

Letter 57

March 19, 2012

Kathy Sherman
LOP Ranchos
26393 Table Meadow Rd
Auburn, CA 95602

Re: Response to Rincon Del Rio Draft EIR.

To: Nevada County Planning Dept.

Please add this correspondence as part of the public record and the administrative record related to the Rincon del Rio project. This correspondence addresses serious issues and concerns regarding the Rincon del Rio project and the adequacy of the Draft EIR and should be included as part of Nevada County's administrative process in the event a court action occurs.

Cumulative Wildland Fire Hazards

Impact 3.8.8 The proposed project, along with increased urban development in Nevada, Yuba, and Placer counties, would result in cumulative wildland fire hazard impacts. (Cumulatively Considerable and Significant and Unavoidable)

The fire at Hwy 49 and Dry Creek Rd in 2009 spread rapidly and destroyed around 60 structures and 275 acres. That fire clearly shows the potential for disaster that a similar fire in the much more difficult to access Rincon del Rio site would create. In the event of a wildfire, the difficulties of evacuating 415 seniors, many who will be handicapped and have special needs, their support staff, and residents located along Rincon Way as well as Hidden Ranch Road from this area are substantial. Many trucks, helicopters and on-the-ground fire fighters were needed to extinguish the Dry Creek fire and that was in an easily accessible area. These seniors and all of the support personnel that the village requires will have a huge challenge to face in the event of fire, with one road leading in from Hwy 49 and a steep, gated, fire access road leading out to the Lake of the Pines Ranchos. Fires go up the hillsides and the Rodeo Flat proposed emergency exit could actually create a fire trap for vehicles travelling there due to the terrain and heavy roadside vegetation. There is simply too much risk involved to build a senior citizen village in this terrain. I believe the DEIR minimizes this risk to everyone in the Project as well as the existing community that uses Rincon Way to access Hwy 49.

57-1

Cumulative Traffic Impacts

Impact 3.14.8 Implementation of the proposed project, along with other traffic generated by existing and future development in the project area, would increase traffic in the project area. (Less than Cumulatively Considerable)

Driving risk on Hwy 49 is a constant consideration to all who use the Hwy 49 corridor. The additional impact created by the occupants of 415 senior residential units, their families, friends, RDR employees, service vehicles and emergency vehicles will be extreme. All of these vehicles will use Rincon Way to access and leave Rincon del Rio from Hwy 49 which has a speed limit of 65MPH (we know many vehicles will be travelling at 70-75MPH), and with no traffic light. The fact that Cumulative Traffic Impacts appears as Less than Cumulatively Considerable in the EIR indicates that the very serious issues of safety has been overlooked.

57-2

I have personally witnessed a vehicle crossing the 2 northbound lanes, then the center "suicide lane" of Hwy 49 and being directly hit by a southbound vehicle travelling 65 MPH. Another friend was in a vehicle that used a left turn lane to cross 2 lanes of Hwy 49 and was then hit by oncoming traffic near the Bear River Bridge. Another neighbor was hit from behind at 55 MPH

Letter 57 Continued

and suffered severe injuries near the Bear River Bridge, and another neighbor's entire family was severely injured when a distracted driver hit a vehicle slowing for a left turn lane, causing a head-on collision with my neighbor's vehicle on Hwy 49. The risk on Hwy 49 is real, it is not exaggerated, and will be greatly increased, especially to those crossing over lanes to enter Hwy 49 (RDR residents and staff) as well as the vehicles they may cross in front of in the area of Rincon Rd and Hwy 49. The DEIR minimizes the risks of traffic impact on Hwy 49 at Rincon Way.

57-2
Cont.

EMERGENCY VEHICLE ACCESS

As soon as it's known that there is a way to get from Hwy 49 to Rodeo Flat people will start trying to use the roadway, regardless of whether there is a closed gate or sign. Googlemaps already directs many users onto roads that are not designed for public use. The roads in LOP Ranchos are not county owned or maintained and are not built to county standards in regards to width, grade, or road base. They are in constant need of repair already and further use by heavy emergency vehicles serving this proposed project and others looking for a short cut in times of high traffic at Combie and Magnolia Rds would result in more rapid deterioration of Rodeo Flat and most likely Timber Ridge as well. The LOPRCS D barely collects enough money to maintain the roads now. Is it even legal to further burden us further with the potential of through traffic on our privately maintained roads for a village that does not even conform to the Nevada County General Plan?

Further, the roads in LOP Ranchos are used recreationally by many of the residents. There are no sidewalks. We walk with our children, strollers, and pets, and we ride bicycles and our horses on the roadsides. This is a daily activity for many residents here and even more-so during holidays and fair weather. Residents from Wolf Rd and LOP and other Nevada county areas drive to our neighborhood to go on walks and bike ride as well. It is one of the few rural areas that that has roads that are still considered safe for walking, riding and biking. SAFE pedestrian access to our roadways are important for our community's lifestyle and we need to preserve this unique aspect of our rural community.

57-3

We also have a private, deeded hiking and equestrian trail system that has several crossings on the roadways, including Rodeo Flat and Timber Ridge, which sometimes necessitates travelling along the roads to access different sections of the trails. The residents know this and are considerate to the hikers and horseback riders on the roadways, slowing and giving wide berth to the horses. The possibility of more traffic on the roads due to what others may see as a shortcut to Hwy 49 will present a danger to all the residents and visitors who use our roads for recreation. Even the roads being used more often for emergency traffic (we have hardly any now), with lights and sirens, could result in a horse becoming out of control and causing injury or even death to the rider or horse. The DEIR does not even address the impact to the residents of LOPR using LOPRCS D privately maintained, recreationally used, and "not to county standards" roads.

Conflict with Nevada County General Plan and Zoning Ordinance (Standards of Significance 2)

"Impact 3.10.2 The proposed project is not consistent with the existing General Plan land use designation or zoning for the project site. However, the project proposes amendments to the land use map and text of the General Plan and the zoning map and text of the County's Zoning Ordinance in order to achieve consistency. Therefore, this impact is considered to be less than significant."

57-4

"The proposed project, as a continuing care retirement community (CCRC) featuring single- and multi-family dwelling units at higher densities, is not an allowable use under the existing land use designations and would conflict with the site's existing zoning. As such, the project proposes

Letter 57 Continued

to amend the General Plan to establish a CCRC land use designation and to change the site's designation from PD-EST to PD-CCRC. The project also proposes to amend the County's Zoning Ordinance to establish and define a CCRC combining district and to rezone the site from RA-3-PD to PD-CCRC. These proposed changes would allow for the development of a continuing care retirement community on the project site while allowing for flexibility in site design, including the clustering of uses to minimize adverse effects to the natural resources on the site."

"Approval of the proposed project would eliminate all conflicts between the proposed project and the Nevada County General Plan and Zoning Ordinance. Therefore, upon approval the proposed project would not conflict with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Impacts would be considered less than significant."

I am not alone in believing that the above conclusion is completely illogical. Basically, it states that the Project is not in compliance with the Nevada County General Plan, but just go ahead and approve the project and that will change the County General Plan and then the Project will comply. I really have a problem with that attitude towards a General Plan that took years to develop and that was designed to promote development in areas where it is more appropriate to the existing communities.

This project requests a major change to the structure of the General Plan. It is asking for more dense usage in rural areas than planned for by the General Plan, and this is not just a South County issue. All of Nevada County's citizens need to be included in this Project's discussion and be made acutely aware of what the changes to the General Plan could mean throughout the county. These changes are inconsistent with the overall theme of the General Plan in keeping the rural areas "rural" and developing community areas where it is desirable. Nevada County should not be required to conform to a project that does not fit within the General Plan, instead, the developer should conform to the established zoning and General Plan of Nevada County. The DEIR minimizes the impact of a drastic change to the Nevada County General Plan.

I respectfully request that this Project be denied at it's present location and that the Nevada County General Plan not be changed to allow this type of project in any other inappropriate areas within Nevada County.

