

## MEMORANDUM

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**To:** Shawna Purvines, Principal Planner  
El Dorado County

**From:** Cathy Spence-Wells, Principal

**Subject:** Draft General Plan Biological Policies Background

**Date:** May 1, 2014

**Attachment(s):** Appendix A, Referenced General Plan Policy Language

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### Summary/Purpose

This memo reviews the historical background and current status of the following General Plan policies and related Implementation Measures (see Appendix A):

- 7.4.2.8 (Develop and Implement the INRMP)
- 7.4.2.9 (Important Biological Corridor Overlay)
- 7.4.4.4 (Options A and B for Mitigating Impacts to Oak Woodland Habitat)
- 7.4.4.5 (Maintaining Continuity within Retained Portion of Oak Stands)
- 7.4.5.1 (Tree Survey, Preservation and Replacement Plan)
- 7.4.5.2 (Develop and Implement an Oak Tree Replacement Ordinance)
- 8.1.3.4 (Establish Threshold for Significance for Loss of Agricultural Land and Mitigation Ratio of 1:1).

Dudek has prepared this memo to document previous planning efforts, constraints, and issues that led to the current effort to update the policies. We identify and summarize key issues along the historical Biological Resource Policies development timeline. This includes considering how biological resources were addressed in both the 1996 General Plan and 2004 General Plan and the associated Environmental Impact Reports (EIRs), particularly the 2004 General Plan EIR's analysis of how application of the biological resources policies would mitigate impacts from General Plan implementation (County of El Dorado 2003, 2004). We also document the methods in which El Dorado County (the "County" hereafter) sought to implement the policies and define key challenges the County faces in interpreting and applying the policies.

## Timeline

The following timeline presents key issues and Board of Supervisors (BOS) actions associated with the General Plan Policies, the Oak Woodland Management Plan (OWMP, County of El Dorado 2008), and the Integrated Natural Resources Management Plan (INRMP) between 1992 and 2012.

Year	Action
1992	BOS requested the formation of the El Dorado Rare Plant Technical Advisory Committee (TAC) to recommend resolution of rare-plant issues. The TAC recommended a rare plant preserve system with five preserve units totaling 3,450 acres (less than 10% of the total rare plant habitat). The plant preserve system included three core areas: Salmon Falls, Pine Hill, and Cameron Park units; and two satellite preserves: Penny Lane Ridge and Martel Creek, both largely owned by Bureau of Land Management (BLM).
1993	<b>March:</b> The BOS adopted four of the proposed rare plant preserve sites. Due to funding constraints, the BOS omitted the Cameron Park site from the preserve system and did not address County funding for the creation or management of the four preserve sites they did adopt.
1996	<b>January 23:</b> BOS adopts a comprehensive General Plan and certifies Plan EIR. <b>February 26:</b> Suit challenging the conditional approval of the General Plan and EIR certification.
1997	<b>May:</b> BOS approved an economic and feasibility study for the ecological preserve program. Subsequently the BOS adopted Ordinance No. 4500 and implementing fee resolution, whereby the County raises funds to acquire land from willing sellers to be included in the ecological preserves.
1998	<b>March 28:</b> The BOS amended the El Dorado County General Plan (General Plan Amendment No. A 97-09) to include the Cameron Park Ecological Preserve Unit.
1999	<b>February 5:</b> Writ of Mandate filed finding that County had violated the California Environmental Quality Act (CEQA) in adopting its General Plan in 1996. One of the issues was a change in the oak woodland canopy coverage policies, allowing replacement of lost habitat rather than requiring habitat retention in all cases. County directed to conduct reanalysis or supplemental analysis. The Writ also substantially limited the County's land use authority until the County adopted a new General Plan EIR (and until the new EIR was determined to be in compliance with the terms of the Writ, allowing for the Writ to be discharged).
2001	The BOS approved a Cooperative Management Agreement with BLM, California Department of Fish and Wildlife (CDFW), U.S. Fish and Wildlife Service (USFWS), California Department of Forestry and Fire Protection (CAL FIRE), El Dorado Irrigation District, the U.S. Bureau of Reclamation, and the American River Conservancy. The participants agreed to work together to prepare a management plan for the ecological preserve program. New Draft General Plan alternative developed and General Plan EIR process initiated with release of the Notice of Preparation.
2002	<b>January:</b> In support of the INRMP development, slightly more than 2,900 acres of rare plant habitat had been protected within the Pine Hill Ecological Preserve.
2003	<b>April 9:</b> Draft General Plan for El Dorado County released for public review.
	<b>April 30:</b> Draft EIR for the El Dorado County General Plan is released.
	Both the EIR and Draft General Plan were available for public review and comment through July 15.
2004	<b>January 13:</b> Final EIR for the El Dorado County General Plan released.
	<b>February 18:</b> California Public Resources Code (PRC) Section 21083.4 (Senate Bill 1334, Kuehl) enacted.
	<b>July 19:</b> BOS adopted the General Plan.
2005	<b>September 1:</b> Superior Court issued ruling on the 1999 General Plan Writ of Mandate finding that the County had complied with the Writ and discharging the Writ.

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Year	Action
2006	<b>April 18:</b> Settlement Agreement, which confirms that oak impacts may be addressed only through Option A of Policy 7.4.4.4, until the INRMP is adopted.
	<b>September:</b> Plant and Wildlife Technical Advisory Committee (PAWTAC) and INRMP Stakeholders Advisory Committee (ISAC) were convened to advise the Planning Commission and BOS on plant and wildlife issues, important habitats, and INRMP creation and implementation (County of El Dorado 2010a, 2010b).
	<b>November 9:</b> County adopted Interim Interpretive Guidelines for Policy 7.4.4.4 (Option A) and Interim Guidelines for Biological Resources Study and Important Habitat Mitigation Program.
2008	<b>April 1:</b> BOS adopted the INRMP Initial Inventory and Mapping, satisfying the requirements of General Plan Measure CO-M.
	<b>May 6:</b> BOS adopted the Oak Woodland Management Plan (OWMP).
	<b>June 6:</b> Lawsuit filed challenging approval of the OWMP.
	<b>August 27:</b> PAWTAC and ISAC begin meetings to provide input to staff on tasks and studies needed for Request for Proposal for INRMP (Policy 7.4.2.8) and Important Biological Corridors (IBC) (Policy 7.4.2.9).
2009	<b>December 15:</b> BOS approved a contract for the preparation of Phase I of the INRMP.
2010	<b>February 2:</b> On appeal of a Trial Court ruling to uphold the BOS action to adopt the OWMP, the Appellate Court over-ruled that decision, remanding the case back to Superior Court, with the direction to require the County to prepare an EIR for the OWMP.
	<b>June 22:</b> BOS adopted the Updated INRMP Initial Inventory and Mapping.
	<b>October 25:</b> BOS accepted the Indicator Species Report.
	<b>December 7:</b> BOS accepted the Wildlife Movement and Corridor Report.
2011	<b>March 23:</b> INRMP Options Report. The Development Services Department (DSD), PAWTAC, and ISAC requested further direction from the BOS before they recommend a course of action for Phase II of the INRMP. The DSD, PAWTAC, and ISAC outlined different options and their relative costs, advantages, and disadvantages for preparing Phase II of the INRMP (Trout and Maurer 2011).
2012	<b>September 4:</b> OWMP rescinded (Resolution 123-2012).
	<b>September 11:</b> OWMP implementing ordinance rescinded (Ord. No. 4892).
	<b>September 20:</b> General Plan Policy 7.4.4.4 Options Report. The DSD recommends that the BOS direct staff to prepare a Resolution of Intention to Amend General Plan Policies 7.4.2.8, 7.4.2.9, 7.4.4.4, 7.4.4.5, 7.4.5.1, and 7.4.5.2 and their related Implementation Measures to clarify and refine the County's policies regarding oak tree protection and habitat preservation. The DSD also recommends that the BOS direct staff to prepare a Request for Proposal to retain a consultant to assist the County to prepare the policies and EIR.

