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# MEMORANDUM

**TO:** Scott DeLeon, Planning Director, Community Development Department, Lake County

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**FROM:** Ryan Sawyer, AES

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**DATE:** 7/17/2020

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**RE:** Response to July 16, 2020 Letter from the California Wildlife Foundation

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This memorandum contains responses to the July 16, 2020 comment letter submitted by the California Wildlife Foundation following release of the Final EIR.

## **CALIFORNIA WILDLIFE FOUNDATION COMMENT LETTER, JULY 16, 2020**

The commenter raises several broad concerns that are addressed in detail below. Comments received were related to biological resources and greenhouse gas emissions.

### **Definition of Oak Woodland**

The commenter cites multiple definitions of forest and oak woodland. Below is a summary of each citation, along with its applicability to the Proposed Project, and the Proposed Project's consistency with the various definitions of forest and oak woodland. Oak woodlands and impacts to oaks are defined by the Proposed Project in the following way:

- Areas where vegetation was dominated by oak tree species at 10 percent or greater absolute cover were classified as oak woodland.
- Areas of 10 to 60 percent absolute cover of oaks were defined as oak savanna, a sub-set of oak woodland. This allowed for better defined mitigation to prevent use of low density oak woodland preservation as offsetting mitigation for impacts to high-density woodland.
- Impacts to individual trees require mitigation when the individual tree measures greater than three inches in diameter at breast height (dbh).

### Oak Woodlands Conservation Act

The commenter states that the Proposed Project should be wholly consistent with the definition of oak woodlands as defined within the Oak Woodlands Conservation Act. As stated in the Response to Comment O8-03 in Volume I of the Final EIR, "Use of this definition for the Proposed Project is not appropriate, as this definition applies only to activities falling within the scope of the Oak Woodlands Conservation Act. Activities under this article are limited to specific types of projects such as those

seeking monies from the Oak Woodlands Conservation Fund for the creation of oak preservation areas such as conservation banks. The Proposed Project does not meet the requirements to be considered an activity as detailed within the Oak Woodlands Conservation Act. Therefore, the definition of oak woodlands provided by the Oak Woodlands Conservation Act does not apply to the Proposed Project.”

Please note that the definition of oak woodlands utilized in the Final EIR is consistent with the definition of oak woodlands as defined within the Oak Woodlands Conservation Act with the singular exception that the Proposed Project does not consider impacts to areas of historical oak woodlands, or areas that may support but do not currently support oak woodlands. As stated within Section 3.0 of Volume I of the Final EIR, “The California Environmental Quality Act (CEQA) Guidelines (California Code of Regulations Section 15125[a]) state that: An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the Notice of Preparation (NOP) is published, or if no NOP is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.”

For the purpose of CEQA, the Proposed Project is not required to mitigate for impacts to areas of historical oak woodlands that are no longer present at the time of the environmental baseline, nor does the Proposed Project required to mitigate for impacts to areas that may support oak woodlands but did not at the time of the environmental baseline.

#### Professional Foresters Law

Please note that, as stated in the comment letter, “*Forestry* is defined as, ...the science and practice of managing forested landscapes and the treatment of the forest cover in general, and includes, among other things, the application of scientific knowledge and forestry principles in the fields of fuels management and forest protection, timber growing and utilization, forest inventories, forest economics, forest valuation and finance, and the evaluation and mitigation of impacts from forestry activities on watershed and scenic values... (PRC §753)” Please note that the Proposed Project does not propose any forestry activities that would be subject to the Professional Foresters Law.

The commenter refers to a comment letter provided to the County in 2006 that contains the definition of “forest” as provided by the Board of Forestry and Fire Protection Professional Foresters Registration. This definition, as quoted, reads “The Board of Forestry and Fire Protection has generally interpreted the term *significant stand of tree species* to mean those stands with a canopy cover of 10% or greater.” Please note that this definition, regardless of its applicability to the Proposed Project, is consistent with the definition of oak woodland utilized in the Final EIR.

#### Public Resources Code §12220(g)

As correctly stated within Section 3.2.4 of Volume II of the Final EIR, “Neither the Guenoc Valley Site nor adjacent properties are zoned for timberland, forest land, or timberland production. The only commercially harvestable forest land within the Guenoc Valley Site consists of approximately 61 acres of Douglas fir forest land concentrated in the southernmost portion of the site (**Appendix BRA2**).” This code defines forested land as, “land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits.”

Please note that this definition, regardless of its applicability to the Proposed Project, is consistent with the definition of oak woodland utilized in the Final EIR.