Respectfully,
Kathy Sherman

cc: Ed Scofield

57-4
Cont.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter 57 – Kathy Sherman

Response 57-1: The comment expresses concerns regarding wildland fires and the difficulties of evacuating residents and staff of the proposed project. See Master Response 2.

Response 57-2: The comment expresses concern with the cumulative increased trips on SR 49 and safety at the SR 49/Rincon Way intersection. Contrary to the assertion in the comment, Table 3.14-13 on page 3.14-36 of the Draft EIR (Section 3.14, Traffic and Circulation) demonstrates that operations along SR 49 would not degrade to unacceptable levels. Therefore, no mitigation is warranted. Traffic hazards and collisions are addressed on page 3.14-20 of the Draft EIR. Implementation of mitigation measure MM 3.14.4a would improve safety at the Rincon Way/SR 49 intersection by restriping the intersection to delineate dedicated left and right turn lanes on westbound Rincon Way.

Response 57-3: The comment expresses concerns regarding increased use of Rodeo Flat Road and Timber Ridge Drive due to the emergency access to the project at Rodeo Flat Road. As discussed in Master Response 1, in addition to signage and the physical gate on Rodeo Flat Road, there would be strict controls on access to and from the project site via the Rincon Way gate. These controls would limit the potential for through traffic illegally using the project site as a shortcut to access SR 49 and, therefore, new traffic using Rodeo Flat Road and Timber Ridge Drive would also be limited. Specifically, drivers trying to enter the project site from Rincon Way will be stopped at the gate to determine if they are residents or registered guests of the facility. This would prevent through traffic entering from Rincon Way. Because there would not be a substantial increase in traffic on these neighboring roads, there would not be an increase in risk to pedestrians or recreational use of the roads.

Response 57-4: The comment states the project is not in compliance with the General Plan. See Master Response 3.

Letter 58

Brian Foss, Nevada County Planning Department
950 Maidu Avenue
Nevada City, CA 95959
530-265-1256

1 March 2012

Dear Sir,

Please add this correspondence and any attachments as part of the public record and the administrative record related to the Rincon del Rio project. This correspondence addresses serious issues and concerns regarding the Rincon del Rio project and the adequacy of the Draft EIR dated January 2012 and should be included as part of the Nevada County's administrative process in the event a court action occurs.

AESTHETICS

Impact 3.1.1, 3.1-1a through 3.1-1d

These pictures show the Rincon del Rio property and how beautiful the area is, but do not show pictures of the homes just outside the property line and how close the Rincon del Rio cottages and duplexes will be to those residents that live on Connie Court and at that end of Rincon Way. How misleading these pictures are, some are taken at such a distance that you cannot see the homes up on Rodeo Flat Road. Connie Court is only about 12-17 feet wide and most of the units that would be built at that end of the project will totally block the rural views currently enjoyed by the Connie Court residents. Why don't the pictures show how close those residential units will be? What about the homes up on Rodeo Flat Rd and their view, we have personally stood out on their deck and can see down to the proposed building site. **Reject this project!!!**

58-1

Impact 3.1.3

We have enjoyed the night skies being able to see the stars and wonders in the heavens. The sky is black and not hampered with any lighting from below. It does not matter if the lights are turned down toward the street because the reflection of light is still there and lightens the sky. When you are near a light you cannot see all the stars because they fade and are not brilliant when it's black outside. Now those families up on Rodeo Flat Rd will have the glare from the lighting below at Rincon Del Rio. They enjoy their view, which will be blocked with all the lights in the little city of Rincon del Rio. And what about the effect of the extensive lighting throughout the project on the local wildlife? **Reject this project!!!**

58-2

Impact 3.1.4

'Moderately disturbed rural residential', what exactly does that mean? Our rural neighborhood was not disturbed until this Rincon del Rio project was first introduced. We as neighbors and fellow citizens of Nevada County are against the Developer trying to change our rural zoning to fit their self-serving purposes. This will affect all of Nevada County not just our little neighborhoods. Nevada County will suffer because of this developer. Do not capitulate to one property owner by changing or adding superfluous text to Nevada County's General Plan and Zoning Ordinance. **Reject this project!!!**

58-3

AGRICULTURAL AND FOREST RESERVES

Impact 3.2.1, 3.2.2, 3.2.3, and 3.2.4

All agricultural and forest reserves in Nevada County will be affected, so why is the developer saying it will only affect this 215 acres. 'The project proposes to rezone the site, which will eliminate any potential conflicts with currant zoning'. Rezoning will NOT stop the legitimate conflicts it will only circumvent them. This project is not appropriate for these 215 acres, and a rezone does not change that basic fact. **Reject this project!!!**

58-4

Letter 58 Continued

AIR QUALITY

Impact 3.3.1, (MM3.3.1a, 1b, 1c, 1d), Impact 3.3.2

The 215 acres is situated in a small V shape valley surrounded by neighbors and mountains. Health risks associated with intermittent exposure to construction-generated diesel exhaust emissions would not be anticipated to exceed applicable thresholds. There is no way for them to determine whether they exceed the applicable thresholds when it concerns someone else's breathing. Breathing is essential to life. The concentration of gas/diesel smoke will hamper the breathing of clean fresh air. These emissions if there is not a breeze could and probably will permeate the homes around it, especially those on Connie Court, the top of Rincon Way, Beaver Court, Pheasant Court and Starfire Court. Those that already have breathing problems will suffer more than they already do. **Reject this project!!!**

58-5

Impact 3.3.3

Each residence will be equipped with a non-wood-burning heating source. **Fire alarms are sounding!!!!** If every residence (well over the 216 units and other buildings mentioned in the proposed plans) has it's own propane heating tank, can you imagine the explosion that would happen if there was a fire. Tanks that house flammable liquids can explode because of intense heat, and if fire blankets the area in the tops of the trees the fire will create an oven effect which will trap the heat of the fire and BOOM you have a combustible explosion. Those that use wood burning stoves know this fact. Fire is not particular in what it burns. Since Rincon del Rio is a V shaped piece of property and the Rincon del Rio community is clustered at the western top of the V with approximately 795 residents, guests and employees there will not be enough time to evacuate them and the surrounding neighborhoods especially those using the Rodeo Flat Rd fire exit gate that is proposed. Rincon Way will be congested with cars backed up to Rodeo Flat Road. This could be a potential atom bomb. Those that do make it to Hwy 49 could cause a traffic jam because of fear and not being able to enter highway 49 from others trying to escape the fire. It has also been said that this evacuation route will also include residents from the Ranchos, Lake of The Pines, Darkhorse and surrounding Combie areas attempting to escape via that unsafe steep windy road down thru the project and out Rincon Way. It is a catastrophe waiting to happen...a 911 nightmare! **Reject this project!!!**

58-6

Impact 3.3.4 through 3.3.8

Mountain County Air Basin could be contaminated with all the increased fumes invisible or not. Once again others who do not live here are setting standards of breathing for those of us who do. **Reject this project!!!**

58-7

BIOLOGICAL RESOURCES

Impact 3.4.2, MM3.4.2a through MM3.4.2e

The red-legged frog, once found it will be removed? Is that all? **Reject this project!!!**

58-8

Impact 3.4.5

What about all the other wild life here? Every year we have two sets of mallard ducks that hatch their chicks within the cattails and swim in the pond. Once in a while there is a second set. White Egrets use our pond too...usually there are two. The stream and cattails along with the blackberries that border our PRIVATE rural road house a flock of quail each year (10 or more at each counting) and other small birds such as finches in many varieties. We also have hawks, owls, woodpeckers, turkey buzzards, blue jays, hummingbirds, foxes, coyotes, deer, jack rabbits, raccoons, skunks, wild turkeys, frogs, fish and snakes (poisonous and not). Please take this local wildlife into consideration when assuming to use our PRIVATE rural road as entrance to the project. **Reject this project!!!**