**1996 General Plan, EIR, and 1996 Lawsuit**

In 1996, the El Dorado County BOS adopted a new general plan. The County’s certification of the 1996 General Plan EIR and adoption of the 1996 General Plan was challenged on the basis that the County had not fully complied with CEQA. The grounds in that challenge included the claim that the General Plan’s "canopy cover retention standards did not adequately address impacts to the oak woodland canopy" (*El Dorado County Taxpayers for Quality Growth v. El Dorado County Bd. of Supervisors*). In 1999, the Superior Court ruled that the 1996 General Plan EIR was deficient, which precluded the County from issuing discretionary approvals for residential subdivisions until another general plan was adopted. An exception was development of Specific Plans that included vested Development Agreements. In issuing the 1999 Writ of Mandate, the Superior Court found that there were several deficiencies in the General Plan EIR.

Relative to biological resources, the Writ of Mandate directed that the EIR should have evaluated a change made to the oak woodland protection policies, specifically the addition of the words “or replacement” to the policy that required retention of oak woodland canopy.

In response to the Writ of Mandate, the County determined that a new General Plan should be adopted and that environmental review of the General Plan would be completed.

## 2004 General Plan

In 2004, the County adopted an updated General Plan and EIR. The General Plan contains many policies to protect biological resources, including oak woodlands, sensitive habitats, and wildlife. However, the policies have been subject to varying interpretations, which makes it difficult to consistently apply the policies to development projects. The General Plan policies related to oak woodlands and the INRMP are discussed in more detail below.

In 2002, two reports were prepared that focused on the effectiveness of the 1996 General Plan policies in preserving and protecting oak woodland habitat. These studies concluded that implementation of the 1996 General Plan would have a significant effect on large areas of contiguous habitat composed primarily of oak woodland, principally through fragmentation, erosion of habitat quality, and wildlife migration capabilities. Further, development in the County that occurred prior to the adoption of the 1996 General Plan limited the effectiveness of General Plan policies to mitigate oak woodland habitat loss/fragmentation of oak woodlands. The studies identified that the 1996 General Plan policies were not effective in reducing impacts ([Greenwood and Saving 1999](#); [Saving and Greenwood 2002](#)) or protecting oak woodlands ([Harris and Kocher 2002](#)) and that General Plan mitigation measures were ineffective at mitigating oak woodland loss associated with urban development. The findings of these studies emphasize the difficulty of relying on 1996 General Plan policies to mitigate impacts on wildlife habitat in El Dorado County. Further, Saving and Greenwood (2002) addressed wildlife movement constraints resulting from habitat fragmentation, specifically identifying the cleaving of wildlife habitat into north and south patches, bisected by Highway 50, with constrained wildlife movement options between the two. Previous County consultant tasks were to identify wildlife species with north–south migration patterns that would be affected by implementation of the General Plan.

**Oak Woodland-Related Policies:** General Plan policies addressing protection of forest and woodland resources and native trees (oak woodlands and oak trees) include [Policies 7.4.4.4, 7.4.4.5, 7.4.5.1, and 7.4.5.2](#). The 2004 General Plan EIR identified the impact associated with the loss and fragmentation of wildlife habitat by residential and commercial development and identified measures to mitigate these impacts to oak woodlands. Mitigation Measure 5.12-1(f) revised General Plan Policy 7.4.4.4 and Mitigation Measure 5.12-1(g) revised General Plan

Policy 7.4.5.2 to address this impact. The revised Policy 7.4.4.4 identifies two oak woodland mitigation options for new development projects, including: (1) tree canopy retention and woodland habitat replacement, or (2) monetary contributions to the County's INRMP conservation fund to compensate for oak woodland impacts. The revised Policy 7.4.5.2 required the County to develop and implement an Oak Tree Preservation Ordinance to preserve native oak trees, where feasible. No revisions to Policies 7.4.4.5 and 7.4.5.1 were identified in the General Plan EIR. General Plan Implementation Measure [CO-P](#) requires the preparation of an OWMP to satisfy Policies 7.4.4.4 and 7.4.5.1 (however, Measure CO-P should reference Policy 7.4.5.2 rather than 7.4.5.1 as the former addresses the need for an Oak Tree Preservation Ordinance).

***Integrated Natural Resources Management Plan and Important Biological Corridor-Related Policies:*** General Plan Policy 7.4.2.8 requires the County to prepare the INRMP within 5 years of General Plan adoption. The intent of the INRMP is to mitigate impacts from General Plan implementation on biological resources. The INRMP would include the following components: a habitat inventory, a habitat protection strategy, a mitigation assistance program, a habitat acquisition program, a habitat management program, and a habitat monitoring program. The purpose of the habitat inventory was to identify important habitat (i.e., habitats that support special-status species; aquatic environments including streams, rivers, and lakes; wetland and riparian habitat; habitat important for migratory deer herds; and large expanses of native vegetation). The purpose of the habitat protection strategy was “to conserve and restore contiguous blocks of important habitat to offset the effects of increased habitat loss and fragmentation elsewhere in the county.” The mitigation assistance program was intended to identify mitigation options (e.g., mitigation banks, lists of potential mitigation opportunities/willing sellers, and incentives for developers/land owners to acquire and manage components of the INRMP). The habitat acquisition, management, and monitoring programs were intended to establish and maintain a preserve system in the County, the overall purpose of which was to facilitate mitigation of projects approved by the County. The INRMP would also include provisions for public participation and would require development of a conservation fund to ensure adequate funding of INRMP-identified management actions.

General Plan Policy 7.4.2.9 requires that the County identify Important Biological Corridors (IBC). IBCs are areas in the County that include high wildlife habitat value, function, and connectivity. Provisions for lands that occur within the IBCs would be developed and would focus on promoting habitat value and include: increased minimum parcel sizes, higher oak and wetland/riparian retention and setback standards, lower grading permit thresholds, greater protection for rare plants, and other provisions that promote habitat connectivity and habitat value.

Previous planning efforts were focused on developing the INRMP as a regulatory plan that would identify conservation and mitigation priorities, thereby limiting land use options. Acquisition of lands under the INRMP would need to be acquired from willing sellers, as

identified in General Plan Policy 7.4.1.2. Further, IBCs are effectively a regulatory device, whereby land use options are limited within IBC boundaries. Concerns were raised in previous INRMP planning efforts that making the INRMP a regulatory plan would eliminate the willing seller concept, specifically, restricting land use options to a point where the only option would be to sell the land for conservation purposes. For purposes of making a recommendation to the BOS, the PAWTAC, ISAC, and planning staff have evaluated various options including developing the INRMP as a regional Habitat Conservation Plan (HCP) and/or Natural Communities Conservation Program (NCCP) Plan, as well as developing the INRMP as a guiding document to be used by the County to facilitate mitigation for County-approved projects ([Trout and Maurer 2011](#)).

