



EL DORADO COUNTY

DEPARTMENT OF TRANSPORTATION

<http://www.edcgov.us/DOT/>

PLACERVILLE OFFICES:

MAIN OFFICE:

2850 Fairlane Court, Placerville, CA 95667
(530) 621-5900 / (530) 626-0387 Fax

CONSTRUCTION & MAINTENANCE:

2441 Headington Road, Placerville, CA 95667
(530) 642-4909 / (530) 642-0508 Fax

LAKE TAHOE OFFICES:

ENGINEERING:

924 B Emerald Bay Road, South Lake Tahoe, CA 96150
(530) 573-7900 / (530) 541-7049 Fax

MAINTENANCE:

1121 Shakori Drive, South Lake Tahoe, CA 96150
(530) 573-3180 / (530) 577-8402 Fax

June 9, 2022

via First Class Mail, certified mail, and email
TribalCouncil@ElDoradoNisenanMewuk.com

The Wopumnes Nisenan-Mewuk Tribe of El Dorado County
PO Box 1712
Shingle Springs, CA 95682

Re: Notice of Intent to Adopt Resolution of Necessity
Newtown Road at Weber Creek Bridge Replacement Project CIP # 77122
4820 Newton Road, Placerville, CA (APN: 077-431-062)

Dear Wopumnes Nisenan-Mewuk Tribe of El Dorado County,

This letter is written on behalf of the County of El Dorado ("County") to give you a courtesy notice pursuant to Code of Civil Procedure sections 1245.235 and 1240.055 that the Board of Supervisors will consider the adoption of a Resolution of Necessity ("Resolution") to condemn 1,114 square feet in fee, 2,031 square feet for a permanent slope and drainage easement, and 8,312 square feet as a 36-month temporary construction easement from the real property located at 4820 Newton Road, Placerville, CA (APN: 077-431-062), as more particularly described and depicted in the legal descriptions and plat maps attached hereto as Exhibit B ("Subject Property"), for the Newtown Road at Weber Creek Bridge Replacement Project CIP # 77122 ("Project"). The County is proposing to replace the existing Newtown Road Bridge over South Fork Weber Creek. The Subject Property is encumbered by an easement in favor of the Wopumnes Nisenan-Mewuk Tribe of El Dorado County ("Tribe"). This letter is to notify you of steps you may take if you have concerns with the adoption of the Resolution of Necessity regarding the Subject Property.

Impact of the Project on your Easement

In a letter to you on July 8, 2021, and again on January 27, 2022, the County previously notified you that the County has reviewed your easement and have concluded that you do not meet the criteria set forth in Civil Code section 815.3 to hold a conservation easement and that this easement in question does not qualify as a conservation easement under Code of Civil Procedure section 1240.055. Therefore, the requirements in Code of Civil Procedure section 1240.055 does not apply to this acquisition. However, in an effort to discuss the Tribe's concerns regarding the proposed acquisition of the Subject Property by eminent domain, the County previously provided

you notice as described in Code of Civil Procedure section 1240.055 in our letter relating to a 2nd updated and revised offer dated January 27, 2022.

As a reminder, our letter from January 27, 2022, stated that you were required to submit written comments on the acquisition, including identifying any potential conflict between the public use proposed for the property and the purposes and terms of the conservation easement, no later than 45 days from the mailing of that letter. In addition, we notified you that if you contended that you were the holder of a conservation easement on the Subject Property, you were required to, within 15 days of that letter do all the following:

- (1) Send a copy of this Notice by First Class Mail to each public entity that provided funds for the purchase of the easement or that imposed conditions on approval or permitting of a project that were satisfied in whole or in part by the creation of the easement, if any.
- (2) Inform the public entity that written comments on the acquisition may be submitted no later than 45 days from the mailing of this Notice.
- (3) Inform the County of the name and address of each public entity that was sent a copy of this Notice.

The County has no record of you submitting any written comments on this acquisition within that 45-day time period, nor do we have any record of you notifying any public entity as described above.

Requirements for Adoption of the Resolution of Necessity

Code of Civil Procedure section 1240.030 provides that the power of eminent domain may be exercised to acquire property for a proposed project if the following three conditions are established:

- (A) The public interest and necessity require the project.
- (B) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- (C) The property sought to be acquired is necessary for the project.