#### Health and Safety Code Section 42801

This refers to the California Climate Action Registry, which promotes activities that manage and reduce greenhouse gas (GHG) emissions. The code cited is a declaration of goals and a statement of commitment to make reasonable efforts to review and enact programs with the intent of managing and reducing GHG emissions. No further information is provided within this code relevant to the Proposed Project, and the definition of “forest” provided within is not applicable to the Proposed Project.

Please note that the definition of oak woodlands utilized in the Final EIR is consistent with the definition of “forest” as defined within the Health and Safety Code Section 42801 with the singular exception that the Proposed Project does not consider impacts to areas that may support but do not currently support oak woodlands. As stated within Section 3.0 of Volume I of the Final EIR, “The California Environmental Quality Act (CEQA) Guidelines (California Code of Regulations Section 15125[a]) state that: An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the Notice of Preparation (NOP) is published, or if no NOP is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.”

For the purpose of CEQA, the Proposed Project is not required to mitigate for impacts to areas that may support oak woodlands but did not at the time of the environmental baseline.

#### Public Resources Code §4793(e)

This code applies a definition of forest for the purpose of activities that proposed forest resource improvement projects. The Proposed Project does not include forest resource improvement projects subject to the definition of forest in Public Resources Code §4793(e). Please note that this definition, regardless of its applicability to the Proposed Project, is consistent with the definition of oak woodland utilized in the Final EIR.

#### Public Resources Code §21083.4

This public resource code does not specifically define oak woodland. The commenter provides “a summary memo by Leah Gardner of the Department of Conservation on the greater than ten percent metric for defining oak woodlands in the context of Public Resources Code §21083.4.” Per this memo, the commenter cites that, “Oak woodland is defined as a habitat with over 10 percent of the canopy cover comprised of native oak trees in the genus *Quercus* with a diameter at breast height (DBH) greater than 5 inches.” Please note that the Proposed Project is wholly consistent with the definition of oak woodland as presented within this memo and identifies mitigation for individual oak at or greater than three inches in dbh, which is more protective than the definition cited by the commenter.

## **Transplanting of Oaks**

The commenter states concerns over the efficacy of transplanting oak trees. It is incorrect to state that the Final EIR does not require additional mitigation for transplanted trees. As stated previously in the Response to Comment O8-09 within Volume I of the Final EIR, “The Oak Preservation Plan clearly states that, “Transplanted trees will be monitored as outlined in Section 5.0. Should a transplanted tree fail, replanting as outlined in Section 2.2 will occur.” Transplanting of mature trees offers the applicant the unique opportunity to preserve a mature tree rather than removing and replacing a healthy tree that has the potential to be effectively preserved through transplanting. Mitigation presented requires monitoring to ensure the success of transplanting and is subject to adaptive management recommendations presented by a qualified biologist in the annual reports required within the Oak Mitigation Plan.”

Therefore, the Final EIR prioritizes preservation of the life of existing oak trees, and requires monitoring of transplanted trees to ensure establishment. Should a transplanted tree fail, the Oak Mitigation Plan requires that mitigation occur as though the tree was removed. This would require planting at a ratio of 2:1 for failed transplants with a dbh between 3 and 15 inches, or a planting ratio of 5:1 for failed transplants with a dbh exceeding 15 inches. Mitigation plantings for failed transplants would be monitored for a minimum of 7 years and are required to meet an 80 percent success rate.

The commenter states that the monitoring period for transplanted trees be extended to 7 years. As stated in Response to Comment O8-09 within Volume I of the Final EIR, “PRC Section 21083.4 applies only to those trees planted for the purpose of mitigation and does not apply to transplanting of trees. Therefore, the seven-year requirement of this regulation does not apply to oaks transplanted. The required three years of monitoring has been retained within the Oak Mitigation Plan (Appendix OAK of the Draft EIR).”

### **Consistency with Local Policies**

The commenter cites multiple references related to local code and conservation of biological resources. Below is a summary of each citation, along with its applicability to the Proposed Project, and the Proposed Project’s consistency with the various policies and references. Please note that the County is the appropriate agency to determine consistency with its policies, including those related to the protection and preservation of biological resources. The County will consider comments that express the opinion that the Proposed Project is inconsistent with County policies in its decision-making process.