**Agricultural-Related Policies:** General Plan Policy 8.1.3.4 requires the establishment of a threshold of significance for loss of agricultural land by the Agriculture Department and the Planning Department. This policy is connected to General Plan Policy 7.4.2.9 in that lands subject to the Agricultural District overlay or that are within the Agricultural Lands designation are not subject to the IBC provisions. Additionally, agricultural cultivation activities are exempt from oak mitigation requirements (Policy 7.4.4.4 and 7.4.5.1) and riparian setback requirements on agriculturally zoned lands that utilize best management practices (BMPs) (Policy 7.3.3.4). Development projects on agricultural lands that are not cultivation or actions related to Fire Safe Plans would be required to meet oak mitigation requirements, based on the current language in Policy 7.4.4.4. During public comment related to OWMP preparation, the agricultural community presented CAL FIRE's Fire and Resources Assessment Program (FRAP) analysis results documenting that agricultural development had not negatively impacted oak woodlands in the County, and in fact oak coverage in the County had increased over time.

## **2004 General Plan EIR**

The 2004 General Plan EIR [identified](#) that there was no clear environmentally superior alternative among the four project alternatives that were evaluated at an equal level of detail as the proposed project (the equal-weight alternatives). Two of these equal-weight alternatives were the No Project Alternative and the 1996 General Plan Alternative. Each of these two alternatives assumed that the land use maps and designations as well as the policies from the 1996 General Plan would not change, but the No Project Alternative also assumed that all development in the County would be subject to the terms of the 1999 Writ of Mandate (which precluded the County from issuing discretionary approvals for residential subdivisions, excepting development within Specific Plans that included vested Development Agreements). Although differences in the environmental effects of the four equal-weight alternatives were not stark, the No Project Alternative was identified as the environmentally superior alternative among the equal-weight alternatives. The No Project Alternative included two policies providing some degree of protection for wildlife habitat, including Policy 7.1.2.1 (discourages development on slopes over

40%) and Policy 7.4.4.4 (provides oak canopy retention guidelines based on land use designation). Other policies in the No Project Alternative could reduce impacts on wildlife habitat but would not prevent or fully mitigate the effects and include Policies 7.1.2.2 (discretionary projects to maximize the retention of natural vegetation), 7.4.1.6 (comprehensive habitat restoration and/or offsite-mitigation plans for impacts on habitats of special-status plants and animals), 7.4.2.1 (to the extent feasible, critical fish and wildlife habitat will be protected), 7.4.4.3 (development clustering), 7.4.4.5 (oak tree corridor retention), and 7.4.5.1 (tree survey, preservation, and replacement plan requirements).

In certifying the 2004 General Plan EIR and adopting the General Plan, the BOS made findings regarding the benefits that the General Plan would provide for the County. A key theme in those findings was that the 2004 General Plan reflects the community's values and vision. For example, implementation of the General Plan was expected to provide for retaining the rural character of the area, allowing for ongoing economic development, protecting private property rights, and protecting environmental resources. Specific findings of project benefits in this regard include that it:

- Best supports the local economy by designating the greatest amount of land for development, and responds best to the needs of small landowners, business owners, and agriculturalists by recognizing their reliance on prior policies and planning efforts in making decisions regarding their use and acquisition of property in the County.
- Balances the protection of property rights and the need for economic development with strong commitments to environmental protection.
- Acknowledges landowner expectations arising from historic County land use planning.

**Biological Resources:** The EIR found that “there are more than 550,000 acres of land in the county that are held in state or federal public ownership and managed principally by state or federal agencies.” In contrast, there is a much higher proportion of privately-held lands in the western portion of the County and the EIR found that this area is “where the impacts of the General Plan and threats to biological diversity and sensitive biological resources are considered most serious. The impacts on biological resources are primarily the result of urbanization of the area, habitat fragmentation, water pollution, and conversion of natural land to agricultural uses.” The General Plan EIR categorized potential land development based on land use intensity, finding that the potential for significant impacts to biological resources was greater in areas of medium- and high-intensity land uses “because buildout of land under [the high-intensity] designations would likely result in fragmentation and loss of the majority of the existing habitat. Medium-intensity land uses would also result in removal and fragmentation of existing habitat, but to a lesser extent than high-intensity land uses.”

The EIR identified the amount of each major habitat type present in the county (Table 5.12-1), and identified which of the major habitat types are considered sensitive habitats. With respect to woodlands, the sensitive habitats are aspen (400 acres), montane riparian (700 acres), and valley oak woodland (3,300 acres). The EIR recognizes that other oak woodlands, while not considered sensitive habitats, are an important biological resource. The EIR also recognized that oak woodlands face increased pressures from land development, leading to reductions in woodland habitat statewide, noting that “recent studies suggest that oak and other hardwood habitats are indeed at risk in El Dorado County.” The EIR also found that because most of the development pressure in the County is expected to occur in the foothills near the U.S. 50 corridor, wildlife habitat below the 2,000-foot contour and closest to the highway corridor would be most affected, while habitat above the 4,000-foot contour would “generally not be significantly affected because little development is expected to occur in this region where the majority of land is under the jurisdiction of the U.S. Forest Service.”

Impacts to biological resources were mitigated with policies and programs, including the establishment of a “no-net-loss policy” and mitigation requirements for impacts to important habitats. The General Plan and EIR found that “protection of individual trees is less important for the preservation of wildlife habitat than the protection of larger blocks of habitat, which will be accomplished through other mitigation measures incorporated into the adopted General Plan.”

The EIR also discussed options for mitigating the loss of oak woodland and the typical considerations regarding feasibility of the various options (County of El Dorado 2003, 2004):

“Mitigating the loss of oak woodland can be problematic for local jurisdictions. Concerns about conserving the environmental value of oak woodland resources in the face of conversions to other land uses has led local planners to develop strategies to mitigate these effects. Many local conservation policies have attempted to mitigate the loss of oak woodland habitat resulting from conversion to urban or intensive agricultural land uses through tree planting. Many mitigation plans regularly call for tree planting on a replacement basis (1:1 to as high as 20:1) for trees lost (Standiford et al. 2002). However, because few monitoring studies of planted native oaks extend beyond 10 to 15 years, there have been few opportunities to assess how oak woodland habitats develop over time from areas planted, and whether this mitigation approach on overall habitat quality is effective. Standiford et al. (2002), using a modeling approach to evaluate blue oak plantation development, found that average blue oaks were still quite small and that canopy cover was relatively low 50 years after being planted, even with a fairly aggressive restoration effort.



Another factor local jurisdictions must consider is the high cost of tree planting as a mitigation strategy. In some cases, it may be more cost effective to use the mitigation funds to ensure that existing mature habitat is conserved (Standiford et al. 2002). Although it may take many decades to replace mature habitat that is lost to a particular project, tree planting is still an important conservation tool and should still be encouraged as part of an overall restoration strategy (Standiford et al. 2002). Effective mitigation at a landscape scale, however, typically requires a more diverse array of options, including preservation of mature stands to compensate for the impact of woodland conversion projects.”

## **2004 State Legislation**

A separate but parallel process at the state level resulted in enactment of California Public Resources Code (PRC) Section [21083.4](#) (Senate Bill 1334, Kuehl) on February 18, 2004, after preparation of the 2004 General Plan EIR and prior to preparation of the County’s OWMP. As enacted, PRC 21083.4 requires counties to determine whether projects will result in a conversion of oak woodlands and identifies four mitigation options to mitigate the significant effect of oak woodland conversion. The four mitigation options include: (1) conservation (via easements), (2) tree planting (including maintenance and monitoring and not to exceed half of the mitigation effort), (3) monetary contribution to the Oak Woodlands Conservation Fund, or (4) other measures identified by the County. A county may allow implementation of one or more of these mitigation options. PRC 21083.4 also identifies projects/actions that are exempt from its requirements.