58-9

Letter 58 Continued

Impact 3.4.10, MM 3.4.10

Do you really think posting Rattlesnake Danger signs will protect the elderly? They walk slower and some have canes or walkers to support them as they traverse the hilly trails throughout the proposed development. Making a startled and frightened escape could cause RDR's elderly residents to fall and welcome a bite from the Rattlesnakes, not to mention a broken bone or two. Rattlesnakes will be drawn to the warmth of all the concrete and asphalt in the Rincon del Rio community. For the safety of the elderly; **Reject this project!!!** 58-10

HAZARDOUS MATERIALS/ HUMAN HEALTH

Impact 3.8.7, MM3.8.7, Impact 3.8.8, also see above Impact 3.3.3

It's always good to have an evacuation plan in case of wildfire and any other disaster. From past experience we know that fire can travel very fast especially whipped up by the wind. We do not have hours to think things through; we have only minutes to evacuate. Lets say the mobile elderly do get out, what about all the immobile elderly, the bed ridden patients who cannot move on their own. The fire department will be fighting the fire and not concentrating on removing the elderly from their homes. Will Rincon del Rio have enough emergency transportation on hand and drivers for these vehicles in case of a fire? I don't believe so. **It would be a 911 Nightmare!!! Reject this project!!!** 58-11

HYDROLOGY AND WATER QUALITY

Impact 3.9.1, 3.9.2

The process of constructing Rincon del Rio and possible water runoff is mentioned but not the run off of harmful chemicals used on lawns and orchards or involved with the medical facilities within the project that will flow to the Bear River and consequently down stream. There happens to be a swimming hole just before the Bear River Bridge. What will be the health factors of kids swallowing the harmful chemicals as they swim? Not worth the risk. **Reject this project!!!** 58-12

LAND USE

Impacts 3.10.1, 3.10.2

Rincon del Rio wants to change the zoning ordinances which include the addition of many businesses, within our rural community, this means a little city will be built, and with that comes the problems of city life which include crime. We went into debt, taking a big chance to get away from crowded neighborhoods, traffic, urban life style, crime, and to give our family a safer and better place to grow up. This was our purpose for moving here. Now this proposed project will bring everything back that we moved out here to avoid. We like it here because it is peaceful and there is a bit of open space between great neighbors. The proposed project would not physically divide an established community . That's exactly what it **will** do. Our community including the whole of Nevada County love where we live and do not want a division, it only benefits this developer and any future land developers. Please do NOT make the developer's proposed changes to Nevada County's General Plan and Zoning Ordinance, which were conscientiously written to protect Nevada County's rural lands from wanton over development. **Reject this project!!!** 58-13

Impact 3.10.5

...would not result in any significant increased land use. What does "significant increase" mean? Our roads are PRIVATELY owned and maintained. How much private property will be stolen from us in order to widen Rincon Way for the proposed requirements to Rincon del Rio? What right does this private developer have to take our land for their self-serving purposes? NONE! **Reject this project!!!** 58-14

Letter 58 Continued

NOISE

Impact 3.11.1, MM3.11.1, 3.11.2, MM3.11.3

It does not matter how many devices are put on equipment to muffle the noise, it is still heard. Not everyone has a 9 to 5 job, some go to bed in the middle of the day and get up in the early morning hours. So their sleep will be affected. Also a concern are the 24/7 noises from ambulances, fire department, police, para-transit vehicles, delivery trucks of every kind, cars from the tenants, their families, friends, reporters and TV crew who cover the accidents on highway 49, all the lawn equipment big and small, and also the compressors and generators for the water and sewer stations. Noise travels and is constant just like the dust that will be filling our homes during the years of heavy construction.

What about all the livestock; horses, goats, sheep and other animals domesticated and not that belong to families that live on Hidden Ranch Road, Beaver Court, Pheasant Court, and Starfire Court. There is a potential that these animals could loose their babies from all the noise from the heavy equipment.

These noise-sensitive receptors located within Rincon del Rio will only benefit Rincon del Rio and not the neighbors who live on Connie Court, Rincon Way, Hidden Ranch Rd, Beaver Court, Pheasant Court, Starfire Court, and the homes up on Rodeo Flat Rd, etc. It is our opinion that this is just a "feel-good" remedy that is actually hogwash, because the noise-sensitive receptors are not picking up all of the above-mentioned vehicle noise that will be driving by our homes and throughout the proposed development 24/7. **Reject this project!!!**

58-15

POPULATION, HOUSING AND EMPLOYMENT

Impact 3.12.1

The General Plan and Zoning only allows for 179 residents (3 acre parcels with 2.55 residents each, going by their number) but the proposed project claims an increase of only 239 residents if the zoning is changed in their favor. This is nonsense; there will be approximately 543 residents which include 216 Independent Living units, 208 Nursing Care beds, 21 Lodge Nursing care units, 98 Village Center units plus 252 guests/employees which equal 795 Rincon del Rio residents, employees and guests. The population density far exceeds the rural limitations set forth within the Nevada County General Plan. **Reject this project!!!**

58-16

Impact 3.12.3

If the proposed zoning is changed, then any contractor can come in anywhere within Nevada County and put in a city in a rural area of their choice all because there is open space that they want to overdevelop; this is called greed. All of Nevada County will be affected by the proposed unnecessary General Plan text amendments that do nothing more than create loopholes allowing wanton over development anywhere a PD (Planned Development) stipulation is added to vacant parcels throughout our County. **Reject this project!!!**

58-17

PUBLIC SERVICES AND UTILITIES

Impact 3.13.1.2

Where is the water coming from in order to have water flow for a fire? All our water comes from wells. Some of us have low volume wells (gallons per minute) and if this retirement community is put through it could seriously deplete some of our water supplies. Sometimes water trucks have to come in and fill the holding tanks or wells. Now NID is another story. Those of us who wanted to connect to the NID canal had difficult times: too many water boxes or we had to connect to another one at a great distance and expense. The Rodeo Flat Rd and surrounding homes already put in a NID potable water line down their private roads at great expense to themselves. **Reject this project!!!**

58-18

Letter 58 Continued

Impact 3.13.2.2

The proposed project would increase the population within Nevada County requiring additional law enforcement. What protection do the existing neighborhoods have against the stranger danger that would be caused by the Rincon del Rio development; onsite construction workers, facility full time and contracted employees, visitors, and curious strangers, that might case our neighborhoods and then come back to break in to steal, rape, kidnap or possibly even murder. We have children on every one of our streets that will be at risk of stranger danger created by this urban high-density development. We as a neighborhood(s) look out for one another. We do not want to be put in the position of experiencing the heartache of crimes being committed against our families or our neighbors. There are not enough police in the area to warrant this Rincon del Rio development, besides they are only called after a crime has been committed. Are we willing to take that chance, NO!! **Reject this project!!!**

58-19

Impact 3.13.4.1 through 3.13.4.3, MM3.13.4.2, 3.13.5.1

There are sufficient water supplies. Really, where? Looks like Rincon del Rio will have to take from others. What about all the established land parcels that have acreage who would need water in the future? Will there be any water left once Rincon del Rio is put in? Whose property will have to be dug up in order to put in these water and sewer pipes? All the Ranchos roads are paid for and maintained by the ranchos residents. The higher the demand for treated water, the higher the rates will rise for all ratepayers. Let's not forget that treated NID water takes precedent when yearly allocations are considered, which means our local agricultural water allocations could be limited in the future as the treated water allocations and usage rise. This is another nail in the coffin of our rural lifestyles. **Reject this project!!!**

58-20

Impact 3.13.5.2

... construction of wastewater conveyance infrastructure would be installed with-in-right of way on and off site within existing public utility easement and road prisms. All Ranchos roads that Rincon del Rio assumes to use are privately maintained. Rodeo Flat Rd, Timberidge Rd and others put in their own water and sewer lines at their own expense. That was a trial of extreme patience (noise, dust, heavy equipment danger etc...) and was done because they needed it due to dry well issues in the area. Now Rincon del Rio intends to tear up those privately maintained roads again to suit their project. **Reject this project!!!**

