursuant to the Native Plant Protection Act (NPPA) (Fish & Game Code §1900 *et seq.*) are known to occur on or adjacent to the project site. The NPPA prohibits the take of state-listed rare plants unless authorized by CDFW or in certain limited circumstances. "Take is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill". Take of state-listed rare plants that may occur as a result of the Project may only be permitted through an incidental take permit or other authorization issued by CDFW pursuant to California Code of Regulations, Title 14, section 786.9 subdivision (b). Please contact CDFW early if any NPPA or CESA-listed species are identified within the vicinity of the Project.

4-2

We do not understand why the DEIR did not address the appropriate regulatory and protection requirements required for species that occur in the project boundary and that are state-listed rare under NPPA. It is also disturbing that CDFW was not contacted early in the planning process, as they requested in 2015, since it has been known as early as 2005 when the first biological reports were prepared for this project by Sycamore Consulting identified the presence of state-listed rare plants on this property.

We also note that the project as designed also fails to comply with the county general plan, since it does not "protect State and Federally recognized rare, threatened, or endangered species and their habitats consistent with Federal and State laws. (General plan, Objective 7.4.1)

4-3

II. Inadequate Analysis of Impacts to Rare Plant Species and Associated Habitat.

The DEIR concludes that "The dedication of 10.64 acres of land to the Pine Hill Preserve, in the event that another lawsuit is not filed, would reduce impacts to the special-status plant species located within the 9.11 acres designated for development to less than significant." There is no analysis provided to support this conclusion.

4-4

There is an "Applicant Proposed Draft CEQA Impact Analysis and Mitigation Measures for Ponte Palmero II Project, June 23, 2016" provided in Appendix D of the DEIR. This report statement merely provides an accounting of acres of rare plant habitat to be developed and numbers of rare plants to be removed as a result of the proposed development. There are no analyses or rationale statements that consider the impacts of the loss of this habitat and the loss of individuals to the persistence of the affected species. This lack of analysis is especially glaring considering that the project as proposed will result in the "take" of over 3,000 individuals of the *Ceanothus roderickii*, a state-listed rare plant. The completed Congregate Care Project destroyed about 7,000 individuals of *Ceanothus roderickii*. The original estimate from 2005 was that there were about 12,000 plants of this species distributed across the 60-acre property. A

4-5

CNPS comments on Ponte Palmero (3-2-17)

2

consequence of development of the Congregate Project and completion of the Ponte Palmero project as currently proposed would result in the destruction or “take” of about 10,000 individuals. In no other location within the gabbro soils area have such high numbers of this rare species been recorded. The loss of this historically rich occurrence is not addressed in the analysis.

4-5
Cont.

III. Dedication of Parcel 4 Does Not Meet the Settlement Agreement or Provide for Mitigation.

Parcel 4 has been identified as mitigation for project impacts and as satisfying, in part, the settlement agreement. The settlement agreement presumes that the area designated for rare plant mitigation is relatively undisturbed rare plant habitat. As we noted in our comments on the approach to mitigation for this project proposed in 2012 and 2014, unpermitted grading or disturbance occurred on this parcel during the development of the Congregate Project. To our knowledge, damage to the plant resources from this illegal disturbance has never been address. Furthermore, most of Parcel 4 has been identified as “ruderal/disturbed” in the project documents as a result of the illegal removal of most of the vegetation followed by a heavy application of mulch or straw. This graded and disturbed area should not be counted towards mitigation for rare plants or towards meeting the terms of the settlement. This small isolated parcel that is surrounded by intensive develop is also not suitable for dedication to the Pine Hill Plant Preserve.

4-6

IV. Transplantation As A Mitigation Measure.

A. The mitigation measures proposed are not well defined.

The mitigation for the proposed project includes collection of whole plants or cuttings, cultivation and transplantation of Stebbins morning glory and Ceanothus roderickii to “previously established preserves.” The measures do not specify how or if the site will be prepared for planting, how the planting will be undertaken, or what the ongoing cultural practices will be for the site.

As reported in Howald (1996, p. 311)¹, the California Department of Fish and Game adopted translocation guidelines in 1990. “These guidelines call for:

- A legally binding mitigation agreement that commits the project proponent to complete all aspects of the mitigation program
- A written mitigation plan that spells out in detail the technical components of the mitigation plan
- Project specific performance criteria that must be approved by the CDFW

¹ Howald, A. 1996. Translocation as a mitigation strategy: Lessons from California. In: Restoring Diversity: Strategies for Reintroduction of Endangered Plants. Falk, D. A., Millar, C. I, and Olwell, M. (eds.) Island Press, Covelo, California.

CNPS comments on Ponte Palmero (3-2-17)

3

- Monitoring for a period of at least five years
- Performance secured through a letter of credit or other negotiable security
- Long-term habitat protection and management that is funded through an endowment fund”

4-7
Cont.

Of these six elements, the proposed translocation strategy fails to develop a detailed plan, lacks specific performance criteria that are approved by a wildlife agency, and fails to provide a performance bond. These missing elements are those that clearly define the action to be undertaken, establish expectations and provide financial insure that the outcomes will be achieved.

In addition to the absence of a clear description of the specific actions to be taken to locate and maintain the transplanted cuttings, there is no information to suggest that these transplantation actions will be successful as a mitigation measure for these species, i.e. that the plants will survive transplantation over the long term to a location of the biologist’s choosing. Information on the appropriate techniques and methods for successful transplantation are not well known for these species and development of such information is a specific action in the recovery plan. (U.S. Fish and Wildlife Service 2002, V-17).

4-8

I assume based on the size that the previously established preserve for Stebbins morning glory is the one associated with the incidental take permit for that species. I also assume based on size that the 5.96-acre preserve mentioned in the DEIR is not actually a preserve but is the graded slope running along the backside of the adjacent Congregate Care facility. This is the same size of the area identified for transplantation of *Ceanothus roderickii* cuttings “mitigate” the impacts of the Congregate Care Project on this species. See Attachment A to these comments for the memo from El Dorado County outlining the original mitigation measures adopted for the Congregate Care Project including the locations of two areas for transplanting – 0.385 acres and 5.96 acres. The DEIR claims that the transplantation of cuttings has been successful. Yet if this is the case, then transplanting additional cuttings to the larger “preserve” would make no sense since it would already be occupied by the approximately 8,700 cuttings of *Ceanothus roderickii* planted as mitigation for the Congregate Care Project. If as claimed by the DEIR that transplantation was success, this “preserve” area should be fully occupied by the 8,700 successful cuttings and not able to accommodate additional cuttings. Alternatively, if the 5.96-acre area is not occupied by the cuttings, then this would demonstrate a failure in the transplantation and evidence that the mitigation will not be successful. In either case, this 5.96-acre “existing preserve” would not be suitable for mitigation associated with the Ponte Palmero project.

4-9

B. The Mitigation Measures Are Untested.

Transplantation efforts of rare plant species have had mixed success rates. Howald (1996), in a review of forty-one translocation projects in California, found that 13 were determined by the project proponent to be unsuccessful, 7 had limited or partial success, 5 were successful, and the remainder were either in the planning stages or listed as ongoing. Of the 25 projects for

4-10

CNPS comments on Ponte Palmero (3-2-17)

4

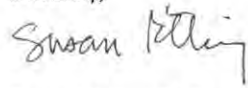
which the project proponent was able to make a conclusion about success, only 20% of them were deemed “successful.” “Success” in these cases was defined as the project proponent saw fit. As a result, it is not possible to know if their criteria for success are the same as the expectation stated for this project, i.e. no net loss of individuals. Information from the literature indicates that the success of translocation projects, such as proposed in the DEIR, is far from assured.