## **2006 Settlement Agreement**

Following the County’s adoption of the 2004 General Plan and 2005 referendum on the plan, the Superior Court discharged the 1999 Writ of Mandate ruling that the County had satisfied all the terms. The Court’s ruling was appealed. In April 2006, the County and the petitioners in the lawsuit entered into a settlement agreement that resulted in the withdrawal of the appeal. The settlement agreement contained terms confirming that the County would not implement Option B (contribution to conservation fund) for impacts of development projects on oaks until the oak woodland portion of the INRMP was adopted, consistent with the language in Policy 7.4.4.4. This left only Option A (canopy retention standards) as mitigation for development impacts to oaks.

## General Plan Implementation Efforts

In July 2006 County staff prepared a memo identifying [various issues](#) requiring clarification related to implementation of General Plan Policies 7.4.4.4 (Option A), 7.4.4.5, 7.4.5.1, and 7.4.5.2; identified several [key concepts for discussion](#); and suggested clarifications for Planning Commission consideration and direction. The following concepts were addressed:

- Providing clarification of issues associated with General Plan Policy 7.4.4.4 (Option A)
  - Confirm that Policy 7.4.4.4 tree retention requirements apply only to oak woodlands
  - Clarify professional qualifications for preparing various studies related to oak woodlands
  - Define “oak woodland”
  - Clarify exceptions to retention requirements
  - Clarify oak woodland replacement requirements (inch for inch, acorns, canopy area)
  - Establish a process to consider minor modifications to woodland retention/replacement requirements (establish a “reasonable use” process)
- Clarify the application of Policy 7.4.4.5 (corridor retention).

Following a review of suggested clarification language (inclusive of public input), final revised policy language was prepared (in [September 2006](#)) with the goal of establishing more detailed Interim Guidelines for Planning Commission approval. A [final version](#) of key concepts related to General Plan Policies 7.4.4.4 (Option A) and 7.4.4.5 was approved by the Planning Commission on September 14, 2006. The approved final key concepts clarify the intent of the application of Policy 7.4.4.4 and clarify related matters, including: the qualifications of professionals who can prepare biological resources studies and Important Habitat Plans, definitions of terms, exceptions to Policy 7.4.4.4, options for satisfying the 1:1 canopy mitigation and replacement requirements, reasonable use determinations applicable to replacement and retention of oak woodland canopy, and corridor retention language (Policy 7.4.4.5).

[Draft Interim Interpretive Guidelines](#) were prepared. These integrated the provisions of the final key concepts document as approved by the Planning Commission into a more detailed, comprehensive set of guidelines addressing other technical issues related to implementation of the policy (County of El Dorado 2006). The Interim Interpretive Guidelines do not include proposed actions or procedures requiring an amendment to the General Plan. In November 2006, the Planning Commission adopted the [Interim Interpretive Guidelines for El Dorado County General Plan Policy 7.4.4.4 \(Option A\)](#) (amended October 12, 2007). [Interim Guidelines for Biological Resources Study and Important Habitat Mitigation Program](#) were also adopted at this time.

As mentioned, an OWMP was required to satisfy Policies 7.4.4.4 and 7.4.5.2, as identified in Implementation Measure CO-P. The development process and OWMP content is described in greater detail below.

### **Oak Woodland Management Plan (OWMP)**

As required under Implementation Measure CO-P in the County’s 2004 General Plan, an [Oak Woodland Management Plan](#) (OWMP) was prepared and adopted by the BOS on May 6, 2008. Preparation of the OWMP occurred between October 2006 and May 2008, with multiple revisions, and included comments and recommendations provided by the public, stakeholders, and the OWMP TAC. The OWMP outlined the County’s strategy for conservation of valuable oak woodland resources, identified areas where conservation easements may be acquired to offset and mitigate for the loss or fragmentation of oak woodlands, and provided guidance for voluntary conservation and management efforts by landowners and land managers. The OWMP, which encompasses oak woodland habitats below 4,000 feet elevation, also constitutes the oak portion of the INRMP and identifies specific oak woodland conservation areas and methods for the County to implement an oak woodland ordinance. The OWMP did not include an Oak Tree Preservation Ordinance, as required under Implementation Measure CO-P.

As noted, preparation of the OWMP included public and stakeholder involvement, as well as input and guidance from the OWMP TAC. Additionally, the County engaged a consulting firm (EN2 Resources/Pacific Municipal Consultants [\$442,981 fee]) to prepare the OWMP. Preparation of the OWMP involved numerous workshops and hearings to address the issues brought forth by these groups. The following table summarizes key milestones of the OWMP development process and the items or issues brought to the Board.

Date	OWMP Issue Presented to the Board
September 1, 2006	Courtesy <a href="#">Notice</a> of Public Hearing Regarding the Oak Woodland Management Plan Contract: notification of public hearing (to occur on September 19, 2006) where the Board would consider engaging EN2 Resources/Pacific Municipal Consultants to prepare the OWMP and related work products.
September 19, 2006	Board <a href="#">approves</a> engaging consultant to prepare OWMP and related work products. Approved consultant fee is \$346,981. Staff to provide the Board with bi-weekly progress reports.
June 25, 2007	Board approves initial El Dorado County Oak Woodland Habitat map identifying oak woodland habitat where willing landowners could be approached to negotiate sale or easement acquisition through General Plan Policy 7.4.4.4 Option B funds. Board also releases of the draft OWMP for review and comment ( <a href="#">minutes</a> ).
September 25, 2007	Board directs staff to bring back to the Board the original map (presented June 25, 2007) outlining the Low Density Residential (LDR) land use designation areas and to bring back a fee schedule that more clearly delineates the various components, particularly, the costs relating to ongoing management ( <a href="#">minutes</a> ).
October 2, 2007	Board continues discussion but directs staff to work with the current plan submitted this date and make revisions utilizing the exhibits as discussed ( <a href="#">minutes</a> ).

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Date	OWMP Issue Presented to the Board
October 30, 2007	Revised OWMP presented to Board. Board approved the OWMP and directed staff to prepare and circulate a Negative Declaration. Board considered conditioning projects requiring oak mitigation to offer either Option A and or Option B, provided that Option B procedures have been approved by the Board and the fee resolution is in effect at the time of use, with the caveat that the Board have options with regard to fees and development of policies pertaining to the amount of the conservation fund fee, ratio of fee in-lieu of on-site replacement, and agriculture cultivation or operations ( <a href="#">minutes</a> ).
January 29, 2008	Board meeting following Agricultural Commission, Planning Commission, and public review of the Draft OWMP. Staff identified the volume of public comments and summarized issues with the Draft OWMP ( <a href="#">minutes</a> ): <ul style="list-style-type: none"><li>• Amount of conservation in-lieu fee</li><li>• Optional payment into conservation fund in-lieu fee of on-site replacement under Option A</li><li>• Definition of "Agricultural Cultivation"</li><li>• Measurement of oak woodland (canopy vs. habitat)</li><li>• Application of OWMP to defensible space requirements</li><li>• Thresholds for road projects</li><li>• Interim application of Option B fee payment for projects underway.</li></ul>
April 1, 2008	<a href="#">Economic analysis</a> (dated March 28, 2008) presented to the Board. <a href="#">Revised in-lieu fee</a> presented.
May 6, 2008	Board adopts Final OWMP, Ordinance <a href="#">4471</a> , and the project's Initial Study/Negative Declaration ( <a href="#">IS/ND</a> ).

