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BOS Meeting Oct.24.2017; Bio Resources/ORMP; File # 12-1203, Agenda Item 34

1 message

Cheryl <Cheryl.FMR@comcast.net>

Mon, Oct 23, 2017 at 7:04 PM

To: The BOSONE <bosone@edcgov.us>, The BOSTWO <bostwo@edcgov.us>, bosthree@edcgov.us, bosfour@edcgov.us, bosfive@edcgov.us, Jim Mitrison - El Dorado County <jim.mitrison@edcgov.us>, EDC COB <edc.cob@edcgov.us>

Supervisors and Jim--

I've attached comments for the Biological Resources Policy Update/Oak Resources Management Plan BOS meeting.

Jim--Please add these comments to the administrative record--File # 12-1203, Agenda Item 34.

Thank you--

Cheryl Langley

Shingle Springs Resident

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194K

**Public Comment—Biological Resources
Policy Update/ Oak Resources Management Plan (ORMP)**

Cheryl Langley

Board of Supervisor’s Meeting, October 24, 2017

File No. 12-1203; Agenda Item #34

Supervisors—

I urge you to **not approve the Biological Resources Policy Update/Oak Resources Management Plan (ORMP) project.** This project requires *extensive* amendment to incorporate environmental protections. As an alternative—**if you do move forward with a project—I urge the Board to select the “No Project” alternative** and implement the 2004 General Plan biological/oak mitigation policies; this would be a superior alternative.

Scope of Loss

The potential loss of oak woodland in the County is breathtaking. It is anticipated the Oak Resources Management Plan (ORMP) **exemptions alone (non-mitigated loss) could result in the loss of 138,704 acres of oak woodland; total potential loss is estimated to be 145,552 acres of oak woodland¹ — nearly 60% of the County’s oak woodland inventory.²** But this 60% estimate **does not take into account** loss of oak woodland on **tribal lands** such as the Shingle Springs Rancheria,³ impacts from **woodcutting operations,** or loss related to future General Plan amendments.⁴ Thus, the estimate proposed in the Oaks 2040 report that concludes **80% of the County’s oak woodlands may be developed by 2040** is likely accurate.⁵

In the face of this loss, the *Findings of Fact* document for this project specifies “...at least **5,945 acres** of oak woodlands within the county [would be] permanently protected under deed restrictions and conservation easements.”⁶ **This amounts to only about 4% of the County’s existing oak woodland.** This is small compensation for such extreme loss.

Elimination of Oak Retention Standards

County staff repeatedly asserts that this project—which removes oak retention standards and allows 100% removal of oaks from project sites—is necessary to enable intensive development to occur in the Community Regions. Intensifying development in the Community Regions, staff emphasizes, spares the oak woodlands in rural areas from development that might otherwise *of necessity* occur there to accommodate the County’s “fair share” housing commitments under the Regional Housing Need Allocation (RHNA). But the approved *2013 Housing Element* reveals adequate housing opportunities are available in the County in a surplus that **can accommodate oak retention and housing:**

Table HO28
2013 Land Inventory Summary –El Dorado County

	Income Category			
	VL/L	Mod	Above	Total
Units approved or under construction	108	2	124	234
Entitlements (lots)*	--	--	5,762	5,762
Vacant land - residential	2,338	764	10,151	13,253
- West Slope	2,134	675	6,720	9,529
- East Slope	204	89	3,431	3,724
Vacant land - commercial/mixed use	257	--	--	257
Underutilized land - residential	925	148	0	1,073
Potential second units**	406	0	0	406
Subtotal	4,034	914	16,037	21,085
RHNA (net 2013-2021)	1,740	821	1,633	4,194
Surplus (Deficit)	2,294	93	14,404	16,791

Source: El Dorado County Community Development Agency, 7/2013
* Includes Approved Specific Plans, Tentative and Parcel maps west slope only
** Estimated 4% of Vacant land - residential, "Above"

Table Source: El Dorado County General Plan 2013-2021 Housing Element Update, October 29, 2013; Table HO28, page 4-69.

¹ Staff Memo 22C, Exhibit A-1; *Draft CEQA Findings of Fact*; Legistar File No. 12-1203, page 27 of 50.