Falk et al. (1996, p. 467)² point to a general lack of information available on the biology of rare plant species selected for reintroduction and note that “the published literature will rarely be sufficient to answer all relevant questions about the ecology of a rare plant species proposed for reintroduction. Since these ecological relationships are especially germane to the process of reintroduction, it is unlikely that the practitioner will have the desired scientific basis in hand. This leaves reintroduction planners in the position of making more or less educated guesses about the response of species, and makes the practice of restoration generally one of informed speculation. This predicament is most troubling in circumstances in which “failure” has significant consequences, such as critically threatened species, those for which limited resource material is available, or any situation involving the destructive tradeoff with an existing natural population.” These very concerns led Falk et al. (2006, p. 456) and others to conclude that “reintroductions are fraught with uncertainty and difficulties and should be viewed as experiments. As such, it is unwise to rely on “successful” outcomes, given the risks of failure are significant.”

There is no information in the DEIR to support the claim that the mitigation measures will be successful. There is, however, significant information in the literature to indicate that the outcome of the mitigation measures is uncertain and that such efforts are considered by professionals to be experimental.

We ask that the proposed project and DEIR be revised to correct these deficiencies and re-circulated for public comment. If you have any questions about these comments, please contact me at (530) 295-8210 or britting@earthlink.net.

Sincerely,



Susan Britting, Ph.D.
Conservation Chair, El Dorado Chapter
PO Box 377
Coloma, CA 95613

² Falk, D. A., Millar, C. I., and Olwell, M. 1996. Guidelines for developing a rare plant reintroduction plan. In: *Restoring Diversity: Strategies for Reintroduction of Endangered Plants*. Falk, D. A., Millar, C. I., and Olwell, M. (eds.) Island Press, Covelo, California.

Continued until 10/17 Attachment A: Probable "Existing Preserves"

DEVELOPMENT SERVICES DEPARTMENT

County of
EL DORADO

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Date: September 25, 2006

To: Board of Supervisors

From: Gregory L. Fuz, Development Services Director

RE: Cameron Park Congregate Care
A06-0003, Z05-0008, PD05-0005, TM05-1400

The project was heard by the Planning Commission on August 24, 2006, and at the hearing, the Planning Commission recommended approval of the project. At the Planning Commission meeting on August 24, 2006, representatives from the United States Fish and Wildlife Service and the Bureau of Land Management commented on the environmental document that was prepared for the project. Both agencies felt that the mitigation as proposed in the environmental document was not sufficient. While we disagree with their position, the County has been working with all interested parties to try to address their concerns.

The applicant originally prepared a Biological Assessment that reviewed the biological resources on the entire 68 acre parcel. Mitigation was prepared for the two sites on the parcel where development is slated to occur with this application. The mitigation originally proposed, and accepted by the County, provided for payment of rare plant mitigation fees for Zone 1, establishment of an on-site preserve to protect *Calystegia stebbinsii* (Stebbins morning glory), adjacent to the Pine Hill Preserve, transplanting the four *Calystegia stebbinsii* from the project site to the Calystegia Preserve, collection of *Calystegia stebbinsii* seeds from plants in the project study area, treating of seeds (scarify and/or heat treatments), planting of seeds or seedlings in the Calystegia Preserve, and removal of chaparral shrubs from *Calystegia stebbinsii* transplant/seedling areas to encourage germination and growth of *Calystegia stebbinsii* plants. This mitigation plan was prepared by the applicant's biologist and reviewed by the County's contract biologist.

In an effort to respond to the new concerns being raised by USFWS and BLM, the applicant has prepared a supplemental mitigation plan. This plan further addresses rare plant species that are both Federal and State listed. The supplemental mitigation is attached to this memo. It is the County's belief that based on the impact analysis and revised mitigation, the project appears to meet all applicable requirements under County rules and regulations as well as the California Environmental Quality Act.

The revised mitigation measures replace recommended condition 8 as follows:

8. Establish a 5.96-acre plant preserve on the north side of the project area adjacent to the Cameron Park Unit of the Pine Hill Preserv. (This acreage includes the 0.385-acre preserve dedicated to *Calystegia stebbinsii* as identified in the current 2081 permit application.)

Attachment A: Probable "Existing Preserves"
Board of Supervisors September 25, 2006
Cameron Park Congregate Care
Page 2

9. Take cutting from the existing 6,700 *Ceanothus roderickii* plants in the project area, as well as an additional 2,000 cutting (30%) from the *Ceanothus roderickii* plants to allow for losses. Propagate said cuttings in a commercial nursery and plant the cuttings in the on-site plant preserve. Monitor the plantings for a minimum of five years and submit monitoring report to the County, California Department of Fish and Game, and the U.S. Fish and Wildlife Service.

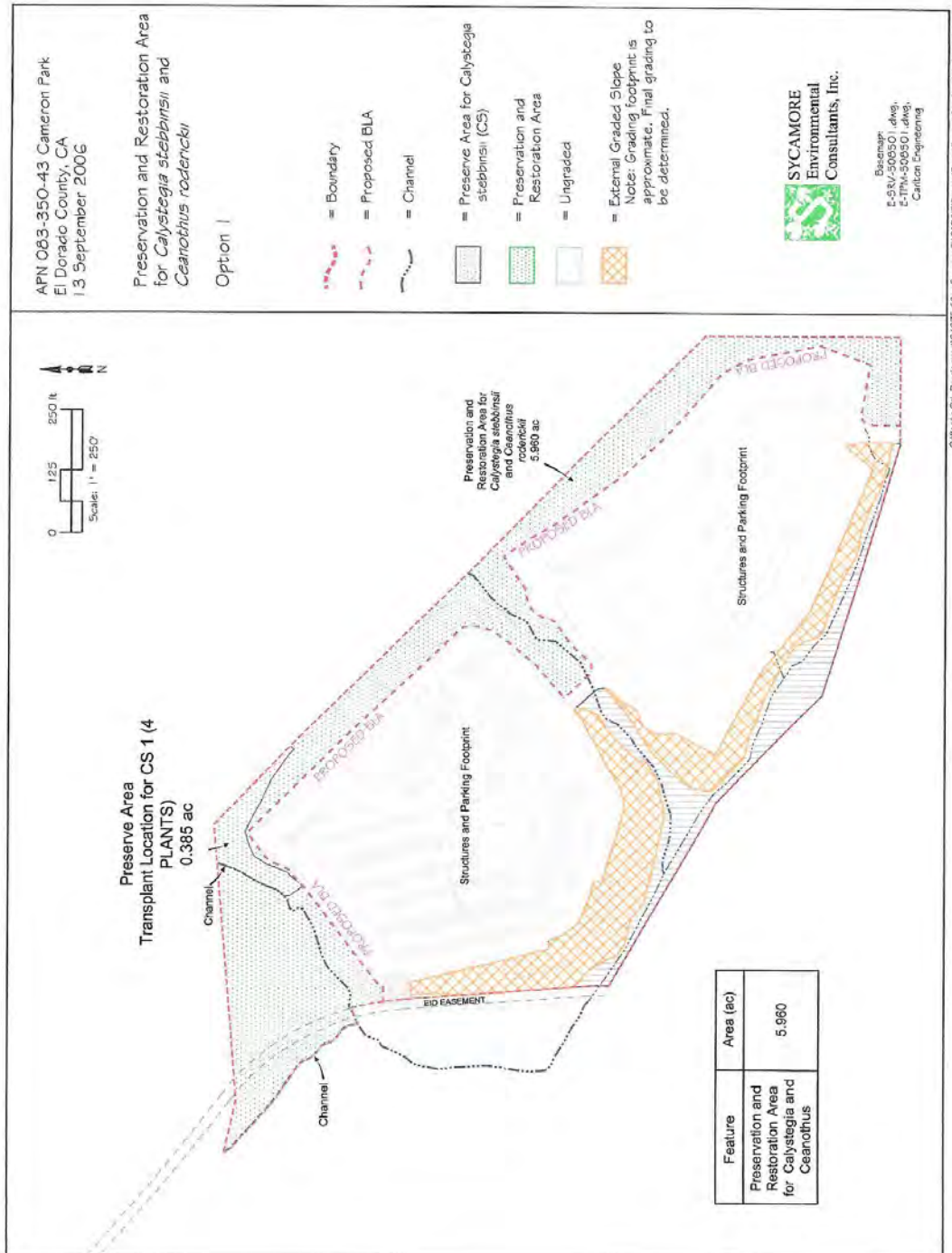
There are three additional conditions of approval that need to be added to the Planned Development portion of the project. These relate to parkland dedication requirements and procedural needs for verification of compliance with the conditions of approval. The conditions are as follows:

31. Prior to occupancy or commencement of any use authorized by this permit the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services prior to occupancy for verification of compliance with applicable conditions of approval.
32. The subdivision is subject to parkland dedication in-lieu fees based on values supplied by the Assessor's Office and calculated in accordance with Section 16.12.090 of the County Code. The fees shall be paid at the time of filing the final map.
33. The subdivider shall be subject to a \$150.00 appraisal fee payable to the El Dorado County Assessor for the determination of parkland dedication in-lieu fees.

Staff further recommends that an additional finding be included in your Board's action to address the revised mitigation:

1.3 A public hearing has been held and the County finds that the substitute mitigation for Mitigation Measure #6 (Impacts to rare and endangered plant species) is equivalent to or more effective than the originally proposed mitigation. The revised mitigation increases the area preserved as natural habitat from 0.385 acre to 5.96 acres and includes protection for *Ceanothus roderickii*. The proposed new mitigation does not create any potentially significant effect on the environment because it reduces the amount of area that may be disturbed and does not authorize or require any construction beyond that which was previously considered.

Attachment A: Probable "Existing Preserves"



CNPS comments on Ponte Palmero (3-2-17)

A-3

Letter 4: California Native Plant Society, Susan Britting, Ph.D.

- 4-1:** The comment notes the Draft EIR correctly identifies two protected plant species that occur on the project site, but the Draft EIR does not include the Native Plant Protection Act under the Regulatory Setting. The comment goes on to state the project design and analysis does not take this into account.

Language describing the Native Plant Protection Act has been added to the regulatory section of the Draft EIR. Although this language was not included in the Draft EIR, the focused botanical evaluations included in Appendix D, as well as the discussion presented in the Draft EIR sufficiently analyzed potential impacts to special-status plant species and sensitive vegetative communities that are protected under the Native Plant Protection Act. No further analysis is required.

The following information is added to page 4.3-18 of the Draft EIR:

Native Plant Protection Act of 1977

The California Native Plant Protection Act (NPPA) of 1977 directed the CDFW to carry out the Legislature's intent to "preserve, protect and enhance rare and endangered plants in this State." The NPPA gave the California Fish and Game Commission the power to designate native plants as "endangered" or "rare" and protect endangered and rare plants from take. The California Endangered Species Act of 1984 expanded on the original NPPA and enhanced legal protection for plants, but the NPPA remains part of the Fish and Game Code. To align with federal regulations, California ESA created the categories of "threatened" and "endangered" species. It converted all "rare" animals into the Act as threatened species, but did not do so for rare plants. Thus, there are three listing categories for plants in California: rare, threatened, and endangered. (See CDFW "State and Federally Listed Endangered, Threatened, and Rare Plants of California", April 2017).

California Fish and Game Code sections 1900-1913 comprise the NPPA and seek to preserve, protect, and enhance rare or endangered California plants. The agency is responsible for establishing criteria to determine what native plants are rare or endangered, and for governing the take, possession, propagation or sale of such plants. The CNPS also identifies rare or endangered plants and lists them as 1A, 1B, 2, 3, and 4 species. Plants appearing on CNPS List 1A, 1B, or 2 meet CEQA significance criteria and CDFG² sections 1901, 2062 and 2067 criteria as rare or endangered species.

² The California Department of Fish and Game (CDFG) was officially renamed the California Department of Fish and Wildlife (CDFW) as of January 1, 2013. Where references are made in this document to the agency for background information, documents, permits, consultations, etc. prior to January 1, 2013, the title "CDFG" is used and for references after January 1, 2013, "CDFW" is used.

Also, pursuant to Title 14 of the California Code of Regulations section 786.9 (Take of Rare Plants) (2015), CDFW may issue permits, agreements, plans or programs that authorize rare plant impacts using the same procedures and under the same conditions as take authorizations issued pursuant to California Code of Regulations section 783 et seq., [regulations relating to ITPs], among others; thus, authorizing the ITP process pursuant to Section 2081 of the Fish and Game Code for the take of rare plants. As stated in subdivision (d) of section 786.9, however, “[n]othing in this section requires a permit or other authorization for rare plant impacts where the rare plant impacts are otherwise allowed pursuant to Fish and Game Code Section 1900 et seq. (Native Plant Protection Act) including, but not limited to, those activities covered by Fish and Game Code Section 1913.”

Generally, the CDFW may authorize individuals or public agencies to import, export, take, or possess, any state-listed endangered, threatened, or candidate species. These otherwise prohibited acts may be authorized through permits or Memoranda of Understanding if: (1) the take is incidental to an otherwise lawful activity; (2) impacts of the authorized take are minimized and fully mitigated; (3) the permit is consistent with any regulations adopted pursuant to any recovery plan for the species; and (4) the applicant ensures adequate funding to implement the measures required by CDFW. The CDFW makes this determination based on available scientific information and considers the ability of the species to survive and reproduce.

- 4-2:** The comment expresses concern that the issues raised in the letter submitted by the CDFW in response to the Notice of Preparation were not addressed and that CDFW was not contacted during the planning process.

The comment letter submitted by the CDFW identified five concerns: impact of the project on wildlife and their habitat; impact of the project on special-status species that are state or federally listed as threatened or endangered; cumulative impacts on wildlife and plants; analysis of alternatives that reduce impacts to wildlife and plants; and consistency with applicable land use or species recovery plans. All of the concerns raised by the CDFW in their comment letter are addressed in Section 4.3, Biological Resources. This information is also added to page 4.3-1 of the Draft EIR. Also, as previously noted, the applicant will also be submitting an application to CDFW for a 2081 ITP as was done for the previously approved Cameron Park Congregate Care project. In addition, County staff, their consultants, and the applicant’s representatives met with CDFW staff in July 2017 to further discuss concerns raised in their comment letter. Please also see Chapter 2.0 and Response to Comment 2-1.