As noted, several workshops were held so that the public, stakeholders, commission members, and the Board could provide input on the OWMP, including those on September 4, October 26, November 9, November 16, and December 14, 2006, and February 9, February 22, March 22, and April 26, 2007. Notable issues identified during the development of the OWMP and discussed in public hearings, workshops, or presented by the OWMP TAC include:

- Lack of clarity of OWMP goals
- Extent of OWMP study area and inclusion/exclusion of different oak habitats (e.g., blue oak woodlands)
- Agricultural cultivation and fire safe plan exemptions
- Consistency with General Plan goals and state-level requirements (Kuehl bill)
- Determination of in-lieu fee amount for Option B (Policy 7.4.4.4)
- Determination of metric to measure oak woodlands (canopy coverage vs. habitat extent)
- Location of Priority Conservation Areas (PCA) in lower-density areas of the County, thus allowing fragmentation and wildlife corridor conflicts at Highway 50.

Mitigation for impacts to oak woodland habitats under Policy 7.4.4.4 requires selection of one of two options: Option A or Option B. The OWMP provided further guidance on the Option A

mitigation strategy in General Plan Policy 7.4.4.4 and identified the per-acre in-lieu conservation fee associated with Option B. Option A requires oak canopy retention and provides retention standards based on existing baseline canopy coverage for a site. Additionally, Option A requires replacement of oak woodland habitat at a 1:1 ratio.

The Option B mitigation strategy of Policy 7.4.4.4 did not require the retention of a minimum percentage of oak canopy on site but was intended to preserve existing oak woodland canopy in the County of equal or greater biological value as those lost. Under Option B, a mitigation fee payment was required to compensate for both habitat loss and fragmentation, and the preservation mitigation ratio was set at 2:1 based on the acreage of oak canopy affected. In other words, for each acre of oak canopy that is lost, the payment is the fee per acre multiplied by two. The mitigation fee payment was to be applied toward the County's INRMP conservation fund (as described in Policy 7.4.2.8 and further discussed below). Mitigation fee payments were to be used for purchase of woodland conservation easements in PCAs.

As discussed below, the County's INRMP (as identified in Policy 7.4.2.8) was to identify important habitat in the County and establish a program for habitat preservation and management. The OWMP was intended to constitute the oak portion of the INRMP. As the OWMP was prepared in advance of the INRMP (not yet completed), the in-lieu fee established in the OWMP for impacts to oak woodlands was intended to be consistent with a future conservation fund to be established under the INRMP.

The BOS recognized the importance of oak woodlands in the County and adopted the OWMP and its implementing ordinance (El Dorado County Code Chapter 17.73). The BOS stated its intent to mitigate for oak trees only, not habitat, and provided maximum flexibility in mitigation. The OWMP was subsequently challenged because oak advocates asserted that the Board's interpretation resulted in impacts not previously addressed in the General Plan EIR.

### **Oak Woodland Management Plan Lawsuit – 2008**

On June 6, 2008, a [lawsuit](#) was filed challenging the County's approval of the OWMP and its implementing ordinance. The lawsuit argued that the County's actions in approving the OWMP and implementing ordinance do not ensure protection of oak woodlands and that impacts to oak woodland habitat and connectivity will not be mitigated. Approval of the OWMP and implementing ordinance was expected to allow the County to permit development projects using Option B of General Plan Policy 7.4.4.4 as it would have effectively adopted the oak woodland portion of the INRMP (Policy 7.4.2.8). The following points summarize the lawsuit's arguments:

- The County adopted a Negative Declaration despite evidence that the project (OWMP and implementing ordinance) could have significant cumulative effects on oak woodlands.

*Memorandum*

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- The County did not adequately describe the environmental setting, namely the importance of oak woodland habitat along the Highway 50 corridor for wildlife corridors and habitat connectivity.
- The OWMP does not ensure habitat connectivity.
- The OWMP did not adequately describe the regulatory setting, specifically the General Plan policies related to oak woodlands.
- The OWMP does not ensure that oak woodland habitat impacts are fully mitigated and allows for off-site mitigation that does not retain similar biological value as required under the General Plan.
- The County tiered to the General Plan EIR as part of its Negative Declaration adoption even though the County's General Plan found future development impacts to be significant and that the OWMP and implementing ordinance are inconsistent with the mitigation analyzed in the General Plan EIR.
- The County deferred identification of important habitats/connectivity until after approval of the OWMP.
- The County did not consider an alternative approach that addressed oak woodland habitat value by using oak woodland habitat acreage as the measure of mitigation rather than oak canopy coverage.
- The OWMP does not meet the minimum standards for the INRMP (of which it functions as the oak component) and does not accommodate the Important Biological Corridor overlay.
- The OWMP identifies PCAs for oak woodland habitat conservation but does not identify any in areas of the County designated for development.

On February 2, 2010, the Trial Court ruled to uphold the BOS action to adopt the OWMP. On appeal, the Appellate Court over-ruled that decision, remanding the case back to Superior Court, with the direction to require the County to prepare an EIR for the OWMP. The OWMP was rescinded on September 4, 2012 (Resolution 123-2012), and its implementing ordinance was rescinded on September 11, 2012 (Ord. No. 4892).

As a result, Option A of Policy 7.4.4.4 is currently the only available option to mitigate impacts to oak woodlands in the County. The text of the OWMP adopted by the BOS in 2008 (rescinded in September 2012) can be found [here](#).

### ***INRMP Process***

The 2004 General Plan EIR introduced Policy 7.4.2.8, which requires the County to prepare the INRMP to mitigate impacts from General Plan implementation on biological resources,

particularly the impacts that would arise from loss of habitat and habitat fragmentation. The EIR found that “even when habitat protection is included as part of a particular project, those preservation efforts may have limited benefit to existing biological resources if the protected habitat is not connected in some way to habitat elsewhere in the county.” Thus, Policy 7.4.2.8 was recommended to “allow the County to develop an integrated approach to planning for habitat protection. By developing a countywide inventory of important habitats and an overall strategy for protecting those habitats, the County can ensure that its most sensitive and threatened biological resources are adequately protected in conjunction with continued development under the General Plan.” It is noted that the General Plan EIR found that even with preparation and implementation of the INRMP, implementation of the General Plan would result in significant and unavoidable impacts to biological resources due to habitat loss and fragmentation. The General Plan identifies the INRMP as a mechanism for reducing those impacts to the extent feasible.

As described in the March 23, 2011, staff report by DSD, the INRMP is intended to:

1. Implement General Plan Measure CO-M and Policy 7.4.2.8 to mitigate, to the extent economically and practically feasible, the impacts of wildlife habitat loss and fragmentation from development anticipated by the 2004 General Plan.
2. Provide a program by which development projects could address the cumulative impacts of development contemplated in the General Plan.
3. Minimize revisions to land use designations or other development limitations authorized under the adopted General Plan, except as provided in Policy 7.4.2.9 and Implementation Measure CO-N (Review and update the Important Biological Corridor, IBC, overlay designation).