#### Guenoc Water Rights Modification Project

The Guenoc Water Rights Modification Project was approved and is a separate project from the Proposed Project. The mitigation presented for the Guenoc Water Rights Modification Project has already undergone the process of public review and agency approval and is not subject to further review. The Open Space Preservation Plan was designed to offset the Guenoc Water Rights Modification Project’s impacts to open space and wildlife movement. This Plan required that, for every acre of vineyard developed, an acre of open space be preserved at the time of vineyard development. This mitigation is separate from the Guenoc Water Rights Modification Project’s mitigation for impacts to oaks. The Proposed Project has included a discussion on impacts to oaks and to open space in general. This discussion includes a detailed analysis of the consistency of the Proposed Project with the existing Open Space Preservation Plan and local plans and policies. This discussion is included in Section 3.4.4 of Volume II of the Final EIR. Please note that the Proposed Project dedicates an Open Space Combining District that sets aside 2,765 acres of open space. This guarantees dedication of open space up to the full amount potentially required for the Guenoc Water Rights Modification Project mitigation. The Open Space

Combining District contains significant sensitive biological resources including oak woodlands, special-status plants, and the riparian corridor along Bucksnot Creek. A full discussion on the habitat included within this area is included within Revised Appendix OSPP in Volume III of the Final EIR.

The commenter states that, "In considering the approval of the Guenoc Valley Mixed- Use Planned Development Project the Board could require off-site conservation easements to further mitigate the environmental impacts of the project and thereby uphold the county's environmental protections." It is correct to state that the County is the appropriate agency to determine consistency with its policies, including those related to the protection and preservation of biological resources.

#### Lake County Board of Supervisors Resolution #95-211

This Resolution was passed in 1995 to allow for the Lake County Coordinating Resource Management Committee to conduct monitoring of oak habitat. The Committee was tasked with generating reports every five years and reporting significant reductions in oak woodland habitat. In instances where significant loss of oak habitat was observed, the Committee was to recommend an action plan to the Board of Supervisors. This Resolution in and of itself did not prescribe methodology for defining a significant impact and the requirements for mitigating actions when a significant impact was observed. The Lake County Coordinating Resource Management Committee is no longer active, and a review of County records did not reveal the completion of five-year monitoring reports. The Resolution generally supports the use of conservation easements to protect oak woodlands.

Current County policies and goals, such as those included within the General Plan and discussed within the Final EIR, define more clearly what constitutes a significant impact to oak habitat. These policies were largely developed following the approval of the 2009 Final EIR for the Guenoc Valley Water Rights Modification Project. The County will review the Proposed Project and determine consistency with its policies in its decision-making process in the context of the current goals and policies surrounding impacts to oak habitat.

#### General Plan Policy OSC-1.13

This policy reads, "The County shall support the conservation and management of oak woodland communities and their habitats." Table 1 of the Oak Mitigation Plan (Appendix Revised Oak in Volume III of the Final EIR) identifies the Proposed Project's potential to impact oak woodlands. Please note that the Proposed Project has the potential to impact up to 316 acres of oak woodland. A total of 161 acres was approximated based on the proposed roadway development, which would result in impacts to individual trees rather than full acres of oak habitat. This impact is evaluated on a tree-by-tree basis as impacts will be to a small number of trees resulting in thinning of canopy rather than complete conversion of oak woodlands. The Oak Mitigation Plan notes this and explains that an approximate calculation of acres is provided to demonstrate approximate impacts as an exact tree count cannot be completed at this time. Additionally, the Final EIR prioritizes avoidance of oak woodlands when siting residential impacts. Therefore, it is extremely unlikely that the Proposed Project would result in conversion of the full 180 acres of potential impacts to oaks within residential parcels.

Therefore, the Proposed Project would convert a maximum of 316 acres of oak woodland. This represents 5.6 percent out of a total of approximately 5,692 acres of oak woodland on the Guenoc Valley Site. Considering the roadway impacts, despite these impacts representing thinning of oak woodland

rather than loss of oak woodland, this percentage would be 8.3 percent. Therefore, the Proposed Project avoids the vast majority of oak woodlands.

Appendix Revised Oak in Volume III of the Final EIR demonstrates the ability of the Guenoc Valley Site to support preservation of oaks at a rate of 3:1 for impact to valley oak woodland and 2:1 for all other forms of oak woodland as required by the Oak Mitigation Plan.

### **Cumulative Impacts to Oaks**

The commenter cites an article describing areas of Lake County that have been impacted by fires. For the Proposed Project, these fires occurred prior to the environmental baseline of April 2019. Therefore, impacts analyzed for the Proposed Project are considered in the context of the environment following the fires cited in the article. It should be noted that the article makes no mention of oaks, and the actual acres of oaks lost to these fires is not known.