The second paragraph on page 4.3-1 of the Draft EIR is revised as follows:

The United States Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (Corps), ~~and the Bureau of Land Management (BLM), Pine Hill Preserve Manager, and the California Department of Fish and Wildlife (CDFW)~~ all provided comments in response to the Notice of Preparation (NOP – see Appendix A). The USFWS requested the EIR evaluate the project's potential impact on wildlife and their habitat, impacts to special-status species, cumulative impacts, provide an analysis of alternatives that reduce impacts to biological resources, and an evaluation of the project's consistency with relevant land use or species recovery plans. The Corps requested a wetland delineation be prepared for the project site and a range of alternatives to avoid impacts to wetlands and waters of the U.S. be included in the EIR. The portion of the project site slated for development does not contain any wetlands or waters of the U.S.; therefore, a wetland delineation is not required (see the Biological Resources Technical Reports in Appendix D). The BLM Pine Hill Preserve Manager recommended that information currently included in the County's draft conservation strategy be reviewed to analyze impacts to protected plant species. The document referenced in the comment has not yet been approved by the County and is not available for preparation of this section. The commenter also requested the open space portion of the project site evaluate effects of habitat fragmentation, connectivity with existing conservation projects and management implications (including the current practice of burning fuel) be considered. CDFW requested the following be addressed in the EIR: impacts of the project on wildlife and their habitat; impacts of the project on special-status species that are state or federally listed as threatened or endangered; cumulative impacts on wildlife and plants; analysis of alternatives that reduce impacts to wildlife and plants; and consistency with applicable land use or species recovery plans. All of these concerns are addressed in this section. A copy of the NOP and comment letters received in response to the NOP is included in Appendix A.

- 4-3:** The comment alleges that the project does not comply with Objective 7.4.1 of the County's General Plan that states: The County shall protect State and Federally recognized rare, threatened, or endangered species and their habitats consistent with Federal and State laws.

As described in Section 4.3, Biological Resources, of the Draft EIR impacts associated with the loss of special-status plant species would be mitigated to less-than-significant levels with implementation of Mitigation Measures 4.3-1(a)–(b) (if a lawsuit challenging the EIR is filed) or Mitigation Measure 4.3-1(c) (if no lawsuit challenging the EIR is filed). Accordingly, the project would be consistent with the County's General Plan policies and objectives, as well as County ordinances designed to protect state and federally rare, threatened or endangered species and their habitats.

- 4-4:** The comment questions information contained under Impact 4.3-1 and the significance finding of less than significant and states there is no analysis to support this finding.

The analysis presented in Section 4.3, Biological Resources, under Impact 4.3-1 summarizes the existing special-status plant species present on the site, quantifies the potential loss of special-status plant species and their habitat due to project development and provides an overview of the lawsuit that was filed on the adjacent Cameron Park Congregate Care facility including the terms of the Settlement Agreement to which the commenter is a signatory. As described in the impact analysis, if the EIR is not challenged the applicant will donate 10.64 acres of land that contains special-status plant species and their habitat to the BLM for inclusion in the Pine Hill Preserve, will pay CNPS \$50,000 to be used for conservation activities under the discretion of CNPS, and will pay the County's Ecological Preserve fee (as listed under Mitigation Measure 4.3-1(c)). Under this scenario impacts would be less than significant because the project would mitigate for the loss of the plants and their habitat by preserving an equal (greater) amount of land than would be developed by the proposed project, and the 10.64 acres is of the same quality (i.e., gabbro soils).

- 4-5:** The comment re-iterates the opinion that the analysis in the Draft EIR as well as information contained in Appendix D do not address the impacts associated with the loss of protected plant species and that the project would result in the "take" or loss of approximately 10,000 protected plant species. The comment alleges the loss of these protected plant species and their unique habitat is not addressed in the EIR.

As described in Table 4.3-5 of the Draft EIR (DEIR, pp. 4.3-25 and 4.3-26), the estimated number of Pine Hill ceanothus and Red Hills soaproot plants that would be affected by project development is over 4,100 plants. However, as noted in the table, discrete polygons were not mapped and it is estimated that thousands of Red Hills soaproot plants occur in the project area. The number of Stebbins' morning-glory, El Dorado County mule-ears, Layne butterweed, Bisbee Peak rush-rose, and Chaparral sedge plants present total less than 250 plants. The commenter does not provide any evidence to support the statement that the project would result in the loss of 10,000 plants. In the event the EIR is challenged, Mitigation Measures 4.3-1(a) and (b) would offset project impacts on these plant species by requiring an equal number of plants be propagated and transplanted to ensure no net loss of plants, which, in addition to payment of the Ecological Preserve Fee, would reduce the impact to a less-than-significant level. Please see also Response to Comment 2-4 that addresses the feasibility of propagation and transplantation of these plant species.

- 4-6:** The comment states the opinion that Parcel 4 is not suitable for mitigating the loss of protected plant species due to the lack of habitat available on this parcel and because it

is isolated from the Pine Hill Preserve and surrounded by development. Therefore, it is not suitable for dedication to the Preserve in the commenter's opinion.

This parcel is contiguous with land located directly south of the project site that has been set aside for the preservation and protection of the same special-status plant species. This land has previously been disturbed and has been partially graded associated with development of the adjacent Congregate Care facility; however, it also contains the same gabbro soils habitat as the proposed project site. As noted above in Response to Comment 2-7, the applicant is willing to engage in restoration of the site to enable this area to be suitable for planting, including with ceanothus, as part of Mitigation Measure 4.3-1(a). The dedication of the additional 10.64 acres as currently proposed (if the EIR is not challenged) would also create additional connectivity to the Pine Hill Preserve by essentially linking the land owned by Cameron Park Village Ltd. (behind the Cameron Park Village Apartments) with the 1.17 acre parcel (Parcel 4) and the remaining 9.47 acres (Parcel 5) thereby providing a linkage of potentially fragmented yet previously preserved habitat.

- 4-7:** The comment raises a concern that the mitigation proposed for the loss of protected plant species (Mitigation Measure 4.3-1(a)) that calls for transplantation in established preserves does not provide detail on how the site will be prepared for planting and how the transplantation will take place. The comment provides an excerpt from the State's adopted 1990 translocation guidelines and states the mitigation measure does not address the six elements listed in the guidelines.

Please see Response to Comment 2-4. The mitigation measure has been amended to include a detailed Salvage and Translocation Plan to be developed in conjunction with CDFW. This plan would include such details as methods of vegetative plant material salvage, seed collection, propagation, planting site preparation, planting methods, maintenance, and monitoring.

Although these specific plants have not been the subject of extensive research, several past salvage and translocation projects have shown that these methods are effective. The Cameron Park Village Apartments and the Cameron Park Congregate Care Facility projects both entailed salvage and translocation of the same species found within the project site. Monitoring reports from these projects show that the plant material such as cuttings and seeds was successfully harvested and propagated at Corn Flower nursery and were successfully outplanted and established in mitigation areas, as described in Response to Comment 2-4 and in Appendix A.

- 4-8:** The comment questions if the transplantation will be successful and if the plants will survive.

Please see Responses to Comments 2-2 and 2-4, and Appendix A.

- 4-9:** The comment is questioning the location of the 5.96 acre preserve noted in the Draft EIR and if it is the area located adjacent the Congregate Care facility. The comment also questions if this area has any available space to accommodate cuttings/plants from the project. The comment also expresses concern that this existing preserve would not be suitable to mitigate impacts from the project.

As noted in Response to Comment 2-4, as of June 2015, a total of 5,052 plants within this 5.96-acre site were counted which achieved a 75% establishment goal for the plant. As the report notes “[m]ost of the plants have grown substantially and some have grown large enough that they are beginning to grow together and make it more difficult to discern individual plantings” (Sycamore 2017, p. 3). However, there is some space still available within this site for more ceanothus plants. The applicant proposes using available space within the 5.96-acre preserve that was successfully planted with cuttings of pine hill ceanothus in 2008 (refer to Appendix A). It is anticipated that approximately 15 percent of land (0.9 of an acre) is available within the preserve for additional plantings of rare plant species. Additionally, the 1.17-acre Parcel 4 is proposed for restoration and outplanting of ceanothus plants. Restoration of Parcel 4 would aid in reducing potential for the spread of invasive weed species from previously disturbed habitat. (See Response to Comment 2-4, and the update to Mitigation Measure 4.3-1(a)(ii) in Chapter 2.)