The primary requirements for the INRMP, as envisioned in the General Plan, are to identify important habitat in the County and establish a program for effective habitat preservation and management. Specifically, Policy 7.4.2.8 identifies the following eight required components of the INRMP:

1. Habitat Inventory
2. Habitat Protection Strategy
3. Mitigation Assistance
4. Habitat Acquisition
5. Habitat Management
6. Habitat Monitoring



7. Public Participation

8. Funding

**ISAC, PAWTAC and Sierra Ecosystem Associates**

Beginning in September 2006, the County worked to implement Policy 7.4.2.8 by retaining consultants to conduct a public workshop process, preparing a work program for development of the INRMP, retaining consultants to prepare the INRMP, and convening two advisory committees—the ISAC and the PAWTAC. The purpose of the ISAC is to provide recommendations to County staff, the Planning Commission, and the BOS in defining the important habitats of the County and in the creation and implementation of the INRMP. The PAWTAC is a committee that advises the Planning Commission and BOS on plant and wildlife issues and is formed of local experts in the field. County staff also reviewed and updated the Initial Inventory based on newer and more accurate geographic information systems (GIS) layers, inventoried existing regulatory constraints related to important habitat, prepared a Protected Lands Map, and compared the Initial Inventory and Protected Lands maps with the County's Land Use designations. In 2008, the BOS directed that the boundary of the Study Area for the INRMP was set at the 4,000-foot contour.

On April 1, 2008, the BOS adopted the INRMP Initial Inventory and Mapping, satisfying the requirements of General Plan Measure CO-M (the Habitat Inventory). At that time, DSD staff, the ISAC, and the PAWTAC requested direction from the BOS regarding goals and objectives for implementing Phase II of the INRMP (development of a habitat protection strategy and associated CEQA documentation). Phase II has not yet been implemented.

Following months of input from the ISAC and PAWTAC, Sierra Ecosystem Associates (SEA) was retained by the County in December 2009 to prepare Phase I of the INRMP. Between December 2009 and 2011, the ISAC and PAWTAC discussed several issues that would influence the INRMP, including:

- INRMP goals, purpose, and objectives, including how it could fully mitigate cumulative impacts for future development projects
- The level of CEQA review that would be necessary to support adoption of the INRMP
- The degree to which the INRMP should apply to ministerial (building permit) projects
- The ability of future developers to rely on the INRMP for demonstrating that project-specific impacts to biological resources have been avoided or mitigated, thus minimizing the need for project-specific EIRs
- Protection of wildlife migration corridors, locations for new wildlife crossings



- Ordinances, including riparian setbacks sufficient to protect wildlife use of riparian habitat
- Conformance of the IBC overlay to the INRMP mapping of important habitat and to the habitat preservation and management program
- How to structure mitigation fees to ensure they are commensurate with the level of impact, they account for indirect and cumulative impacts (in addition to direct impacts), and that that include incentives, dis-incentives, and other provisions for protection of important habitats
- Ordinances regarding fencing types in areas of important habitat and ordinances regarding limitations on types of activities in areas of important habitat
- Considerations for prioritizing habitat acquisition and whether to identify PCAs (for habitats other than oak woodlands) in the INRMP
- Whether to refine the mapping of large expanses of native vegetation by considering species-specific habitat requirements, which would then influence conservation strategies and potential mitigation
- Which strategies to implement in the Habitat Protection section, including ordinances, land use regulations, payment for ecosystem services (for example, offering conservation payments to agricultural land owners to encourage best management practices), stewardship training and education programs, acquisition of conservation easements or land in fee title, habitat prioritization, Williamson Act, and/or consideration of wildlife movement for road and construction projects
- Which mitigation options to employ and how to define when each should be used, including avoidance, minimization, restoration, and compensation (such as through fee-title acquisition of undeveloped land or conservation easement acquisition, mitigation banks, and in-lieu fees)
- Approaches to and options for habitat acquisition, habitat management, and monitoring
- Consideration of how fee-title acquisition would function, whether the County would acquire and manage lands or work with other agencies and organizations to hold and manage land; consideration of ways to minimize costs
- Whether to prepare the INRMP with one of the following emphases: landscape permeability, restoration, corridor network, ecological preserve, or habitat-emphasized.

The monthly ISAC and PAWTAC meetings were facilitated by County staff and SEA and a significant amount of technical information was presented in support of preparation of Phase I of the INRMP (County of El Dorado 2010a, 2010b). Links to the 2010 committee agendas,

minutes, and materials are found [here](#) and [here](#). Some of the discussion topics and technical information included:

- Definitions of key General Plan policy terms used in the INRMP – Native Vegetation, Important Habitats, and Large Expanses
- Guiding principles of the INRMP
- Habitats to be inventoried and mapped in the INRMP
- Indicator species and focal species
- North–south wildlife movement and migration corridors
- Mapping for PCAs, IBCs, open space, and several habitat types.

In 2010, the BOS adopted the Updated IMRMP Initial Inventory and Mapping and accepted both the Indicator Species Report and the Wildlife Movement and Corridor Report.

### ***Current Biological Resources Policy Status***

***Identified Issues Regarding Oak Woodland Conservation:*** To date, implementation of the policies addressing protection of oak trees and oak woodlands has been difficult due to the following:

- The policies have been controversial and difficult to apply uniformly due to different interpretations of Policy language by various groups:
  - Landowners argue for the most limited interpretation and want flexibility on how to mitigate for any oaks (or habitat) lost.
  - Oak advocates argue for the broadest interpretation and for more stringent defined mitigation.
- Policy 7.4.4.4 is open to interpretation over its intent, specifically whether it intended to protect individual trees or oak woodland habitat (inclusive of the area surrounding the trees).
- Due to the [ruling](#) in the 2008 lawsuit challenging the County’s approval of the OWMP and its implementing ordinance, mitigation Option B (in-lieu fee payment for impacts to oak woodlands) is not currently a useable option.

Additionally, the ruling identified the following issues with the OWMP and associated policies that further complicate the protection of oak trees and oak woodlands in the County:

- The OWMP did not address importance of oak woodlands within the vicinity of the Highway 50 corridor for wildlife habitat connectivity.

- Identification of important habitats (wildlife and connectivity) was deferred until after approval of the OWMP.
- The OWMP used oak canopy extent as the standard for oak woodland measurement, rather than oak woodland area (inclusive of all gaps, etc.).
- The OWMP did not protect oak woodlands in the County; therefore, it was inconsistent with the General Plan policies intended to protect oak woodlands. Specifically, off-site mitigation did not contain the amount and similar biological value as required under the General Plan; therefore, the OWMP did not ensure habitat connectivity, especially adjacent to Highway 50.
- PCAs identified in the OWMP were far from where impacts would be realized and did not afford protection along the Highway 50 wildlife corridors.
- Conservation efforts identified in the OWMP were focused on valley oak preservation at the exclusion of other oak woodland types.
- The fee rate for Option B (Policy 7.4.4.4) identified in the OWMP was based on the rural/lowest value rather than on the higher value of lands in more developable areas.
- There is conflict in the language of the existing policies. For example, in Policy 7.4.4.4, mitigation is required for oak woodland impacts on lots less than 1 acre (with more than 10% canopy cover), but in Policy 7.4.5.2, a tree removal permit is not required for lots less than 1 acre (that cannot be further subdivided).

**Identified Issues Regarding INRMP Process:** As described in the September 20, 2012, DSD staff report, presented to the BOS on September 24, 2012, oak Policies 7.4.4.4 and 7.4.4.5 are closely linked with Policies 7.4.2.7 and 7.4.2.9:

- Policy 7.4.4.4 references Policy 7.4.2.8 and states that the County will not implement off-site protection of oaks until the oak portion of the INRMP is completed. Potential amendments to Policy 7.4.4.4 must be carefully considered, and the potential impacts under the revised text must be evaluated, which may require preparation of a new EIR.
- If an EIR is prepared for amendments to Policies 7.4.4.4 and 7.4.4.5 but Policies 7.4.2.8 and 7.4.2.9 are not amended, the County will still need to complete the work on the INRMP. Environmental review of the INRMP would also be required, which may necessitate a separate EIR.
- The County's approach to addressing impacts to oak woodlands, including important biological resources within or associated with oak woodlands, and the County's approach to addressing impacts to other important biological resources must be correlated with

each other. Any amendments to the oak-related policies (7.4.4.4 and 7.4.4.5) should also consider the influence of and effect on the INRMP policies (7.4.2.8 and 7.4.2.9).