Per CEQA guidelines Section 15130 (b):

“The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:

(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or

(B) A summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect. Such plans may include: a general plan, regional transportation plan, or plans for the reduction of greenhouse gas emissions. A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information such as a regional modeling program. Any such document shall be referenced and made available to the public at a location specified by the lead agency.”

Consistent with CEQA guidelines on cumulative impacts analysis, the Final EIR provides a cumulative context for the evaluation of the Proposed Project's cumulative impacts in Section 4.2, Volume II. The commenter does not raise any concerns with the cumulative context provided in the Final EIR. Wildfires are not considered projects and are therefore not included in the list of cumulatively considered projects.

Impact 3.4-7 presented within Section 3.4.4 of Volume II of the Final EIR provides an analysis of the Proposed Project's potential to generate cumulatively considerable impacts when considered with the cumulative context presented in the Final EIR. As stated within this section, “The majority of cumulatively considered projects would occur within ruderal habitat and utility or roadway right-of-ways. These areas typically consist of ruderal or disturbed habitat that is not sensitive and would therefore not contribute to reasonably foreseeable cumulative impacts to sensitive habitats.” It is noted that minimal impacts to oaks would occur that would require mitigation. Precise impacts to oaks were identified for one project that would result in the maximum loss of 13 valley oak trees. The most significant source of cumulatively considered impacts to oaks is the Guenoc Water Rights Modification Project, as this project results in impacts to oaks on and adjacent to the Guenoc Valley Site. Impacts to oaks resulting from the Guenoc Water Rights Modification Project are mitigated through a mixture of oak preservation and planting of trees. Revised Appendix OAK included in Volume III of the Final EIR demonstrates the ability of the Guenoc Valley Site to support ongoing mitigation for the Guenoc Water Rights Modification Project as

well as the Proposed Project. The cumulative impacts analysis did not identify cumulatively considerable impacts to oaks based on the cumulatively considered projects. The commenter did not raise concerns regarding the cumulative analysis of those projects identified in the cumulatively considered projects section.

## **Greenhouse Gas Impacts of Tree Removal**

### Greenhouse Gas Emissions from Forest Conversion

As described in Section 3.7.4 of the Final EIR, construction and operational GHG emissions from the Proposed Project were estimated using the California Emissions Estimator Model Version 2013.2 (CalEEMod) air quality model. Construction GHG emissions estimates for the Proposed Project include GHG emissions generated from the site preparation, grading, and building construction. The site preparation and grading phases of construction involve clearing vegetation and other unwanted material to ensure that the proper base and slope is created for the foundation. Accordingly, the GHG emission estimates for the Proposed Project included site preparation and grading for the entire developed area of the Proposed Project as described in Section 2.5.2 of the Final EIR.

The proposed oak woodland and forest conversions, described in Section 3.4.4 of the Final EIR, are consistent with the development footprint area described in the Project Description and input into CalEEMod. Therefore, the GHG emissions generated from construction of the Proposed Project, shown in Table 3.7-1A of the Final EIR, include all GHG emissions associated with the proposed oak woodland and forest conversions.

### Loss of Carbon Sequestration Capacity

As described in Final EIR Volume I, Section 3.0 response to Comment O8-10, the carbon sequestration capacity estimates evaluated 410 acres of oak woodland conversion. The total impact area of oak woodland conversion was reduced to account for the sparse canopy cover seen in the oak savanna sub-type of oak woodlands. As shown in Attachment A to Appendix WRA of the Final EIR, areas classified as oak savanna feature far less canopy cover than areas classified as oak woodlands. As described in Appendix WRA of the Final EIR, oak savanna may have canopy cover as low as 10 percent; whereas, areas classified as oak woodland have anywhere from 60 to 100 percent canopy cover. Therefore, it is reasonable to assume that the areas classified as oak savanna would have substantially less biomass and CO<sub>2</sub> accumulation than areas classified as oak woodland. Accordingly, the area of oak woodland conversion represents an accurate and reasonable estimate of the loss in carbon sequestration capacity associated with the Proposed Project.

As described in Section 3.7.4 of the Final EIR, the calculation of the one-time loss of sequestered carbon was calculated using CalEEMod default values and methodology. As described in the CalEEMod User Guide, the methods used to calculate the one-time change in carbon sequestration capacity due to a project are based on the 2006 IPCC Guidelines for National Greenhouse Gas Inventories, Volume 4. Forest Lands are further defined by IPCC to include the above-ground and below-ground biomass, dead organic matter, and soil organic matter. Therefore, in accordance with IPCC definitions, the carbon sequestration capacity estimates provided in Section 3.7.5 of the Draft EIR include estimated carbon sequestration capacity of understory vegetation.