Also, Code of Civil Procedure section 1245.230 requires that the offer required by section 7267.2 of the Government Code has been made to the owner of record.

In addition, under Code of Civil Procedure sections 1240.510 and 1240.610, the County may acquire or condemn property appropriated to a public use so long as the use for which the property is being acquired is for a compatible use, or for a more necessary public use.

County Board of Supervisors, at its regularly scheduled meeting **on July 19, 2022** (330 Fair Lane, Building A, Placerville, California), will be asked to decide if the above conditions have been met concerning your property and, if so, to adopt a Resolution of Necessity to acquire a portion of your property by eminent domain. Questions regarding the amount of compensation to be paid or the value of the property to be acquired are not part of this proceeding and the Board of Supervisors will not consider such in determining whether a Resolution should be adopted.

The County's adoption of the Resolution would authorize the County to acquire the Subject Property by eminent domain. Within six months of the adoption of the Resolution, the County will prepare and file a complaint in Superior Court commencing the eminent domain proceeding. All issues related to the compensation to be awarded for the acquisition of the Subject Property will be resolved in this court proceeding.

In addition to any concerns you may have about the impact of the Project on your easement described above, the law provides you an opportunity to appear before the County and raise questions concerning the three conditions referred to in Code of Civil Procedure section 1240.030 as cited above, as well as the matters referred to in Code of Civil Procedure sections 1240.510 and 1240.610. If you file a written request to appear (required within 15 days from the mailing of this Notice), you are entitled to appear and object to the adoption of the Resolution on the basis that the three conditions referred to in Code of Civil Procedure section 1240.030 as cited above, as well as the matters referred to in Code of Civil Procedure sections 1240.510 and 1240.610 have not been met here.

Your written request to appear should include a statement indicating which of the three conditions listed in the first paragraph above you contend have not been met, or if you contend that the matters referred to in Code of Civil Procedure sections 1240.510 and 1240.610 have not been complied with. By designating which of the conditions form the basis of your challenge and explaining why you believe they have not been met, you will enable the County to authorize a full and expeditious review of the Project's effect on your property interest. The County will conduct the review and ask for your participation. Based on this review, the County will then prepare a report to be presented to the Board of Supervisors at the meeting at which you intend to appear.

Your written request to appear must be on file with the Board of Supervisors within the 15 day period from the mailing of this Notice. Failure to file a written request to appear will result in a waiver of your right to appear and be heard. All requests to appear must be sent for filing to: Clerk of the Board of Supervisors, County of El Dorado, 330 Fair Lane, Placerville, CA 95667.

For your convenience, if you are unable to personally appear or choose to submit written objections in place of a personal appearance, the Board of Supervisors will consider any written objections so long as they are received by the Clerk of the Board of Supervisors within the 15 day period from the mailing of this notice. All written objections submitted to the Clerk of the Board of Supervisors within the 15 day period will become part of the official record of the meeting at which the Board of Supervisors hears the Resolution.

If you have any questions, please call me at (530) 621-5998.

Sincerely,

Chandra Ghimire
Chandra Ghimire, PE
Senior Civil Engineer

Attachments: Legal descriptions and maps

CC: Christopher Washington, Eminent Domain Law Group



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DEPARTMENT OF TRANSPORTATION
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(530) 573-3180 / (530) 577-8402 Fax

July 12, 2022

via First Class Mail, certified mail, and email
TribalCouncil@ElDoradoNisenanMewuk.com

The Wopumnes Nisenan-Mewuk Tribe of El Dorado County
PO Box 1712
Shingle Springs, CA 95682

Re: Notice of Intent to Adopt Resolution of Necessity
Newtown Road at Weber Creek Bridge Replacement Project CIP
#77122/36105030
Assessor's Parcel No: 077-431-062 ("Subject Property")
4820 Newtown Road, Placerville, CA

Dear Wopumnes Nisenan-Mewuk Tribe of El Dorado County,

This letter is to notify you that the County of El Dorado (County) has postponed the July 19, 2022 Resolution of Necessity hearing related to your subject property. **This hearing will now take place on August 16, 2022 at 2:00 p.m. in the Board of Supervisors Meeting Room at 330 Fair Lane, Building A, Placerville, California.** At this hearing, the El Dorado County Board of Supervisors will determine whether the conditions in the California Code of Civil Procedure (CCP) Section 1240.030 have been met concerning your subject property, and, if so, to adopt a Resolution of Necessity (Resolution) to acquire a portion of your subject property in eminent domain. We previously sent you a Notice of Intent to Adopt a Resolution of Necessity on June 9, 2022.