- As required by the Court of Appeals, CEQA analysis for adoption of an OWMP would need to identify which oak woodlands are “important” biologically. In that context, Policy 7.4.2.9 must be considered, meaning that the value of oak woodlands as habitat and as wildlife corridors must be determined. This would expand the scope of the OWMP EIR to also address components of the INRMP.

**Board Direction:** On September 24, 2012, the BOS considered six options for the implementation of Policy 7.4.4.4. The [Options Memo](#) prepared by County staff provides a description of all the options considered. At the conclusion of the BOS hearing, the Board took action to implement Option 6 outlined in the staff report. Option 6 described the intent to amend General Plan Policies 7.4.4.4, 7.4.4.5, 7.4.5.1, 7.4.5.2, 7.4.2.8, and 7.4.2.9 and their related Implementation Measures. This action would require preparation of a separate EIR. Further, the Board directed staff to prepare a Request for Proposal to hire a consultant to assist the County to prepare the policies and EIR.

Per the staff report, this action “would enable the Board to clarify and refine the intent and scope of all of those policies, ensure the consistency of all the related biological policies, consider changes in state law, and finally harmonize the General Plan Policies. The EIR prepared for these amendments to the Policies could provide the analysis necessary to implement the Policies, so that no additional implementation process is necessary. At the conclusion of this EIR’s analysis, the mapping of the County’s important resources would be completed, and the Board could determine what conservation measures are necessary and feasible, and how the conservation should be funded.”

The report additionally clarified that “by focusing on only the biological policies and taking other policies and existing land use designations as a given, the Board can decide what resources are important, which important resources are at risk (as opposed to resources that already have protection as federal lands or through some other means), which important resources may be lost due to the land use designations, how to mitigate for those losses, and how to pay for that in a feasible way that does not conflict with other important goals and objectives of the 2004 General Plan.”

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# APPENDIX A

## *Referenced General Plan Policy Language*





## Appendix A

### Referenced General Plan Policy Language

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#### **Policy 7.4.2.8**

Develop within five years and implement an Integrated Natural Resources Management Plan (INRMP) that identifies important habitat in the County and establishes a program for effective habitat preservation and management. The INRMP shall include the following components:

- A. Habitat Inventory. This part of the INRMP shall inventory and map the following important habitats in El Dorado County:
  - 1. Habitats that support special status species;
  - 2. Aquatic environments including streams, rivers, and lakes;
  - 3. Wetland and riparian habitat;
  - 4. Important habitat for migratory deer herds; and
  - 5. Large expanses of native vegetation.

The County should update the inventory every three years to identify the amount of important habitat protected, by habitat type, through County programs and the amount of important habitat removed because of new development during that period. The inventory and mapping effort shall be developed with the assistance of the Plant and Wildlife Technical Advisory Committee, CDFG, and USFWS. The inventory shall be maintained and updated by the County Planning Department and shall be publicly accessible.

- B. Habitat Protection Strategy. This component shall describe a strategy for protecting important habitats based on coordinated land acquisitions (see item D below) and management of acquired land. The goal of the strategy shall be to conserve and restore contiguous blocks of important habitat to offset the effects of increased habitat loss and fragmentation elsewhere in the county. The Habitat Protection Strategy should be updated at least once every five years based on the results of the habitat monitoring program (item F below). Consideration of wildlife movement will be given by the County on all future 4- and 6-lane roadway construction projects. When feasible, natural undercrossings along proposed roadway alignments that could be utilized by terrestrial wildlife for movement will be preserved and enhanced.
- C. Mitigation Assistance. This part of the INRMP shall establish a program to facilitate mitigation of impacts to biological resources resulting from projects approved by the County that are unable to avoid impacts on important habitats. The program may include development of mitigation banks, maintenance of lists of potential mitigation options, and incentives for developers and landowner participation in the habitat acquisition and management components of the INRMP.

## Appendix A (Continued)

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D. Habitat Acquisition. Based on the Habitat Protection Strategy and in coordination with the Mitigation Assistance program, the INRMP shall include a program for identifying habitat acquisition opportunities involving willing sellers. Acquisition may be by state or federal land management agencies, private land trusts or mitigation banks, the County, or other public or private organizations. Lands may be acquired in fee or protected through acquisition of a conservation easement designed to protect the core habitat values of the land while allowing other uses by the fee owner. The program should identify opportunities for partnerships between the County and other organizations for habitat acquisition and management. In evaluating proposed acquisitions, consideration will be given to site specific features (e.g., condition and threats to habitat, presence of special status species), transaction related features (e.g., level of protection gained, time frame for purchase completion, relative costs), and regional considerations (e.g., connectivity with adjacent protected lands and important habitat, achieves multiple agency and community benefits). Parcels that include important habitat and are located generally to the west of the Eldorado National Forest should be given priority for acquisition. Priority will also be given to parcels that would preserve natural wildlife movement corridors such as crossing under major roadways (e.g., U.S. Highway 50 and across canyons). All land acquired shall be added to the Ecological Preserve overlay area.

E. Habitat Management. Each property or easement acquired through the INRMP should be evaluated to determine whether the biological resources would benefit from restoration or management actions.

Examples of the many types of restoration or management actions that could be undertaken to improve current habitat conditions include: removal of non-native plant species, planting native species, repair and rehabilitation of severely grazed riparian and upland habitats, removal of culverts and other structures that impede movement by native fishes, construction of roadway under and overcrossing that would facilitate movement by terrestrial wildlife, and installation of erosion control measures on land adjacent to sensitive wetland and riparian habitat.

F. Monitoring. The INRMP shall include a habitat monitoring program that covers all areas under the Ecological Preserve overlay together with all lands acquired as part of the INRMP. Monitoring results shall be incorporated into future County planning efforts so as to more effectively conserve and restore important habitats. The results of all special status species monitoring shall be reported to the CNDDDB. Monitoring results shall be compiled into an annual report to be presented to the Board of Supervisors.

G. Public Participation. The INRMP shall be developed with and include provisions for public participation and informal consultation with local, state, and federal agencies having jurisdiction over natural resources within the county.

## Appendix A (Continued)

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H. H. Funding. The County shall develop a conservation fund to ensure adequate funding of the INRMP, including habitat maintenance and restoration. Funding may be provided from grants, mitigation fees, and the County general fund. The INRMP annual report described under item F above shall include information on current funding levels and shall project anticipated funding needs and anticipated and potential funding sources for the following five years.

### Policy 7.4.2.9

The Important Biological Corridor (-IBC) overlay shall apply to lands identified as having high wildlife habitat values because of extent, habitat function, connectivity, and other factors. Lands located within the overlay district shall be subject to the following provisions except that where the overlay is applied to lands that are also subject to the Agricultural District (-A) overlay or that are within the Agricultural Lands (AL) designation, the land use restrictions associated with the -IBC policies will not apply to the extent that the agricultural practices do not interfere with the purposes of the -IBC overlay.