- 4-10:** The comment is addressing the success of transplantation given the lack of information available on the biology of rare plant species and studies indicate that given this uncertainty transplantation of these plant species should be viewed as experimental.

Please see Response to Comment 2-2 and Appendix A.

- 4-11:** The comment re-iterates the opinion that the Draft EIR does not provide any evidence that the proposed mitigation measures (plant translocation) would be successful and that studies indicate the outcome is uncertain and thought by some professionals to be experimental. Please see Response to Comment 2-4. The minor changes and additions to the Draft EIR do not constitute “significant new information” triggering the need for re-circulation of the Draft EIR under CEQA Guidelines section 15088.5. Please also see Response to Comment 2-2 and Appendix A.

CHAPTER 4

MITIGATION MONITORING AND REPORTING PROGRAM

INTRODUCTION

Section 15097 of the Guidelines for the California Environmental Quality Act (CEQA) requires that, whenever a public agency approves a project based on a Mitigated Negative Declaration or an Environmental Impact Report (EIR), the public agency shall establish a mitigation monitoring or reporting program to ensure that all adopted mitigation measures are implemented.

The mitigation monitoring and reporting program (MMRP) contained herein is intended to satisfy this requirement of the CEQA Guidelines as it relates to the Ponte Palmero Project (proposed project). This MMRP is intended to be used by County staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMRP were developed in the Draft EIR prepared for the proposed project.

The Draft EIR for the proposed project presents a detailed set of mitigation measures required for implementation. As noted above, the intent of the MMRP is to ensure the effective implementation and enforcement of all adopted mitigation measures. The MMRP will provide for monitoring of construction activities, as necessary, and in the field identification and resolution of environmental concerns.

MITIGATION MONITORING AND REPORTING PROGRAM DESCRIPTION

Compliance

El Dorado County will coordinate monitoring activities and document the implementation of mitigation measures. The County will be the primary agency to oversee mitigation compliance, but not the only agency responsible for implementing mitigation measures. In some instances other public agencies will be responsible for implementation mitigation measures. In other cases, the project applicant (or their contractor) will be responsible for implementation of mitigation measures and the County's role is to ensure the mitigation measures have been implemented properly. The table below identifies the mitigation measures, the monitoring actions, the implementing entities, the responsible parties for monitoring actions, and the timing of mitigation actions. The entity identified as having implementing responsibility has the primary duty to execute the mitigation measures. The "applicant" shall refer to the entity seeking entitlements for development of the project in the project area. In some instances this may require contracting for specialized consultant services. In instances where the implementing responsibility is shared between the County and construction contractors, the County would be responsible for ensuring that the mitigation requirements are implemented.

Field Monitoring of Mitigation Measures

Prior to the issuance of grading and building permits, while detailed development plans are being prepared for approval by County staff, County staff will be responsible for ensuring compliance with mitigation monitoring applicable to the project design phase. County staff will consult with other agencies or experts as needed or specified in the mitigation monitoring plan program before approving construction plans.

During construction and following the project, the County's Development Services Division will assign inspectors who will be responsible for monitoring the implementation of the mitigation measures. The inspectors will be familiar with construction contract requirements, schedules, standard construction practices, and mitigation techniques. The County will be responsible for on-site, day-to-day monitoring of construction activities, reviewing construction plans and equipment staging/access plans to ensure conformance with adopted mitigation measures. The County will also have the authority to enforce mitigation measures by suspending particular construction activities.

Once construction has been completed, the County will monitor the project as necessary.

If any mitigation measures are not being implemented, the County may pursue corrective action. Penalties that may be applied include, but are not limited to, the following: (1) a written notification and request for compliance; (2) withholding of permits; (3) administrative fines; (4) a stop-work order; (5) criminal prosecution and/or administrative fines; (6) forfeiture of security bonds or other guarantees; (7) revocation of permits or other entitlements.

Changes to Mitigation Measures

Any substantive change in the monitoring plan made by County Staff shall be reported in writing to the Community Development Agency Development Services Division. Modifications to the mitigation may be made by County staff subject to one of the following findings, documented by evidence included in the record:

- a. The mitigation measure included in the Final EIR and MMRP is no longer required because the significant environmental impact identified in the Final EIR has been found not to exist or to occur at a level which makes the impact less than significant as a result of changes in the project, changes in conditions of the environment or other factors.

Or

- b. The modified or substitute mitigation measure to be included in the MMRP provides a level of environmental protection equal to or greater than that afforded by the mitigation included in the Final EIR and the MMRP; and the modified or substitute mitigation measures do not have significant adverse effects on the environment in addition to or

greater than those which were considered by the responsible hearing bodies in their decisions on the Final EIR and the proposed project; and the modified or substitute mitigation measures are feasible, and the City through measures included in the MMRP or other City procedures can ensure their implementation.

Findings and related documentation supporting the findings involving modifications to mitigation measures shall be maintained in the project file with the MMRP and shall be made available to the public upon request.

Mitigation Monitoring and Reporting Program

The table presented on the following pages provides the MMRP for the proposed project. The MMRP identifies the following:

1. **Mitigation Measure:** the full text of the mitigation measure(s) applicable to each impact statement taken verbatim from the Draft EIR in the same order they appear in the Draft EIR;
2. **Implementation Responsibility:** the party responsible for ensuring implementation of each mitigation measure (i.e., County division, project applicant or other agency);
3. **Timing:** the timing of implementation of each mitigation measure;
4. **Compliance Verification:** the agency responsible for reviewing and/or monitoring compliance with the mitigation measure; and
5. **Monitoring Verification:** Indicates the monitoring action and frequency.

Mitigation Measure	Party Responsible for Implementation	Implementation Timing	Agency/Division Responsible for Reviewing/ Monitoring	Monitoring Verification
<i>4.3 Biological Resources</i>				
<p>4.3-1(a): Special-Status Plant Conservation, Salvage, Seed Collection or Propagation</p> <p><u>As part of the Incidental Take Permit Authorization application process, a Special-Status Plant Conservation, Salvage, Seed Collection and Propagation Plan shall be developed by the applicant, working with CDFW, and provided to the County and CDFW in consultation with CDFW. The plan shall include, but is not limited to, methods for plant conservation, seed and vegetative plant material propagation, and transplantation. Specific plant measures to be included are as follows:</u></p> <p>(i) <u><i>Calystegia stebbinsi</i></u>: The applicant shall conduct pre-construction surveys and transplant any <i>Calystegia stebbinsi</i> found within the developable footprint of the project site and including the emergency vehicle access (EVA) road, to the previously established (.385 acre) <i>Calystegia stebbinsi</i> Preserve established as per Phase I, Condition 8 (as illustrated in the Mitigation Monitoring and Reporting Program adopted for the Congregate Care facility) and consistent with past transplantation methods.</p> <p>The applicant shall monitor the transplanted plants bi-annually for three years and submit an annual monitoring report to El Dorado County and the California Department of Fish and Wildlife. If dead <i>Calystegia stebbinsi</i> plants are found during the monitoring and reporting period, the same number of plants shall be propagated and planted by a qualified nursery, thus ensuring “no net loss” in the number of individual plants.</p> <p>(ii) <u><i>Ceanothus roderickii</i></u>: The applicant shall hire a qualified nursery, landscape contractor or consultant to take cuttings from the existing 3,119 <i>Ceanothus roderickii</i> plants in the project area. The cuttings of <i>Ceanothus roderickii</i> shall be propagated in a commercial nursery consistent with past practices for Phase I. The applicant shall then plant a minimum of 3,119 cuttings in the</p>	Project applicant/ biologist	In the event the project is challenged, the applicant shall retain a qualified botanist to conduct required pre-construction surveys, oversee transplantation efforts and coordinate with Corn Flower Farms (or another nursery) to propagate any plants. The applicant shall retain a biologist to monitor transplanted plants on a bi-annual basis and prepare an annual monitoring report. The plants are to be monitored for a minimum of 3 years.	Development Services Division	