² The County’s oak inventory is estimated to total 246,806 acres (*Draft EIR*, page 6-58 (table)).

³ Staff Memo 22C, Exhibit A-1; *Draft CEQA Findings of Fact*; Legistar File No. 12-1203, page 5 of 50.

⁴ Seven high-density residential projects that require General Plan amendments may be approved; *Findings of Fact*, page 24 of 50.

⁵ Staff Memo 22C, Exhibit A-1; *Draft CEQA Findings of Fact*; Legistar File No. 12-1203, page 33 of 50.

⁶ *Ibid.*

Thus, the argument that oak retention standards somehow obstruct the County's ability to meet housing "requirements" is totally unsubstantiated. And importantly, approval of the TGPA/ZOU increased development types and intensities in rural areas, revealing a contradiction to the stated interest in maintaining oak woodlands in those areas.

Integrated Natural Resources Management Plan (INRMP) Elimination

According to the *Findings of Fact* document for this project:

Since the amended policies eliminate the requirement for an INRMP, the Board can only approve the Project if it finds that the INRMP is now infeasible.⁷

Staff describes its rationale for the elimination of the INRMP in the following manner:

*As noted In the Planning Commission staff memo... the County's so far unsuccessful effort to implement the existing biological polices is well documented. Consultant contracts alone have cost the County over \$1.7 million, plus hundreds of hours of County staff and PAWTAC/ISAC time spent over the past 10 years towards these efforts. While INRMP Phase 1 baseline data remains useful, the County's inability to move forward with INRMP Phase 2 (the actual implementation of the INRMP) has unintentionally become an impediment to the County's ability to achieve General Plan goals and objectives...*⁸

But **staff has failed to provide evidence supporting the conclusion that the INRMP is infeasible.** Saying the "well documented" effort was "unsuccessful" does not make it so. In fact, it appears **the attempt to implement the INRMP was simply mismanaged.** (This approach to project management was *not* used to develop the Bio Update/ORMP project—it was "adjusted.")

In the case of the INRMP, the Board directed staff to select an ad hoc committee *composed of three committees.* The Plant and Wildlife Technical Committee (PAWTAC) and the INRMP Stakeholders Advisory Committee (ISAC) were joined by the Economic Development Committee (EDAC) to develop implementation goals and standards. **Now three committees with "polarized positions" were tasked with completing Phase 2 INRMP implementation guidelines.**⁹ When this approach proved unworkable, rather than abandon the format and hire a consultant to develop Phase 2 implementation strategies—with decision points rendered by the Board (the approach taken to develop the Bio Update/ORMP project)—the INRMP was simply discarded, and labeled "infeasible."

But there is more to this story. Rather than simply implementing an **Option B** in-lieu fee mitigation program **within** the existing Oak Woodland Management Plan (OWMP) framework (an approach presented to the Board as **Option 2**, which **had the added benefit of not requiring a General Plan amendment**),¹⁰ the County moved forward with an entirely new project:

*[P]rimarily because the [existing] policies are confusing, (e.g., "oaks," "oak woodlands" and "oak habitat" do not mean the same thing and are used inconsistently and sometimes interchangeably).*¹¹

Rather than clarify definitions within an existing 2004 General Plan framework, the INRMP concept was discarded in favor of starting from scratch.

The challenge to INRMP development—caused by a faulty multi-committee approach to INRMP completion—coupled with a lack of will to clarify definitions, **does not make the INRMP infeasible.** The approach used to develop this new Bio Update/ORMP project—namely the elimination of the multi-committee approach—could have been successfully applied to INRMP development. **Thus, this argument of INRMP infeasibility simply does not "hold water." By accepting this rationale for INRMP infeasibility, the Board is risking a challenge to project approval.**

⁷ Staff Memo 22C, Exhibit A-1; *Draft CEQA Findings of Fact*; Legistar File No. 12-1203, page 15 of 50.

⁸ Staff Memo 22C, Exhibit A-1; *Draft CEQA Findings of Fact*; Legistar File No. 12-1203, page 14 of 50.