The County is in receipt of the letter from your counsel, Mr. Christopher Washington, dated June 23, 2022, stating your objections to the proposed Resolution of Necessity for the property interests sought to be acquired from your subject property and your request to be heard at the hearing. Your objections and request were noted in the record and you are not required to raise them again. However, if you or counsel would like to appear before the Board of Supervisors in person or via video conference at the August 16, 2022, hearing please submit a request to the Clerk of the Board of Supervisors at the following address: Clerk of the Board of Supervisors, County of El Dorado, 330 Fair Lane, Placerville, CA 95667. For your convenience, you may also send this request via email to edc.cob@edcgov.us. Please submit this request no later than 5PM on **July 26, 2022**. All written objections or communications regarding this matter filed with the Board of Supervisors will become part of the official record of the meeting at which the Board of Supervisors hears the Resolution. In addition, if you intend to rely on any

presentation materials, such as PowerPoint, please send those materials to the Clerk of the Board of Supervisors via email at edccob@edcgov.us no later than 5PM on **August 12, 2022**.

Please refer to our letter to you dated June 9, 2022 for information regarding the purpose of the hearing as it relates to California Code of Civil Procedure (CCP) 1240.030 and also how the County has complied with CCP 1240.230 and California Government Code 7267.2.

Questions regarding the amount of compensation to be paid or the value of the property to be acquired are not part of this proceeding and the Board of Supervisors will not consider such in determining whether a Resolution should be adopted.

The Board of Supervisors' adoption of the Resolution authorizes the County of El Dorado (the "County") to acquire the properties by eminent domain. Within six months of the adoption of the Resolution, the County will prepare and file a complaint in Superior Court commencing the eminent domain proceeding. All issues related to the compensation to be awarded for the acquisition of your properties will be resolved in this court proceeding.

We have been notified that you are represented by Mr. Christopher Washington from the Eminent Domain Law Group on this matter. If you have any questions, please have Mr. Washington direct those questions to Daniel Vandekoolwyk, Deputy County Counsel, at (530) 621-5779.

Sincerely,

John Kahling
Deputy Director of Engineering
El Dorado County Department of Transportation

c: Cristopher Washington, Eminent Domain Law Group



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(530) 573-3180 / (530) 577-8402 Fax

August 1, 2022

via First Class Mail, certified mail, and email
TribalCouncil@ElDoradoNisenanMewuk.com

The Wopumnes Nisenan-Mewuk Tribe of El Dorado County
515A Main Street
Placerville, CA 95667

Re: Notice of Intent to Adopt Resolution of Necessity
Newtown Road at Weber Creek Bridge Replacement Project CIP #77122/36105030
Assessor's Parcel No: 077-431-062
4820 Newton Road, Placerville, CA

Dear Wopumnes Nisenan-Mewuk Tribe of El Dorado County,

This letter is being sent as a courtesy to notify you that the County of El Dorado has postponed the hearing regarding whether the conditions in the California Code of Civil Procedure (CCP) Section 1240.030 have been met concerning your subject property, and, if so, to adopt a Resolution of Necessity (Resolution) to acquire a portion of your property in eminent domain to **August 30, 2022 at 2:00 p.m., at 330 Fair Lane, Building A, Placerville, California.**

As a reminder, the El Dorado County Department of Transportation is in the process of acquiring right of way for the Newtown Road at Weber Creek Bridge Replacement Project, CIP #77122/#36105030. The law provides procedures for public agencies to acquire private property for public use. It requires every agency which intends to condemn property to notify the owners of its intention to condemn. California Code of Civil Procedure (CCP) Section 1240.030 provides that the power of eminent domain may be exercised to acquire property for a proposed project if the following three conditions are established:

- (A) The public interest and necessity require the project.
- (B) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- (C) The property sought to be acquired is necessary for the project.