Mitigation Measure	Party Responsible for Implementation	Implementation Timing	Agency/Division Responsible for Reviewing/ Monitoring	Monitoring Verification
<p>previously established 5.96 acre preserve, or within the 1.17 acre parcel (parcel 4), which shall also be restored to include <i>Ceanothus roderickii</i> plants. It is anticipated that in addition to the previously disturbed 1.17 acre parcel, 0.9 acre is available within the existing 5.96 acre preserve for future planting.</p> <p>(iii) The <i>Ceanothus roderickii</i> plants shall be monitored bi-annually for at least three years by a qualified biologist and an annual monitoring report shall be prepared and submitted to El Dorado County and DFW. If dead <i>Ceanothus roderickii</i> plants are found during the monitoring and reporting period, the same number of plants that perished shall be planted thus ensuring “no net loss” in the number of individual plants.</p>				
<p>4.3-1(b): Payment of the Ecological Preserve Fee (Chapter 130.71)</p> <p>The El Dorado County Ecological Preserve fee structure for Zone 1 is \$0.59 per square foot of commercial/industrial development. For the project, and pursuant to the Code, the applicant is required to pay \$68,233.50 to mitigate for the loss of 9.11 acres of gabbro soil habitat.</p>	Project applicant	In the event the project is challenged, the applicant shall pay the County's required fee prior to receiving a grading permit.	Development Services Division	
<p>4.3-1(c): Preservation of Habitat for Special-Status Plants</p> <p>Consistent with the terms of the County Code and the 2010 Settlement Agreement in the matter of <i>CNPS v. County of El Dorado</i>, the applicant shall: (i) pay \$68,233.50 as the appropriate fee in lieu of Ecological Preserve Mitigation as required by Section 130.71.050 of the County Code; (ii) donate 10.64 acres of land in perpetuity to the Bureau of Land Management (BLM) for inclusion in the Pine Hill Preserve or, alternatively, to a signatory to the Pine Hill Preserve Cooperative Agreement for incorporation into the Pine Hill Preserve system for the purpose of Pine Hill Plant conservation; and (iii) donate \$50,000 to CNPS for conservation studies and/or conservation activities as deemed appropriate by CNPS. <u>The applicant shall also agree to restore the 1.17 acre parcel 4 with cuttings of <i>Ceanothus roderickii</i> plants propagated in a commercial nursery as requested by the California Department of Fish and Wildlife.</u></p>	Project applicant	In the event the project is not challenged, the applicant shall pay the County's required fees prior to receiving a grading permit. The applicant shall coordinate with BLM for the transfer of land prior to project completion, and shall provide \$50,000 to CNPS at the time building permits are issued. Note, this measure is only required if the project is not challenged.	Development Services Division	

Mitigation Measure	Party Responsible for Implementation	Implementation Timing	Agency/Division Responsible for Reviewing/ Monitoring	Monitoring Verification
4.3-2(a): Blainville's Horned Lizard Pre-Construction Surveys and Exclusion Fencing Exclusion fencing shall be installed prior to construction activities to prevent Blainville's horned lizard from entering the project site. Pre-construction clearance surveys shall be performed at the beginning of each day by a qualified biologist to prevent the take of any Blainville's horned lizards. If any lizards are observed during surveys, they shall be relocated outside of the project boundary and project activities shall resume upon clearance by the designated biologist.	Project applicant/contractor and biologist	Prior to construction, fencing shall be installed and pre-construction surveys conducted daily during site disturbance (e.g., grading, site clearing, trenching).	Development Services Division	
4.3-2(b): Biological Monitor During project construction, the project site shall be surveyed weekly by a qualified biologist to determine if any active nests occur within or adjacent to the project site. The monitor shall have the authority to immediately stop any activity that is likely to impact special-status species or order any reasonable measure to avoid or minimize impacts to wildlife resources. If any previously unknown special-status species are found within the project area during the work period, the monitor shall inform the USFWS and/or CDFW within 1 day, as appropriate for the species.	Project applicant/contractor and biologist	During project construction activities that require site disturbance (e.g., grading, site clearing, trenching) a biologist will survey the site weekly for nesting birds/special-status species.	Development Services Division	
4.3-2(c): Workers Environmental Awareness Program All construction workers shall receive worker environmental awareness training (WEAP) conducted by a qualified biologist or an environmentally trained foreman. WEAP may also be conducted through a video created by a qualified biologist specifically for this project. WEAP shall instruct workers to recognize all special-status species potentially present within the project site and identify their habitat on or adjacent to the project site, identify sensitive habitats found on and adjacent to the project site and be aware of project boundaries so that impacts to these habitats are limited to within project boundaries, and the nature and purpose of protective measures including best management practices (BMPs) and other required mitigation measures.	Project applicant/contractor and biologist	Prior to construction activities that require site disturbance (e.g., grading, site clearing, trenching) all construction workers will be trained on species to avoid.	Development Services Division	

Mitigation Measure	Party Responsible for Implementation	Implementation Timing	Agency/Division Responsible for Reviewing/ Monitoring	Monitoring Verification
4.3-2(d): Nesting Bird Avoidance If construction is proposed during the breeding season (February 1-September 30), a pre-construction nesting bird survey shall be conducted within two weeks <u>three days</u> prior to the beginning of construction activities by a qualified biologist in order to identify active nests in the project site vicinity. If no active nests are found during the pre-construction survey, no further mitigation is required. If active nests are found, a temporary buffer shall be established, depending on nest location, species, and construction activities in the vicinity of the nest and the nest will be flagged or protected with high-visibility fencing. Additionally, the designated biologist shall be on-site daily while construction related activities are taking place near active nests and shall have the authority to stop work if birds are exhibiting agitated behavior. Any trees containing nests that must be removed as a result of project implementation shall be removed during the non-breeding season (October 1-January 30).	Project applicant/biologist	Prior to construction activities that require site disturbance (e.g., grading, site clearing, trenching) between February 1 and September 30 a pre-construction nesting bird survey will be conducted three days prior to starting work.	Development Services Division	
4.3-3: <u>Implement Mitigation Measure 4.3-1(a) through (c).</u>	Project applicant/biologist	See above	Development Services Division	
4.3-4: Wildlife Movement Corridor Protection To the extent feasible, construction shall be designed to minimize the restriction of wildlife (e.g., deer, mountain lions, coyotes, etc.) movement through the Pine Hill Preserve adjacent to the project site. Noise associated with construction activities shall be kept to a minimum as much as possible and construction shall be avoided at night. Idling of trucks and heavy equipment shall be limited to five minutes. All outdoor lighting associated with project operation shall be designed to minimize light pollution into the open space or adjoining undeveloped land per the County's outdoor lighting ordinance (130.14.170), except where necessary for public safety or security. Minimization measures may include light fixture placement (e.g., as low to the ground as possible), lamp designs (e.g., shielding, low glare, or no lighting), directing light away from the Preserve, or other means to avoid or minimize light pollution.	Project applicant/contractor	During project construction for noise associated with construction equipment and at the building permit stage for lighting and location of lighting fixtures.	Development Services Division	