58-21

Impact 3.13.5.3

...future planned development could be extended... How many more units will be developed on the parcel of 215 acres beyond the proposed 345 units? What strain would be put on the sewer, water treatment plants and roads, not to mention the strain on the pocket book of the surrounding neighborhoods? **Reject this project!!!**

58-22

Impact 3.13.6.1, 3.13.6.2

...project will be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs. Where do they plan to put this excessive solid waste storage between landfill transports? All contaminates will run right into the Bear River when it rains. Isn't that against the law? **Reject this project!!!**

58-23

Impact 3.13.8.1

...increase demand for propane... Refer back to comments on Impact 3.3.3...KABOOM! **Reject this project!!!**

58-24

Letter 58 Continued

TRAFFIC AND CIRCULATIONS

Impact 3.14.1

...proposed project could cause an increase of traffic... The operative word here is not 'could' but **will** cause a tremendous amount of traffic from all vehicles such as ambulances, fire department, police, para-transit vehicles, delivery trucks of every kind, cars from the residents, employees, their families, friends, future residents, realtors, reporters and TV crew who cover the accidents on highway 49 and many others not mentioned. Rincon del Rio seems to think that all these vehicles mentioned will only travel Rincon Way once a day if that. That is called tunnel vision. We see the BIG picture and that's why we are extremely concerned and are voicing our concerns about this project. The dust will rarely settle with all the traffic passing up and down Rincon Way. The southern homes on Rincon Way live right against the road, how awful for those neighbors; but Rincon del Rio does not care. **Reject this project!!!**

58-25

Impact 3.14.3

...49/Rincon Way intersection is not expected to have queuing issues. There already are queuing issues; it's called Highway 49 traffic. It's frustrating enough to sit for 5 minutes to turn right onto Highway 49 going north and even longer crossing traffic to merge going south, and that is just one car waiting. How much more frustrating it will be to be sitting behind elderly person(s) who have disabilities (i.e. age decreased reflexes, disorientation issues, or indecision issues etc...) and are afraid to enter highway 49 because of the rapid flow of traffic (65+ mph) approaching them, but feel rushed to dangerously do so by the impatient traffic behind them. It will not be just one car at a time, but many cars backed up on Rincon Way waiting long periods of time for their turn to navigate the dangerous intersection at Rincon Way and Highway 49 depending on the time of day. Lets not forget those RDR residents that are intoxicated. We expect that some Rincon del Rio residents, workers, and their families or friends would visit the wine tasting business down the street on Linnet Dr and/or the two bars and pub proposed in the retirement community. We all know the problems associated with alcohol and those who use and/or abuse it. Those who consume alcohol can be disoriented and end up going down Hidden Ranch Rd or Angelina (neither have outlets to 49) or try to get onto highway 49 and causing a serious accident. Heaven forbid that someone dies due to this avoidable circumstance. The Rincon Way Highway 49 intersection is also the bus stop for our neighborhood children. Older children wait on our road, along with other parents with younger school age children in their cars parked on Rincon Way. The bus traveling south on highway 49 actually turns left onto Rincon Way; backs up on the side road there, loads the children then pulls back out onto Highway 49 turning right heading north. The backed up traffic from Rincon del Rio will cause traffic jams, or worse, accidents and injuries. **Reject this project!!!**

58-26

Impact 3.14.4, MM3.14.4a, MM3.14.4b

...project could result in increased hazards associated with sight distance along Rincon Way. What sight problems? The neighborhood has been established for decades and we do not have a problem. Rincon Way is a narrow RURAL road that follows everyone's property lines. Does Rincon del Rio want a straight line of sight clear down to highway 49? That will be impossible because everyone's property boundaries have natural curves. At the intersection of Hidden Ranch Rd, Angelina, and Rincon Way neighbors know to slow and look for approaching vehicles. Let's NOT forget, Rincon Way is a PRIVATELY owned road, not a County owned road. The standards (road width, pavement thickness, site distances etc...) are different for PRIVATE roads than they are for County roads, and the maintenance is paid for solely by the existing homeowners not the County. Private developers have no right to expose those property owners to excessive liability issues by increasing traffic on those roads to dangerous urban levels.

58-27

Another thing to consider is that many elderly drivers have tunnel vision, never turning their heads to see around them. They just barrel ahead, especially if there are impatient drivers waiting behind them. We have personally experienced this situation, and it can potentially cause serious accidents. Another note; there are already left and right turn lanes to enter highway 49 from Rincon Way. Caltrans put them in years ago when they widened the Bear River Bridge, but those turn lanes will back up quickly (creating a dangerous situation) during rush hour every day as frightened seniors attempt to navigate the already dangerous conditions of

Letter 58 Continued

Highway 49. **Reject this project!!!**

Impact 3.14.5, MM3.14.5

...emergency access via Rodeo Flat Road would not be locked, and ...The gate shall be designed to close automatically...to ensure...a "closed" visual to drivers... Who controls this gate? People, especially those who want to do mischief will disregard the gate entirely and come in on foot, bicycle, motor scooter, etc to find out what is there. Creates the potential for crime, especially for Rincon del Rio residents and neighbors in the surrounding homes. **Reject this project!!!**

58-28

The following text is the comment letter we sent during the Rincon del Rio NOP public comment period:

Brian Foss, Nevada County Planning Department
950 Maidu Avenue
Nevada City, CA 95959
530-265-1256

30 May 2011

Dear Sir,

We like the Young's but are against the proposed project plan named **Rincon del Rio - Continuing Care Retirement Community** located at the eastern end of Rincon Way Auburn CA 95602 for the following reasons.

1. We went into debt, taking a big chance to get away from crowded neighborhoods, traffic, urban life style, crime, and to give our family a safer and better place to grow up. This was our purpose for moving here. Now this proposed project will bring everything back that we moved out here to avoid. We like it here because it is **quiet** and we have space between our great neighbors.
2. **Noise:** (24/7) of ambulances, fire department, and police, para-transit vehicles, delivery trucks of every kind, cars from tenants, their families, friends, reporters and TV crew who will cover the accidents on highway 49.
3. **Lights:** We enjoy looking up at the stars and constellations. All the lights that will be required for this project will hamper our enjoyment by making the sky lighter and the stars harder to see and enjoy.
4. Whose property are they planning to take away in order to **widen Rincon Way and Hidden Ranch Rd and for utility easements?** All the roads are privately owned.
5. **No 2nd outlet/exit:** The proposed plan is to use Rodeo Flat Rd, which also is privately owned.
6. We have a pond and stream close to Rincon Way. Both are **wildlife habitats**. Every year we have two sets of mallard ducks that hatch their chicks within the cattails and swim in the pond. The stream and cattails along with the blackberries house a flock of quail each year (10 or more at each counting) and other small birds such as finches. We also have hawks, owls, woodpeckers, turkey buzzards, blue jays, hummingbirds, foxes, raccoons, skunks, wild turkeys, frogs, fish and snakes (poisonous and not).
7. **Alcohol related problems:** We expect that some residents, workers, and their families or friends would visit the wine tasting business down the street on Linnet Dr and/or the proposed pub in the retirement community. We all know the problems associated with alcohol and those who abuse it. Those who consume alcohol can be disoriented and end up going down Hidden Ranch Rd or Angelina (neither have outlets to 49) or try to get onto highway 49.
8. **49 Traffic:** Sometimes we have to wait a good 5 minutes because of traffic to enter the highway turning right. Turning left is even a longer situation because we have to merge into traffic. It's hard enough to negotiate without any disabilities (i.e. age, disorientation, or indecision, etc.) Can you imagine a line of us neighbors waiting our turn to proceed to their jobs and time schedules? What about the children on