Also, CCP Section 1245.230 requires that the offer required by Section 7267.2 of the Government Code has been made to the owner of record, unless the owner cannot be located with reasonable diligence. A written offer required by Section 7267.2 of the Government Code was sent to you on January 27, 2022, at the address that was listed on the last equalized county assessment roll.

Questions regarding the amount of compensation to be paid or the value of the property to be acquired are not part of this proceeding and the Board of Supervisors will not consider

such in determining whether a Resolution should be adopted.

If you intend to appear at the August 30, 2022 meeting, or wish to file additional written objections, please include a statement in that request to appear or written objection indicating which of the three conditions listed in the first paragraph above you contend have not been met. By designating which of the conditions form the basis of your challenge and explaining why you believe they have not been met, you will enable the County Board of Supervisors to conduct a full and expeditious review of the project's effect on your property.

The Board of Supervisors' adoption of the Resolution authorizes the County of El Dorado (the "County") to acquire the properties by eminent domain. Within six months of the adoption of the Resolution, the County will prepare and file a complaint in Superior Court commencing the eminent domain proceeding. All issues related to the compensation to be awarded for the acquisition of your properties will be resolved in this court proceeding.

If you have any questions, please call me at (530) 642-4974.

Sincerely,



John Kahling
Deputy Director, Engineering
Department of Transportation

CC: Cristopher Washington, Eminent Domain Law Group



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(530) 573-3180 / (530) 577-8402 Fax

August 3, 2022

via First Class Mail, certified mail, and email
TribalCouncil@ElDoradoNisenanMewuk.com

The Wopumnes Nisenan-Mewuk Tribe of El Dorado County
PO Box 1712
Shingle Springs, CA 95682

Re: Notice of Intent to Adopt Resolution of Necessity
Newtown Road at Weber Creek Bridge Replacement Project CIP
#77122/36105030
Assessor's Parcel No: 077-431-062 ("Subject Property")
4820 Newtown Road, Placerville, CA

Wopumnes Nisenan-Mewuk Tribe of El Dorado County,

Reference is made to my letter to you dated August 1, 2022. The August 1 letter is rescinded and replaced with this letter, dated August 3, 2022. My apologies for any inconvenience.

This letter is being sent as a courtesy to notify you that the County of El Dorado (County) has postponed the August 16, 2022 Resolution of Necessity hearing related to your easement over the subject property. **This hearing will now take place on August 30, 2022 at 2:00 p.m. in the Board of Supervisors Meeting Room at 330 Fair Lane, Building A, Placerville, California.** At this hearing, the El Dorado County Board of Supervisors will determine whether the conditions in the California Code of Civil Procedure (CCP) Section 1240.030 have been met concerning your subject property, and, if so, to adopt a Resolution of Necessity (Resolution) to acquire a portion of your subject property in eminent domain. We previously sent you a Notice of Intent to Adopt a Resolution of Necessity on June 9, 2022.

The County is in receipt of the letter from your counsel, Mr. Christopher Washington, dated June 23, 2022, stating your objections to the proposed Resolution of Necessity for the property interests sought to be acquired from your subject property and your request to be heard at the hearing. Your objections and request were noted in the record and you are not required to raise them again. However, if you or counsel would like to appear before the Board of Supervisors in person or via video conference at the August 30, 2022, hearing please submit a request to the Clerk of the Board of Supervisors at the following address: Clerk of the Board of Supervisors, County of El Dorado, 330 Fair

Lane, Placerville, CA 95667. For your convenience, you may also send this request via email to edc.cob@edcgov.us. Please submit this request no later than 5:00 p.m. on **August 16, 2022**. All written objections or communications regarding this matter filed with the Board of Supervisors will become part of the official record of the meeting at which the Board of Supervisors hears the Resolution. In addition, if you intend to rely on any presentation materials, such as PowerPoint, please send those materials to the Clerk of the Board of Supervisors via email at edccob@edcgov.us no later than 5:00 p.m. on **August 26, 2022**.

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Sincerely,

John Kahling

Digitally signed by John Kahling
DN: cn=John Kahling, o=El Dorado County
Department of Transportation, ou=Headington
Engineering Unit, email=john.kahling@edcgov.us,
c=US
Date: 2022.08.03 14:27:52 -07'00'

John Kahling
Deputy Director of Engineering
El Dorado County Department of Transportation

c: Cristopher Washington, Eminent Domain Law Group