- Increased minimum parcel size;
- Higher canopy-retention standards and/or different mitigation standards/thresholds for oak woodlands;
- Lower thresholds for grading permits;
- Higher wetlands/riparian retention standards and/or more stringent mitigation requirements for wetland/riparian habitat loss;
- Increased riparian corridor and wetland setbacks;
- Greater protection for rare plants (e.g., no disturbance at all or disturbance only as recommended by U.S. Fish and Wildlife Service/California Department of Fish and Game);
  - Standards for retention of contiguous areas/large expanses of other (non-oak or non-sensitive) plant communities;
  - Building permits discretionary or some other type of “site review” to ensure that canopy is retained;
  - More stringent standards for lot coverage, floor area ratio (FAR), and building height; and
  - No hindrances to wildlife movement (e.g., no fences that would restrict wildlife movement).

The standards listed above shall be included in the Zoning Ordinance.

## Appendix A (Continued)

Wildland Fire Safe measures are exempt from this policy, except that Fire Safe measures will be designed insofar as possible to be consistent with the objectives of the Important Biological Corridor.

### Policy 7.4.4.4

For all new development projects (not including agricultural cultivation and actions pursuant to an approved Fire Safe Plan necessary to protect existing structures, both of which are exempt from this policy) that would result in soil disturbance on parcels that (1) are over an acre and have at least 1 percent total canopy cover or (2) are less than an acre and have at least 10 percent total canopy cover by woodlands habitats as defined in this General Plan and determined from base line aerial photography or by site survey performed by a qualified biologist or licensed arborist, the County shall require one of two mitigation options: (1) the project applicant shall adhere to the tree canopy retention and replacement standards described below; or (2) the project applicant shall contribute to the County's Integrated Natural Resources Management Plan (INRMP) conservation fund described in Policy 7.4.2.8.

### Option A

County shall apply the following tree canopy retention standards:

Percent Existing Canopy Cover	Canopy Cover to be Retained
80-100	60% of existing canopy
60-79	70% of existing canopy
40-59	80% of existing canopy
20-39	85% of existing canopy
10-19	90% of existing canopy
1-9 for parcels > 1 acre	90% of existing canopy

Under Option A, the project applicant shall also replace woodland habitat removed at 1:1 ratio. Impacts on woodland habitat and mitigation requirements shall be addressed in a Biological Resources Study and Important Habitat Mitigation Plan as described in Policy 7.4.2.8. Woodland replacement shall be based on a formula, developed by the County, that accounts for the number of trees and acreage affected.

### Option B

The project applicant shall provide sufficient funding to the County's INRMP conservation fund, described in Policy 7.4.2.8, to fully compensate for the impact to oak woodland habitat. To

## Appendix A (Continued)

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compensate for fragmentation as well as habitat loss, the preservation mitigation ratio shall be 2:1 and based on the total woodland acreage onsite directly impacted by habitat loss and indirectly impacted by habitat fragmentation. The costs associated with acquisition, restoration, and management of the habitat protected shall be included in the mitigation fee. Impacts on woodland habitat and mitigation requirements shall be addressed in a Biological Resources Study and Important Habitat Mitigation Plan as described in Policy 7.4.2.8.

### **Policy 7.4.4.5**

Where existing individual or a group of oak trees are lost within a stand, a corridor of oak trees shall be retained that maintains continuity between all portions of the stand. The retained corridor shall have a tree density that is equal to the density of the stand.

### **Policy 7.4.5.1**

A tree survey, preservation, and replacement plan shall be required to be filed with the County prior to issuance of a grading permit for discretionary permits on all high-density residential, multifamily residential, commercial, and industrial projects. To ensure that proposed replacement trees survive, a mitigation monitoring plan should be incorporated into discretionary projects when applicable and shall include provisions for necessary replacement of trees.

### **Policy 7.4.5.2**

It shall be the policy of the County to preserve native oaks wherever feasible, through the review of all proposed development activities where such trees are present on either public or private property, while at the same time recognizing individual rights to develop private property in a reasonable manner. To ensure that oak tree loss is reduced to reasonable acceptable levels, the County shall develop and implement an Oak Tree Preservation that includes the following components:

- A. Oak Tree Removal Permit Process. Except under special exemptions, a tree removal permit shall be required by the County for removal of any native oak tree with a single main trunk of at least 6 inches diameter at breast height (dbh), or a multiple trunk with an aggregate of at least 10 inches dbh. Special exemptions when a tree removal permit is not needed shall include removal of trees less than 36 inches dbh on 1) lands in Williamson Act Contracts, Farmland Security Zone Programs, Timber Production Zones, Agricultural Districts, designated Agricultural Land (AL), and actions pursuant to a Fire Safe plan; 2) all single family residential lots of one acre or less that cannot be further subdivided; 3) when a native oak tree is cut down on the owner's property for the owner's personal use; and 4) when written approval has been received from the County Planning Department. In passing judgment upon tree removal permit applications, the County may impose such reasonable conditions of approval as are necessary to protect the health of existing oak

## Appendix A (Continued)

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trees, the public and the surrounding property, or sensitive habitats. The County Planning Department may condition any removal of native oaks upon the replacement of trees in kind. The replacement requirement shall be calculated based upon an inch for inch replacement of removed oaks. The total of replacement trees shall have a combined diameter of the tree(s) removed. Replacement trees may be planted onsite or in other areas to the satisfaction of the County Planning Department. The County may also condition any tree removal permit that would affect sensitive habitat (e.g., valley oak woodland), on preparation of a Biological Resources Study and an Important Habitat Mitigation Program as described in Policy 7.4.1.6. If an application is denied, the County shall provide written notification, including the reasons for denial, to the applicant.

B. Tree Removal Associated with Discretionary Project. Any person desiring to remove a native oak shall provide the County with the following as part of the project application:

- A written statement by the applicant or an arborist stating the justification for the development activity, identifying how trees in the vicinity of the project or construction site will be protected and stating that all construction activity will follow approved preservation methods;
- A site map plan that identifies all native oaks on the project site; and
- A report by a certified arborist that provides specific information for all native oak trees on the project site.

C. Commercial Firewood Cutting. Fuel wood production is considered commercial when a party cuts firewood for sale or profit. An oak tree removal permit shall be required for commercial firewood cutting of any native oak tree. In reviewing a permit application, the Planning Department shall consider the following:

- Whether the trees to be removed would have a significant negative environmental impact;
- Whether the proposed removal would not result in clear-cutting, but will result in thinning or stand improvement;
- Whether replanting would be necessary to ensure adequate regeneration;
- Whether the removal would create the potential for soil erosion;
- Whether any other limitations or conditions should be imposed in accordance with sound tree management practices; and
- What the extent of the resulting canopy cover would be.

D. Penalties. Fines will be issued to any person, firm, or corporation that is not exempt from the ordinance who damages or destroys an oak tree without first obtaining an oak tree

## Appendix A (Continued)

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removal permit. Fines may be as high as three times the current market value of replacement trees as well as the cost of replacement, and/or replacement of up to three times the number of trees required by the ordinance. If oak trees are removed without a tree removal permit, the County Planning Department may choose to deny or defer approval of any application for development of that property for a period of up to 5 years. All monies received for replacement of illegally removed or damaged trees shall be deposited in the County's Integrated Natural Resources Management Plan (INRMP) conservation fund.

### **Policy 8.1.3.4**

A threshold of significance for loss of agricultural land shall be established by the Agriculture Department and the Planning Department, with opportunity for public comment before adoption, to be used in rezone applications requesting conversion of agricultural lands to non-agricultural lands, based on the California LESA system. For projects found to have a significant impact, mitigation shall include 1:1 replacement or conservation for loss of agricultural land in active production and/or 1:1 replacement or conservation for land identified as suitable for agricultural production. A monitoring program should be established to be overseen by the Agricultural Department.