58-29

Letter 58 Continued

Hidden Ranch Rd and Rincon Way who have their bus stops down at highway 49? **This is not the right place to add a facility that will generate a lot of extra traffic.**

9. **Memory-impaired individuals:** When they drive themselves where will they end up? They could easily think that someone else's home is theirs.
10. This land is **zoned RA-3-PD**, single-family homes not commercial land. So why are they planning to put on-site shopping, support services such as: café, exercise, post office, recycling center, bakery, theater, ice cream parlor, **pub**, spa, pharmacy, public restroom, market/deli, beauty shop, bank, dry cleaning, restaurant, chapel, administration, medical, computer room, library, conference/meeting and a bandstand? This is a commercial project!!!!
11. **Crime:** What protection does the neighborhood have from Rincon del Rio residents, onsite workers and employees families and friends, who come to visit, then case the neighborhood and come back to break in to steal, rape or maybe go so far as to murder. Besides these problems, we will also have the noise problem as stated in #3 above.
12. **River:** What harmful chemicals will wash down the streets and into the river?
13. **Steepness of the hill/roads:** Who will fall and break bones, therefore more noise via ambulances, fire trucks, paramedics, etc?
14. We believe this project was proposed not just for the money but it is a big part of it and has no consideration for the neighborhood and surrounding hillside homes. It is a great idea but in the **wrong location**. Assisted living individuals need to be closer to the businesses they frequent and not have to worry about entering or exiting highway 49.
15. **Fires:** They spread quickly especially on a hill encouraged by wind and dryness of the vegetation. How will the fire department evacuate approximately **795 Rincon del Rio residents and guests/employees?** (543 residents which includes 216 Independent Living units, 208 Nursing Care beds, 21 Lodge Nursing care units, 98 Village Center units) and (252 guests/employees parking spaces.). We expect this number will be higher due to extra visitors. Also add to that all the families (approximately 42) on Hidden Ranch Rd and Rincon Way who will have to evacuate. This does not include all the families up on Rodeo Flat Rd and the surrounding hillsides. This is a big warning flag. There could be resulting deaths because of the hysteria and congestion of people trying to evacuate the area.
16. **Road repairs:** Who will be responsible for maintaining and repairing these private roads with the expected huge amounts of extra traffic.
17. **Wastewater:** Is this supposed to be a freebee on private roads, digging up Rodeo Flat Rd and others streets in order to connect into the Lake of the Pines Sewer Treatment Facility? This could over load the treatment facility. What do Lake of the Pines and Rancho residents have to say about this, they pay for it?
18. **Water:** All our water comes from **wells**. Some of us have low volume wells (gallons per minute) and if this retirement community is put through it could seriously deplete some of our water supplies. Sometimes water trucks have to come in and fill the holding tanks or wells. Now **NID** is another story. Those of us who wanted to connect to the NID canal had difficult times: too many water boxes or we had to connect to another one at a great distance and expense. The Rodeo Flat Rd and surrounding homes already put in a NID potable water line at great expense to themselves. Is this another freebee?
19. **Neighborhood/community approval** is not mentioned and we are the ones who will be affected.

58-29
Cont.

In summarizing, we believe this proposed assisted facility known as Rincon del Rio – Continuing Care Retirement Community would be a good project for the Auburn area if it were in a suitable location that would not cause as many problems as it is believed to solve. Please locate this facility in a proper place.

Sincerely,

Terry and Kim Thompson
Rincon Way Residents

Letter 58 – Terry & Kim Thompson

Response 58-1: The comment expresses concerns of the visual impacts to Connie Court residents and states the project would totally block the rural views of these residents. The Draft EIR acknowledges that project structures would be visible from Connie Court (Draft EIR pages 3.1-14 through 3.1-16) and these would be changed from the existing views. However, the fact that project structures would be visible from an existing residence does not constitute a significant impact and the County cannot limit development because a new structure would be visible. As noted in the Draft EIR discussion, the project development would be clustered to minimize the footprint of development and would be required to comply with the Western Nevada County Design Guidelines, which encourage environmentally sensitive site design, including incorporation of building materials that blend with the environment and landscaping to help screen developed portions of the site. Because the project would be consistent with the provisions of the Western Nevada County Design Guidelines, this was determined to be a less than significant impact.

Response 58-2: The comment expresses concerns regarding extensive lighting impacts on nighttime views and wildlife. Commenter is referred to Responses 11-4 and 14-6. According to the photometric (lighting) plan prepared for the proposed project (Figure 2.0-9 in Draft EIR Section 2.0, Project Description), the proposed light fixtures would be approved by the IDA (International Dark-Sky Association), meaning that they would minimize glare, reduce light trespass, and would not pollute the night sky. In addition, perimeter landscaping and natural vegetation would also screen adjacent areas from light intrusion. Lighting effects on wildlife are discussed in Draft EIR Section 3.4, Biological Resources, page 3.4-35. Implementation of mitigation measures MM 3.4.2e on page 3.4-38 would require that all illumination installed be affixed with glare shields and directed away from adjoining properties and roads. The lighting plan submitted for review and approval shall be designed to use the minimum amount of lights and incandescent lamps as possible, so as not to cause adverse lighting effects on wildlife in the surrounding area, and shall employ low-watt orange-colored lamps ("bug lights") whenever possible. These measures (in addition to the project's clustered design) would ensure lighting impacts to wildlife are reduced to a less than significant level.

Response 58-3: The comment questions what "moderately disturbed rural residential," as noted in Impact 3.1.4, means. As noted on page 3.1-1 of the Draft EIR (Section 3.1, Aesthetics), the 215-acre project site is primarily undeveloped and features varied topography, natural vegetation, and multiple surface water features. Existing development includes a 14,000-square-foot single-family residence constructed in 2001. Associated with this residence are auxiliary buildings, unpaved access roads, a garden area with raised planting beds, landscaping, and fencing. In addition, a golf driving range is located at the northwestern corner of the site near its primary access point at Rincon Way. The range consists of a large, narrow grassy area and tall net fencing. Various types of fencing and gates, including livestock corrals, and unpaved access roads are also located throughout the site.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Response 58-4: The comment states that under Impacts 3.2.1, 3.2.2, 3.2.3, and 3.2.4, all agricultural and forest reserves in Nevada County will be affected and that the rezoning will not stop the legitimate conflicts. The definition of "agricultural land" as defined by CEQA and the Nevada County General Plan is provided on page 3.2-10 of Draft EIR Section 3.2, Agriculture and Forest Resources. The definitions of "forestland" and "timberland" as defined by Public Resources Code Sections 12220(g) and 4526, respectively, are provided on page 3.2-8. As noted under Impact 3.2.1 starting on page 3.2-11, the project would not result in the conversion of agricultural land as defined by CEQA and the Nevada County General Plan to nonagricultural uses. As discussed under Impact 3.2.1, the proposed project includes a zoning amendment to rezone the project site to a nonagricultural use. If the project were allowed to occur without rezoning the site, the project would be inconsistent with existing zoning policies. Including a zoning amendment as part of the project ensures that the proposed project would not conflict with existing agricultural zoning. As discussed under Impact 3.2.3, the project would not result in the conversion of forestland and/or timberland as defined by the Public Resources Code. As discussed under Impact 3.2.4, the project would result in the loss of land zoned RA-3-PD in the county. However, RA-3-PD zoning is not intended for intensive agricultural uses. The proposed project would continue to provide residential use as the primary importance and agricultural uses are secondary, consistent with the existing zoning. Future CCRC development would only be allowed in areas already planned for some level of urban development (zoned PD or SDA) and not in areas planned for intensive agriculture or timber production. Therefore, the proposed General Plan and Zoning Ordinance text amendments would not set precedence for future conversions of land designated for intensive agriculture or timber production within the county.