4 – MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Implementation	Implementation Timing	Agency/Division Responsible for Reviewing/ Monitoring	Monitoring Verification
4.3-5: Implement Mitigation Measures 4.3-1(a) through (c), 4.3-2(a) through 4.3-2(d), and 4.3-34.	Project applicant/biologist	See above	Development Services Division	
4.6 Noise				
4.6-1: The project contractor shall adhere to the following during project construction: <ol style="list-style-type: none"> Staging and lay-down areas shall be located as far as possible from the residences. For equipment that would be operated for extended periods at staging or lay-down areas, portable construction noise barriers shall be installed, where reasonable and feasible; All equipment shall be fitted with factory equipped mufflers; All equipment shall be in good working order; Construction equipment shall be turned off when not in use. 	Project applicant/contractor	During project construction.	Development Services Division	
Initial Study – Cultural Resources				
CUL-1 If any surface or subsurface archeological artifacts, features, or deposits (prehistoric or historic items that may be older than 45 years in age) are uncovered during any on-site construction activities, all work must stop immediately in the area and a qualified archaeologist shall evaluate the item(s) or deposit, consult with agencies as appropriate, and provide recommendations for treatment of the archaeological materials. If archaeological deposits cannot be avoided, they shall be evaluated to determine their eligibility for the California Register of Historical Resources (CRHR). If the deposit is ineligible for the CRHR, an evaluation of the deposit shall determine if it qualifies as a “unique archaeological resource” under CEQA. If the deposits are neither a historical nor a unique historical resource, avoidance is not necessary. Adverse effects to significant sites that cannot be avoided shall be mitigated. Mitigation can include, but is not limited to, data recovery and report preparation in line with standard archaeological methods.	Project applicant/contractor	During grading, trenching.	Development Services Division	

4 – MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Implementation	Implementation Timing	Agency/Division Responsible for Reviewing/ Monitoring	Monitoring Verification
Upon completion of the monitoring, the archaeologist shall prepare a report that describes the results of the monitoring and any measures that have been implemented for mitigation. The report shall be submitted to the County's Planning Division and the Northwest Information Center.				
<p>CUL-2 If any surface or subsurface paleontological features or deposits, including exotic rock (non-native), unusual soil changes (such as the presence of ashy or burned soil and rock), shell, or bone are uncovered during any on-site construction activities, all work must stop immediately in the area and a qualified paleontologist shall evaluate the item(s) or deposit, consult with agencies as appropriate, and provide recommendations for treatment of the paleontological materials.</p> <p>Project construction shall avoid such deposits. If avoidance is not feasible, the paleontological resources shall be evaluated for their significance. If the resources are not significant, avoidance is not necessary. If the resources are significant, project activities shall either (1) avoid disturbing the deposits, or (2) mitigate the adverse effects of disturbance. Mitigation may include monitoring, recording the fossil locations, data recovery and analysis, a final report, and providing the fossil materials and technical report to a paleontological repository. Upon completion of the paleontological assessment, a report shall be prepared documenting the methods, results, and recommendations of the assessment. The report shall be submitted to the El Dorado County Planning Services Division and, if paleontological materials are recovered, a paleontological repository, such as the University of California Museum of Paleontology.</p>	Project applicant/contractor	During grading/trenching.	Development Services Division	

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APPENDIX A

*Sycamore Environmental Consultants, Summary
of Pine Hill Ceanothus Propagation for the
Congregate Care Project, El Dorado County, CA*

11 April 2017

Ms. Christine Kronenberg
Sr. Project Manager
Dudek
980 9th Street, Suite 1750
Sacramento, CA 95814

SUBJECT: Summary of Pine Hill Ceanothus Propagation for the Congregate Care Project, El Dorado County, CA

Dear Ms. Kronenberg:

The purpose of this letter is to summarize the background, methods, and monitoring results of the mitigation measures previously implemented for the Pine Hill ceanothus (*Ceanothus roderickii*) as part of the previously approved Cameron Park Congregate Care facility (the Project). Pine Hill ceanothus is a perennial shrub with a natural range that is limited to gabbro, and possibly serpentinite, derived soils in western El Dorado County (CNPS 2017, Jepson 2017). It is listed endangered under the Federal Endangered Species Act and Rare under the California Native Plant Protection Act. Pine Hill ceanothus tends to grow low to the ground and forms mats or mounds up to a few feet high. The woody twigs tend to grow horizontally along the ground, or arch down to the ground. Where the twigs touch the ground, they may form adventitious roots at leaf nodes on the stem.

Background

The Project was approved by El Dorado County on or about October 2006. Mitigation Measures 17–19 adopted by the County dealt with the propagation of Pine Hill ceanothus:

- 17. The applicant shall hire a qualified nursery, landscape contractor or consultant to take cuttings from the existing 6,700 Ceanothus roderickii plants in the project area and an additional 2,000 cuttings (for a total of at least 8,700 cuttings) to allow for loss.*
- 18. The cuttings of Ceanothus roderickii shall be propagated in a commercial nursery, plant a minimum of 6,700 cuttings in the 5.96 acre preserve and install an irrigation system.*
- 19. The Ceanothus roderickii plants shall be monitor bi-annually for at least five years by a qualified biologist and submit an annual monitoring report for a period of five years to El Dorado County and DFG. If dead Ceanothus roderickii plants are found during the five year monitoring and reporting period, the same number of plants shall be planted thus ensuring “no net loss” in the number of individual plants.*

Mitigation measure 20 specified a boundary line adjustment for the area where the Pine Hill ceanothus propagation took place but did not deal with propagation or monitoring of the plants directly, and is not discussed in this letter.

Mitigation Measure 17

- 17. The applicant shall hire a qualified nursery, landscape contractor or consultant to take cuttings from the existing 6,700 *Ceanothus roderickii* plants in the project area and an additional 2,000 cuttings (for a total of at least 8,700 cuttings) to allow for loss.*

Cornflower Farms was hired by the project applicant to take the Pine Hill ceanothus cuttings in the field at the project site. Cornflower Farms is a wholesale nursery specializing in plants native to California used in natural areas and on restoration sites. Cornflower Farms had previously grown Pine Hill ceanothus for other development projects nearby, including one about 300 feet west of the Congregate Care Project (Attachment A; Miriam Green Associates 2002). Cornflower Farms has additional experience with other special-status plants that occur in the area, based on discussions that occurred prior to the work.

Several different general methods of plant propagation are available. The selection of a particular propagation method is based on the biology of the species at hand, as well as any other circumstances or constraints. The use of stem cuttings for propagation is common practice for many species. Sycamore Environmental and Cornflower Farms discussed the propagation methods prior to the work. We agreed that the biology of Pine Hill ceanothus was conducive to stem cuttings because under natural conditions the stems will form adventitious roots when in contact with soil. Cornflower Farms collected suitable branches from Pine Hill ceanothus at the Project site on 14 November 2006 from which 16,815 cuttings were initially made. Mr. Neal Funston of Cornflower Farms provided the following description of the propagation methods for the cuttings:

*“We took the cuttings from the site on November 14, 2006. A crew of 3 people, including myself, collected bags of branches of the *Ceanothus*. We chose branches that looked like they had active growth that year: woody but pliable stems; new, green leaves; and new buds on the tips. The branches were brought back to the nursery and we processed the cuttings, using both tip and juvenile cuttings. The cuttings were dipped in a Hormex #3 rooting powder and then put in a 17 x 18 cutting flat containing cutting media (a mixture of perlite and peat moss). They were put in the cutting greenhouse on mist table with bottom heat. From the branches collected, we got 16,815 cuttings. The greenhouse generally stayed between 60 – 105 degrees F. The cuttings rooted by May of 2007 and were hardened off outside the greenhouse in a shadehouse. We transplanted into liner containers (2” x 2” x 3”) on June 21, 2007. We transplanted 12,292 cuttings that had rooted. The others were either unrooted or dead. That gives a rooting percentage of 73%. The liners were placed in a shadehouse with 55% shade and irrigated with overhead sprinklers. We started shipping in January, 2008.”*

Photos from the nursery provided by Mr. Funston are in Attachment B (Photos 1 and 2).