⁹ Staff Memo 22A, Legistar File No. 12-1203, page 12 of 35.

¹⁰ Staff Memo 22A, Legistar File No. 12-1203, page 13 of 35.

¹¹ *Ibid.*

Offsite / Out-of-County Mitigation

What seems *not* to be discussed is that offsite mitigation can be *far* offsite. For instance, for the El Dorado Hills Serrano development, offsite mitigation for wetlands was in part compensated for in the following manner:

As part of offsite mitigation requirements, a minimum of 80 acres of floodplain...will be returned to the Cosumnes River at the Nicholas Ranch site located at The Nature Conservancy's Cosumnes River Preserve, Gait. California.¹²

Mitigation performed offsite does little to benefit El Dorado County resident wildlife. And while this type of mitigation can be used effectively to “save” endangered or threatened species elsewhere in the State—and this is a commendable endeavor—this will not necessarily be the case with site selection under this project. In fact, because acreage of oak woodlands may be conserved **by developers under private conservation agreements with willing sellers,**¹³ this means sites may be selected anywhere in the State, and may not prove particularly beneficial to wildlife inside or outside of the County. **There is a need to specify mitigation will be performed within the County, with the possible exception of agreements made with reputable conservation organizations, aimed at the preservation of threatened and/or endangered species elsewhere in the State.**

Keeping mitigation for the loss of mature oaks/oak woodland within the County is important, too, because the remaining mitigation will likely take the form of planted **acorns and/or saplings.** This type of mitigation will equate to an incredible loss of wildlife habitat; **it will take decades for such mitigation to replace mature woodland. This loss—coupled with out-of-County mitigation—will prove devastating to resident wildlife.**

Project Alternatives and Mitigation Measures

County staff has been presented with **a feasible project alternative, plus multiple suggestions for mitigating and avoiding the adverse environmental impacts of this project,** but has rejected these proposals minus a sound basis for rejection. This makes the following comment in the *Statement of Overriding Considerations* document particularly confounding:

No additional feasible mitigation measures have been determined to be available for these significant and unavoidable impacts. *The Board of Supervisors finds that, in light of the mitigation measures adopted in conjunction with adoption of the General Plan in 2004 and Targeted General Plan Amendment-Zoning Ordinance Update (TGPA-ZOU) in 2015, along with the two mitigation measures adopted with the Project, there are no other available feasible mitigation measures or alternatives that the Board could adopt at this time which would reduce these impacts to a less-than-significant level.*¹⁴

Mitigation measures and a feasible project alternative presented by the public in numerous documents and in public testimony need to be included in a recirculation of the project EIR. While it may be true implementing the proposed mitigation measures—and the project alternative—cannot reduce the project’s impacts to a **“less than significant level,”** it is nonetheless indisputable that the **suggested project alternative and mitigation measures would reduce the project’s adverse environmental impacts.** In this case, even **reducing project impacts incrementally** would make a difference to wildlife, and to County residents that appreciate the natural environment.

Conclusion

Supervisors, I urge you to **not approve the Biological Resources Policy Update/Oak Resources Management Plan (ORMP) project.** This project requires *extensive* amendment to incorporate environmental protections. **The EIR for this project should be recirculated after it has been amended** with a project alternative and mitigation measures suggested by the public. **As an alternative** I urge the Board to **select the “No Project” alternative** and implement the 2004 General Plan biological/oak mitigation policies; this would be a superior alternative.

¹² Jones & Stokes Associates, Inc. 1998. *Final Serrano El Dorado Hills Development Project, El Dorado Hills, California, Wetland and Oak Mitigation: 1997 Annual Monitoring Report.* January, 1998; page 1-12. Wetlands mitigation performed under U.S. Army Corps of Engineers permit no. 9000625 (1991).

¹³ El Dorado County. 2016. *Draft Environmental Impact Report, Appendix C, Proposed Oak Resources Management Plan,* June, 2016; page 22 (pdf page 27 of 215).

¹⁴ Staff Memo 22D, Exhibit A-2; *Draft CEQA Statement of Overriding Considerations;* Legistar File No. 12-1203, page 5 of 10.