Response 58-5: The comment states that with regard to Impacts 3.3.1 and 3.3.2, there is no way to determine whether the project would exceed the applicable thresholds when it concerns someone's breathing. Methodology used to forecast emissions is provided on page 3.3-13 (see Draft EIR Section 3.3, Air Quality). The methodology used is common practice and is recommended by the local air district. It should be noted that the modeling and adopted thresholds are intended to maintain air quality within healthy levels for the general public; however, the analysis is not intended to provide information or thresholds based upon particular individuals at a specific location. Although the commenter appears to disagree with the methodology, no explanation as to why the methodology used is not appropriate has been provided. Therefore, the comment is noted and it is forwarded to the decision-makers for their consideration.

Response 58-6: The commenter assumes each residence would have its own propane heating tank. As noted on page 2.0-62 of the Draft EIR (Section 2.0, project Description), community propane tanks (approximately four) would be located aboveground to serve the individual homes (see Figure 2.0-16). Propane tanks would be located in accordance with the setback regulations imposed by the Higgins Fire Protection District and the Nevada County Department of Environmental Health.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

- Response 58-7:** The comment states that Impacts 3.3.4 through 3.3.8 could result in the entire air basin being contaminated. The commenter does not state why the air basin would be contaminated or how the methodology used in the Draft EIR is inadequate. Therefore, the comment is noted and forwarded to the decision-makers for their consideration, but no specific response as to adequacy of the methodology is possible without further information from the commenter.
- Response 58-8:** The comment is apparently referring to mitigation measure MM 3.4.2a, which states if a special-status frog is found during project construction, construction activities shall stop until the frog is moved by a qualified biologist to a safe location outside of the construction zone. The comment is correct. The commenter is also referred to other mitigation measures (MM 3.4.2a through MM 3.4.2e) identified for red-legged frogs provided on pages 3.4-36 through -38.
- Response 58-9:** The comment is in regard to Impact 3.4.5 and the potential impacts the use of the entrance road will have on other wild species. In addition to potential impacts to wildlife corridors discussed under Impact 3.4.5 (see Draft EIR Section 3.4, Biological Resources), potential impacts to listed special-status wildlife species are address under Impact 3.4.2, starting on page 3.4-33 of the Draft EIR, and potential impacts to non-listed special status wildlife species (including migratory birds) are address under Impact 3.4.3, starting on page 3.4-38 of the Draft EIR.
- Response 58-10:** The comment questions the effectiveness of mitigation measure MM 3.4.10. The County is aware that rattlesnakes are a fact of life for its residents and included the warning to educate residents to be aware of the potential for encounters with rattlesnakes. As noted on page 3.4-50, signage will warn of rattlesnakes and provide direction on what to do to avoid an attack. In addition, the fact that many elderly residents would move slowly, noted by the commenter, gives rattlesnakes the opportunity to avoid humans, as it is their nature to do so.
- Response 58-11:** The comment questions the adequacy of emergency transportation to evacuate the facility in an emergency. See Master Response 2.
- Response 58-12:** The comment expresses concern about polluted runoff (Impacts 3.9.1 and 3.9.2) flowing into a swimming hole just before Bear River Bridge. The effects of runoff discussed in Impacts 3.9.1 and 3.9.2 (Draft EIR Section 3.9, Hydrology and Water Quality, pages 3.9-17 through -19) are applicable to any receiving body of water.
- Response 58-13:** The comment, in regard to Impacts 3.10.1 and 3.10.2, states that the proposed project would bring problems of city life, including crime, and divide the existing community. The project site is one 215-acre site surrounded by existing rural residential development to the west, north, and east, and Bear Creek to the south. As discussed In Draft EIR Section 3.10, Land Use, page 3.10-4, the project would not result in development of physical features that constitute a barrier to easy and frequent travel between two or more constituent parts of a community (i.e., roadway with few crossings). Other comments do not relate to the adequacy of the EIR. They are forwarded to the decision-makers for their consideration.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Response 58-14: The comment is in regard to Impact 3.10.5 and questions what “significant increase” means. The comment also refers to land being “stolen” to widen Rincon Way. Regarding the significant increase related to roads, as referenced by the commenter, the standards are those discussed in Draft EIR Section 3.14, Traffic and Circulation. Based on the land uses proposed for the site, the traffic study determined that the project would not exceed standards established by the County. For the width of Rincon Way, mitigation measure MM 3.14.4a requires the project applicant to pay for restriping improvements along Rincon Way within the existing 30-foot-wide public roadway and utility easement. However, as noted on page 3.14-1 of the Draft EIR, Rincon Way has a 50-foot right-of-way between SR 49 and Hidden Ranch Road with a formal offer of public dedication and public utilities easement accepted for the 50-foot right-of-way.

Response 58-15: The comment is concerned with the noise generated by the project when combined with existing noise levels. Impacts to wildlife, including noise, are addressed in Section 3.4, Biological Resources, of the Draft EIR. The project clustered design would confine project ambient noise conditions to the western portion of the site adjacent to existing rural development, while leaving the majority of the site (163 acres) in open space.

The Noise section (Section 3.11) of the Draft EIR acknowledges that noise generated by project construction would be audible at nearby receptors, but the determination of significant effects is whether the project would exceed standards. For the purposes of the EIR, a substantial increase would be “noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies” (see page 3.11-17). As disclosed under Impact 3.11.1, noise levels associated with construction activities occurring during the more noise-sensitive evening and nighttime hours could result in increased annoyance and potential sleep disruption for occupants of nearby residential dwellings. Implementation of mitigation measure MM 3.1.1 would limit construction activities to the less noise-sensitive periods of the day and require the use of manufacturer-recommended noise control devices, and provide contact information for construction activities to ensure that the neighborhood has access to the supervisor or manager while the noise-generating activity is occurring.

Existing ambient levels and traffic noise levels were measured and are described on pages 3.11-11 and -12 of the Draft EIR. As noted on page 3.11-6 of the Draft EIR, the Federal Interagency Committee on Noise (FICON) developed guidance to be used for the assessment of project-generated increases in noise levels that take into account the ambient noise level, which are often used in environmental noise impact assessments involving the use of cumulative noise exposure metrics, such as the average-daily noise level (i.e., CNEL, L_{dn}). For transportation noise sources, the County has historically used the average-daily noise descriptor (i.e., CNEL or L_{dn}) for determination of land use compatibility. Table 3.11-2 on page 3.11-6 of the Draft EIR summarizes increases in noise levels that result in increased levels of annoyance based on existing ambient noise levels, and Table 3.11-3 on page 3.11-11 summarizes the existing ambient noise levels. The trips generated by the proposed project would not result in a substantial increase in traffic noise levels along primarily affected area roadways as discussed under Impact 3.11.2.

The County's noise standards that are applied to non-transportation noise sources are summarized in Table 3.11-5 on page 3.11-13 of the Draft EIR. Predicted average-hourly and maximum intermittent noise levels at the nearest on- and off-site receptors associated with major on-site noise sources are summarized in Table 3.11-10 and Table 3.11-11 on pages 3.11-28 and -29, respectively. As disclosed on page 3.11-27, on-site non-transportation noise sources, including the proposed sewer lift stations, agricultural activities, automotive and tractor repair barns, property maintenance activities, building equipment, and recreational uses, would result in predicted noise levels in excess of County noise standards during the more noise-sensitive nighttime hours (i.e., 10 p.m. to 7 a.m.) and would have a higher potential for increased levels of annoyance and potential sleep disruption to occupants of nearby on- and off-site residential dwelling units. Mitigation measures provided would reduce the potential for increased levels of annoyance and sleep disruption to nearby noise-sensitive receptors, including restrictions on the hours of operation for on-site recreational uses, maintenance activities, and agricultural activities consistent with the General Plan.