Mitigation Measure 18

- 18. The cuttings of *Ceanothus roderickii* shall be propagated in a commercial nursery, plant a minimum of 6,700 cuttings in the 5.96 acre preserve and install an irrigation system.*

Cornflower Farms grew the Pine Hill ceanothus cuttings at their nursery near Elk Grove. About 8,205 Pine Hill ceanothus cuttings were delivered by Cornflower Farms to the project site (Sycamore Environmental 2008). The cuttings were planted in the 5.96 acre preserve in early 2008. The 5.96 acre preserve included both undisturbed natural areas and areas that had been graded by the Project. The Pine Hill ceanothus cuttings were planted on graded slopes along the northeast side of the project.

The purpose of planting on the graded slopes was to 1) avoid disturbance in areas of existing natural habitat, and 2) recover some of the natural value of areas that had been disturbed by the project. At the time of planting there was no vegetation on the graded slopes. A sprinkler irrigation system was installed (Attachment B, photo 3).

Mitigation Measure 19

- 19. The *Ceanothus roderickii* plants shall be monitor bi-annually for at least five years by a qualified biologist and submit an annual monitoring report for a period of five years to El Dorado County and DFG. If dead *Ceanothus roderickii* plants are found during the five year monitoring and reporting period, the same number of plants shall be planted thus ensuring "no net loss" in the number of individual plants.*

Sycamore Environmental monitored the Pine Hill ceanothus cuttings in 2008 and 2009. The 2008 and 2009 results were transmitted to the County and CDFW (formerly DFG) as part of monitoring reports for Stebbins' morning-glory. A qualitative monitoring of the Pine Hill ceanothus without a plant count was conducted in 2008. In April 2009 a total of 5,511 living Pine Hill ceanothus plantings were counted. In June 2015 a total of 5,052 living Pine Hill ceanothus plantings were counted.

Discussion

The primary aim of mitigation measures 17–19 was the establishment of 6,700 Pine Hill ceanothus plantings and the achievement of "no net loss" for a period of five years. The count of plants in 2009 indicated that the Project was about 1,200 plants short of the goal. Mitigation measure 19 identified the planting of additional plants as the solution for this contingency. Since over 5,000 plants were successfully established, planting additional plants may have resulted in achievement of the 6,700 plant goal. Based on the 2015 count, conducted over seven years after the original cuttings, propagation and planting, the project achieved establishment of 75% of the goal for Pine Hill ceanothus. Most of the plants have grown substantially and some have grown large enough that they are beginning to grow together and make it more difficult to discern individual plantings (Attachment B, photos 6-7).

This letter is intended to provide a summary of our knowledge of the implementation of Pine Hill ceanothus propagation on the Project. In our opinion, propagation of Pine Hill ceanothus is a viable means of reducing impacts. Please contact me if you have any questions or require any additional information.

Cordially,



Chuck Hughes, M.S.
Senior Biologist

Attachment A. Letter from Cornflower Farms regarding *Ceanothus roderickii* propagation
Attachment B. Photographs

Literature Cited

- California Native Plant Society (CNPS). Accessed 4 April 2017. Inventory of rare and endangered plants (online edition, v8-03). California Native Plant Society, Sacramento, CA. <http://www.cnps.org/inventory>
- Jepson Flora Project. Accessed April 2017. Jepson online interchange for California floristics. <http://ucjeps.berkeley.edu/interchange.html>
- Miriam Green Associates. 28 January 2002. Cameron Park Village rare plant preserve - annual monitoring report #5 (final report). Prepared for State of California, Department of Fish and Game, Region II, Rancho Cordova, CA.
- Sycamore Environmental Consultants, Inc. 26 September 2008. 2008 Annual Status Report for Incidental Take Permit No. 2081-2007-003-02, for the Cameron Park Congregate Care project (SCH #20060072089); Section 4.2.3 (12 April 2007).

Attachment A

Letter from Cornflower Farms regarding *Ceanothus roderickii* propagation

November 22, 2006

Erik Pilegaard
Pacific Oak Development, Inc.
2452 Bayview Avenue
Carmel, CA, 93923

RE: *Ceanothus roderickii* propagation

Mr. Pilegaard,

This letter is to inform you of our past experiences propagating Pine Hill Ceanothus, botanical: *Ceanothus roderickii*. The information that I have is from project folders kept by my predecessor.

In 1996-1997 we propagated this plant for two separate customers: Miriam Green Associates (MGA) and Stephen Rhoads Construction (SRC). In both cases, we were supplied cutting material by the clients in November of 1996.

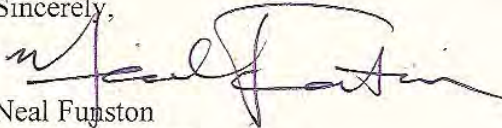
After processing the plant material, we had 350 cuttings for MGA. The records indicate that 300 rooted well and were transplanted into Deepot-40 pots in March of 1997. The remaining 50 either did not root at all or were weakly rooted and were discarded. The container plants were then shipped to MGA in the Fall.

For SRC, we had a total of 125 cuttings that were recorded. I believe that my predecessor took more cuttings than recorded because 172 liner pots were produced. For this customer, we also transplanted 17 rooted branches collected from the field into liner pots and subsequently 1-gallon cans.

We had an 85% rooting percentage for the first project and unknown for the second. One hundred percent of the transplanted side branches survived.

I do not have any information of the outplanting success at this time.

Sincerely,


Neal Fungston
Project Manager



CORNFLOWER FARMS
p.o.box 896 • elk grove, ca 95759

www.cornflowerfarms.com • natives@cornflowerfarms.com • (916) 689-1015 • fax (916) 689-1968

Attachment B

Photographs



Photo 1. Pine Hill ceanothus cuttings growing in the Cornflower Farms greenhouse in 2007 (provided by Mr. Neal Funston).



Photo 2. About 73% of the initial cuttings rooted. Cuttings that did not root are on the left and cuttings that did are on the right (provided by Mr. Neal Funston).



Photo 3. View of the slopes that received the Pine Hill ceanothus plantings on the east side of the Project, about a year after planting. The Pine Hill ceanothus are too small to be clearly evident in the photo. Parts of the irrigation system can be seen (arrows; 15 January 2009).



Photo 4. This photo is near the same area as photo 3. The Pine Hill ceanothus plantings are evident (arrows; 5 June 2009).



Photo 5. This photo is from nearly the same vantage point as Photo 3. Most of the dark green vegetation in the background is Pine Hill ceanothus plants, as is the plant in the foreground marked by an arrow. The taller plants in the foreground are chamise, a native chaparral shrub (30 June 2015).



Photo 6. A close-up of one of the slopes with Pine Hill ceanothus plantings (24 June 2015).



Photo 7. Some of the plants have become large enough that they are growing together, making it difficult to discern individual plants (24 June 2015).