



# COMMUNITY DEVELOPMENT AGENCY

## DEVELOPMENT SERVICES DIVISION

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TO: Board of Supervisors Agenda of: July 21, 2015

FROM: Roger Trout  
Development Services Division Director

DATE: July 1, 2015

RE: Gabbro Soils Rare Plant Impact Fee Program and BLM Funding Agreement

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This report is intended to provide background information to the Board of Supervisors on the implementation of the County Ecological Preserve Ordinance (Ordinance) and the need for a funding agreement with the Bureau of Land Management (BLM). The only action required is to approve the Funding Agreement that would authorize the payment of \$25,000 per year to the BLM for the Pine Hill Preserve Manager position.

### **Rare Plant Fee Program**

There are eight rare plant species that share the unusual growing conditions of “gabbro soils” located in western El Dorado County around the Cameron Park and Rescue areas, in the vicinity of Pine Hill. The “gabbro soils” are generally a reddish color, mildly acidic, rich in iron and magnesium, low in calcium and phosphorus, often contain other heavy metals such as chromium, and are coarse textured which limits water-holding capacity. Because of the soils, the rare plants are often referred to as “gabbro plants” or “Pine Hill Endemics.”

There are other rare plants in the County, but for purposes of this item, only the eight species associated with the gabbro soils are being addressed.

The 1998 the County adopted the rare plant fee program which is codified in Section 130.71 of the Zoning Ordinance (Exhibit A: Ordinance 4500). The rare plant program implements General Plan Policies and Implementation Measures (Exhibit B).

Since 1998, the County has collected a rare plant impact fee at the time of building permit for new dwellings or commercial floor area. The fees are based on whether the permit is located in rare plant Mitigation Area 1 (with gabbro soils) or Mitigation Area 2 (not gabbro soils, but within the EID sphere of influence). Currently the fees are \$885 for a single family dwelling in

Area 1 and \$386 in Area 2. Commercial projects within Mitigation Area 1 and 2 pay a fee based on the square footage of the building (\$0.59 per square foot in Area 1; \$0.25 in Area 2).

The fees are collected and deposited into a special revenue fund held by the Community Development Agency. A majority (55 percent) is held in the special revenue fund for property acquisition, appraisal, updating the fee program, and other purposes; 42 percent is set aside in a permanent endowment fund; and 3 percent funds Development Services annual operations. The endowment funds are not to be used except to generate interest to fund management of the rare plant preserves. Currently there is approximately \$3 million in the endowment fund and \$1 million in the special revenue fund.

At this time, staff will be proceeding to update the fee program to bring it up to date with current development projections, new impact assessments, provide adequate California Environmental Quality Act (CEQA) review, and review or adjust the endowment fund. The primary reasons for updating the fee program is to comply with state law, provide environmental review, and improve the fee program for current and projected needs, as described below:

The County rare plant impact fee resolution and nexus report was adopted in 1998 (Exhibit C: Resolution 205-98 and Economic Planning Systems Supporting Memorandum; March 16, 1998). The fee program has not been updated since that time. Fee programs such as this are authorized by Government Code 66000 and are required to be reviewed regularly and updated from time to time. The program is 17 years old and is simply ready for a comprehensive update.

The appellate court decision on the Cameron Park Congregate Care project (*California Native Plant Society v. County of El Dorado, Superior Court of El Dorado Case No PC20070021*) has created difficulties in the environmental review of new residential and commercial development applications. The County can no longer use the rare plant fee as “full mitigation” under the CEQA. The court found that the County’s rare plant fee program had not been subject to adequate environmental review. Therefore, an environmental impact report (EIR) should have been prepared for the Cameron Park Congregate Care instead of a Mitigated Negative Declaration. All new discretionary development in the gabbro soils area face this challenge until the rare plant impact fee program is updated.

On August 7, 2012, the Board approved a contract with Science Applications International Corporation (SAIC) to prepare an impact analysis and mitigation plan in anticipation of submitting the “take permit” application under Section 2081 (2081 Permit) of the California Endangered Species Act (CESA). In late 2014, County staff met with State Fish and Wildlife Department officials where it was determined the Countywide 2081 Permit was no longer possible. However, SAIC did nearly complete Task 3 of its scope of work, labeled “Fourth Draft – Impact Analyses of Planned Future Development on Gabbro Rare Plant Suitable and Occupied Habitat in El Dorado County” (Exhibit D). This document sets the basis for an updated rare plant mitigation fee program. The next step in the process would be to review the Draft Impact Analysis with the Fish and Wildlife Department and then prepare a Final Impact Analysis. The draft report indicates there is a need to adjust the rare plant fee program to adapt to biological

goals for the rare plant species, address habitat enhancement and management, and provide for monitoring and adaptive management.

Staff will be updating the rare plant impact fees through the use of consultant services agreements to comply with Government Code 66000, include adequate CEQA review, and provide for contemporary mitigation and management funding.

### **Cooperative Management Agreement**

An important component for rare plant habitat management has been the County's participation in the 2001 Cooperative Management Agreement (CMA). Through the CMA, federal, state and local agencies pooled resources to fund habitat acquisition and management of the preserve. One component of the CMA is the commitment to partially fund the Pine Hill Preserve manager position. The BLM created this position in 2002 and the County paid the BLM \$25,000 per year. The CMA expired in 2011 and County payments to the BLM ceased in 2012.

The manager coordinates activities in the Preserve and provides an annual report to the participating jurisdictions. Even though the CMA expired, the agencies still meet regularly to discuss the Pine Hill Preserve management activities. Other agencies currently provide funding for the BLM position as stated in the original CMA. El Dorado County has not because the CMA has expired and there is no mechanism to fund the position.

Staff recommends that the Board approve a "funding agreement" between the County and the BLM. The El Dorado Irrigation District currently supports the Pine Hill Preserve manager through this practice. Staff has prepared a funding agreement for the Board's consideration (Exhibit E). The funding agreement is a five year agreement, authorizing payments to BLM in the amount of \$25,000 per year and for the past years that were not paid (2013 and 2014). The funding source is the rare plant special revenue account.

### **Recommendation**

Approve funding agreement between El Dorado County and the Bureau of Land Management to support the Pine Hill Preserve manager (Exhibit E).

### **ATTACHMENTS:**

- Exhibit A.....Ordinance 4500
- Exhibit B.....General Plan Objective 7.4.1 (Policies and Implementation Measures)
- Exhibit C.....Resolution 205-98 and EPS Memo; March 16, 1998
- Exhibit D.....Impact Analysis of Planned Future Development on Gabbro Rare Plant Suitable and Occupied Habitat in El Dorado County; January 2014
- Exhibit E.....Cooperative Agreement between Bureau of Land Management and El Dorado County