Response 58-16: The comment states the proposed project would result in a population of 795 residents and that the facility far exceeds the rural limitations set forth in the General Plan. Table 2.0-1 starting on page 2.0-27 of the Draft EIR (Section 2.0, Project Description) summarizes the breakdown on the 345 total residential units proposed. The current land use designation would allow for 72 dwelling units (215 acres/3 acres for each dwelling unit = 71.6 dwelling units). Subtracting 72 residential units allowed under existing land use from the 345 residential units proposed under the project equals 273 additional units. On page 3.12-4 of the Draft EIR (Section 3.12, Population, Housing, and Employment), it is further clarified that of the 345 units, 70 would be double occupancy and 275 would be single occupancy, providing a total of 415 residents ($2 \times 70 = 140 + 275 = 415$). Based on an average household size of 2.45 persons per household and the 72 units allowed under the existing land use, a total of 176 residents would be allowed under the existing land use. Subtracting the 176 residents allowed under the existing land use from the 415 residents that would be allowed under the proposed project, result in an increase of 239 residents ($415 - 176 = 239$). Guests and employees would not increase the population of the project site.

Response 58-17: The comment states that all of Nevada County will be affected by the proposed General Plan text amendments and that any open space in a rural area can be overdeveloped as a city. The commenter is referred to Master Response 3, which identifies that the proposed project would actually implement an existing program of the General Plan (Housing Element Program HD-8.1.6). In addition, future CCRC development would only be allowed in areas already planned for some level of urban development (zoned PD or SDA). Table 4.0-1 (Draft EIR, Section 4.0, Cumulative Impacts Summary, page 4.0-6) lists 28 properties within the PD or SDA land use designations that could accommodate a CCRC.

Response 58-18: The comment questions the source for water to supply fire flow, stating it comes from wells. As noted in Draft EIR Section 3.13, Public Services and Utilities, page 3.13-14, Nevada Irrigation District (NID) would provide potable and non-potable water for the project. NID receives its water supply from four

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

main sources: the watershed, carryover storage in surface reservoirs, contract purchases, and recycled water. NID does not rely on groundwater for water supply. As noted on Draft EIR page 3.13-20, an approximately 300,000-gallon on-site non-potable water tank is proposed to augment the required storage for fire flow. A 10- or 12-inch mainline would be extended from the new tank to the developed area of the project.

Response 58-19: The comment expresses concern with increased crime. This comment is noted and is forwarded to the decision-makers for their consideration.

Response 58-20: The comment questions if there are sufficient water supplies. Adequacy of water supply is discussed on page 3.13-19 of the Draft EIR. Water supply sources are provided on page 3.13-14 of the Draft EIR. As noted on Draft EIR page 3.13-20, any off-site construction would be located within the existing Rodeo Flat Road Public Utility Easement (PUE).

Response 58-21: The comment is concerned with work to be done within the right-of-way of privately maintained roadways. Impacts related to construction-related noise and air quality (dust) are discussed in Draft EIR Sections 3.11 and 3.3, respectively.

Response 58-22: The comment questions if more units will be developed on the project site beyond the proposed 345 units. The proposed project includes development of 345 units over 10 phases as described on pages 2.0-33 through 2.0-34 in Draft EIR Section 2.0, Project Description. No additional units would be allowed on the site under the proposed project.

Response 58-23: The comment questions where excessive solid waste storage would be located between landfill transports. As noted on page 3.13-33, adequate space for waste and recycling containers would be constructed at the complex to ensure ease of collection by the County's franchised waste collection company. The units housing the containers would be constructed to allow sufficient space for the quantity of containers needed to ensure that the waste and recyclables can be collected in an efficient manner. Waste Management will be consulted to ensure that sufficient space is available for recycling and trash containers. The solid waste would be contained such that contaminants would not flow to the Bear River, as claimed in the comment.

Response 58-24: The comment expresses concern with the increased use of propane and refers back to a comment on Impact 3.3.3. The commenter is referred to Response 58-6.

Response 58-25: The comment expresses concern with the number of trips only accounting for vehicles traveling on Rincon Way once a day. As noted in Table 3.14-3 on page 3.14-10 of the Draft EIR, the project was projected to generate a total of 969 daily trips, which includes trips by residents and other trips associated with deliveries, maintenance, and visitors to the site. The traffic analysis discloses the increase in traffic generated by the project, but as discussed in Draft EIR Section 3.14, the project-generated traffic would not exceed standards to result in a significant traffic impact.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

- Response 58-26:** The comment expresses concerns regarding existing queuing issues on SR 49. Results of traffic counts conducted for existing conditions are discussed on page 3.14-3 of the Draft EIR. Queuing analysis conducted is summarized on page 3.14-19 of the Draft EIR, and additional analysis is provided in Appendix 3.25-A (page 24). As discussed in Response 22-17, the average wait times disclosed in the Draft EIR are for the intersection as a whole, not individual movement at the intersection, which is consistent with the analysis methodology utilized by the County. Because traffic is not controlled on SR 49, wait times on Rincon Way would exceed the average time disclosed in the Draft EIR. See Response 21-9 regarding the potential for motorists driving under the influence of alcohol.
- Response 58-27:** The comment questions the increased hazards associated with sight distance along Rincon Way and states that Rincon Way is a private road. As noted on page 3.14-20 of the Draft EIR, the lack of striping on Rincon Way could confuse drivers and reduce the capacity of the intersection. Implementation of mitigation measure MM 3.14.4a requires striping of the road. See Response 3-21 regarding the Road Maintenance Agreement. See Response 21-9 regarding elderly drivers.
- Response 58-28:** The comment questions the security of the unlocked gate at Rodeo Flat Road. See Master Response 1.
- Response 58-29:** The comment refers to comments submitted on the Notice of Preparation. To the extent that these comments are related to environmental impacts of the project, these effects are addressed in the Draft EIR. See responses to the previous comments for additional discussion of these issues.

Letter 59

Brian Foss

From: amy traynor [amyt1@att.net]
Sent: Thursday, March 01, 2012 10:52 AM
To: Brian Foss
Subject: Fw: Your email to Brian.Foss@co.nevada.ca.us

----- Forwarded Message -----

From: Martin Mortensen <mmortensen@suddenlink.net>
To: amy traynor <amyt1@att.net>
Sent: Wed, February 29, 2012 10:00:59 AM
Subject: Your email to Brian.Foss@co.nevada.ca.us

Mr. Foss: Please incorporate my email as a part of the record for my response to the Rincon Del Rio Draft EIR. My name is Amy Traynor and my property is located on the corner of Timber Ridge Drive and Rodeo Flat Road and I am very concerned about the emergency roads, fire gate and sewer issues outlined within this Draft EIR. Below, I have listed my major concerns concerning this project and I hope that you, our County Supervisors and the Planning Commission will address these issues prior to implementing any approvals of this Rincon Del Rio Project.

Traffic Issues in our area as outlined in the EIR is flawed within Traffic Study (3.14.3) will need to be Mitigated

- A major increase in traffic and safety issues on Rodeo Flat Road and Timber Ridge Drive appear to be forthcoming by the study
- LOP Ranchos Road CSD roads are not built or maintained to County standards as outlined in the County's General Plan
- Proposed emergency access gate, located at the end of Rodeo Flat Road, is designated as an Un-Locked fire gate which will result in an uncontrolled roadway and eventually will migrate into a major thoroughfare

59-1

Emergency Roadway and Fire Evacuation as outlined in MM 3.8.7 is incomplete and requires a new study

- Rodeo Flat Road does not meet fire code stipulations as an emergency access road during an emergency
- The use of Rodeo Flat and Timber Ridge Drive as a Master Evacuation Plan needs CDF and Higgins Fire approval

59-2

Sewer Project Implementation Requires a Large Performance Bond to protect LOPR Residents and our Roads

- Intended sewer project is shown going up Rodeo Flat and down Timber Ridge Drive on LOPR CSD private roads
- Having our roads closed while the sewer line is being hooked up will result in major liability to us homeowners
- How will this sewer project impact our recently installed NID water line system and at what cost to the LOPR homeowners?
- Does the County have any plan for the increase in traffic flow on our narrow roads affecting air quality and

59-3

Letter 59 Continued

agriculture

- The LOP Ranchos residents need a guarantee of any and all occurrences of road damage to be repaired without any cost to us

59-3
Cont.

Overall, after experiencing last year's major disruptions by NID during the installing of the water line to the end of Rodeo Flat, I again state that this proposed new sewer line installation will have a detrimental affect on our roads and they won't be safe for residents to be out bike riding, jogging or walking their dog any more.

59-4

Thank you for addressing my issues,

Amy Traynor
24474 Timber Ridge Drive
Auburn (LOP), CA 95602-8941

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter 59 – Amy Traynor

- Response 59-1:** The comment states the traffic issues in the area as outlined in the Draft EIR are flawed due to the proposed emergency access at Rodeo Flat Road. See Master Response 1.
- Response 59-2:** The comment states the emergency roadway and fire evacuation plan as outlined in mitigation measure MM 3.8.7 is incomplete and requires a new study because Rodeo Flat Road does not meet fire code stipulations and because the use of Rodeo Flat Road and Timber Ridge Drive needs CDF and Higgins Fire approval. See Master Response 2 regarding emergency evacuations.
- Response 59-3:** The comment states that the sewer project implementation requires a large performance bond to protect LOPR residents and their private roads (Rodeo Flat Road and Timber Ridge Drive), that having roads closed during the sewer line improvements will result in major liability to homeowners, and that the LOPR residents need a guarantee of road damage being repaired at no cost to them. The commenter also questions how the sewer project would impact their NID water line system and at what cost to LOPR and how the increased traffic will affect their air quality and agriculture. The comments regarding performance bonds and liability associated with road closures do not pertain to the adequacy of the environmental document but are forwarded to the decision-makers for their consideration. The proposed sewer line would be placed within the existing public utility easement along the roadways and would have no impact on existing water lines, and any improvements necessary to serve the proposed project would be installed at the project applicant's expense. Impacts to air quality from traffic are addressed starting on page 3.3-23 of the Draft EIR (Section 3.3, Air Quality). Construction impacts of this improvement would be temporary with minimal traffic controls anticipated. Disturbed areas would be stabilized remediated consistent with standard construction practices required by the County. Off-site pipeline construction must ensure that no unstable or erodible slope conditions are created and that storm water quality is addressed (Nevada County Land Use and Development Code Section L-V19.3B).
- Response 59-4:** The comment states that installation of the sewer line will have a detrimental effect on the roads, and roads will no longer be safe. See Response 24-8 and 59-3.

Letter 60

Mr. Brian Foss
Nevada County Planning Department
County of Nevada
950 Maidu Avenue
Nevada City, CA 95959

Re: Rincon Del Rio Project (Young Enterprises, Developer)

Dear Mr. Foss,

Please add this correspondence and any attachments as part of the public record and the administrative record related to the Rincon Del Rio project. This correspondence addresses serious issues and concerns regarding the RDR project and the adequacy of the DRAFT EIR and should be included as part of Nevada County's administrative process in the event a court action occurs.

Below please find our response to the DEIR for the above, proposed project.

The planning commission has made serious error's concerning the DEIR and has overlooked numerous planning and safety issues related to the DEIR for the RDR project.

Traffic: an obvious underestimation of traffic flow on Rincon Road and the direct impact to the residents on Rincon and the impact of a privately owned Road cannot be overstated. Additionally using Rodeo Flat as an emergency exit with no gated access provides unlimited use as a through fare for non residents of RDR or LOP Ranchos. Both Rincon and Rodeo Flat are not designed, nor proposed to be upgraded to deal with this unplanned use. The DEIR does not address even the possibility of the access point as a through roadway.

60-1

Evacuation; The current very vague evacuation plan to use Rodeo Flat as a secondary egress for elderly in need of assistance seems absurd. Rodeo Flat does not conform to the County standard roadway in width or grade. In addition to the elderly being evacuated out using Rodeo Flat, I am sure it will be used as an access point for responding fire apparatus. The elderly being evacuated and the fire apparatus entering will cause a nightmare similar to what occurred in the 1991 Oakland Hills fire, which resulted in 24 deaths. The primary reason for the fatalities in the Oakland Hills fire was limited access; roadways being blocked by exiting civilians and entering fire apparatus. A detailed evacuation plan must be put in place prior to the approval of the DEIR with input from the community.

60-2

Letter 60 Continued

Location: The location for the proposed RDR is simply a location with limited services. An elderly care facility should be located in close proximity to existing municipal services, not in a location as proposed, with no existing services.

60-3

General Plan; A development in size and scope as large as the proposed RDR was simply not in the County of Nevada's general plan. To request that the citizens who have purchased and lived in the community for many years have the way of life dramatically altered is simply not acceptable. A General plan put in place by a County that has been vetted through an exhaustive process should not be altered simply because it can be. This project is not designed to be placed in such a rural setting.

60-4

We believe the project Rincon Del Rio as presented, needs to be denied. Development in Nevada County certainly needs to progress, but it needs to be intelligent, conscientious, and above all thoughtful. To keep the property rural, the Planning Department and the Board of Supervisors need to enforce the Nevada County General Plan. Development needs to fit the area and RDR does not. The project and its scope belong closer to services that will allow easier access for the population targeted. The project is overly ambitious for the area, and is simply not the right fit for a rural area.

60-5

Sincerely,

Dale and Susan Turner
24441 Timber Ridge Dr.
Auburn, CA 95602

Letter 60 – Dale & Susan Turner

Response 60-1: The comment states that the traffic flow on Rincon Way has been underestimated, the impact of a privately owned road cannot be overstated, using Rodeo Flat Road as an emergency exit with no gated access provides unlimited use as a thoroughfare for nonresidents, Rincon Way and Rodeo Flat Road are not designed nor proposed to be upgraded to deal with the proposed project, and the EIR does not address the possibility of the access point as a through roadway. As noted on page 3.14-22 of the Draft EIR (Section 3.14, Traffic and Circulation), the secondary emergency access at Rodeo Flat Road would be gated, and the potential for Rodeo Flat Road to be used by through traffic is reduced to a less than significant level by mitigation measure MM 3.14.5. See Master Response 1.

The methodology used to determine trips generated by the proposed project was based on trip rates published by the Institute of Transportation Engineers for the proposed continuing care retirement community use (LU 255) as explained on page 3.14-10 and in Appendix 3.14-A. The size of the facility was based on number of units. Impact 3.14.1 on page 3.14-17 identifies that the post-project trips generated on Rincon Way, a roadway classified as a local road, would not exceed the capacity of a local road classification (public or private). Impact 3.14.4 on page 3.14-20 identifies that the lack of striping on Rincon Way could confuse drivers and reduce the capacity of the intersection and provides mitigation (mitigation measure MM 3.14.4a) to reduce this potential impact to a less than significant level. To clarify the impacts of the project, the following text changes are proposed to Section 3.14, Traffic and Circulation:

Text on page 3.14-1 has been revised as follows:

Rincon Way

Rincon Way is ~~designated as a privately owned and maintained~~ local road in the ~~General Plan Circulation Element~~. Between SR 49 and the adjacent frontage road, approximately 65 feet east, Rincon Way is about 50 feet wide and accommodates left turning and right turning vehicles onto SR 49 as well as inbound vehicles from SR 49; currently, there is no lane striping to differentiate a left turn lane and a right turn lane. Between the frontage road and Hidden Ranch Road, Rincon Way is between 18 and 20 feet wide, while east of Hidden Ranch Road to the project's property entrance, the roadway narrows to about 16 feet in width.

Revisions have been made to the discussion of Impact 3.14.1 on page 3.14-17 as follows:

The proposed project will increase traffic on Rincon Way by an estimated 969 trips per day. The current estimated volume of traffic on Rincon Way is 370 trips per day. The total traffic on Rincon Way after implementation of the project would be approximately 1,339 ADT (969 ADT + 370 ADT = 1,339 ADT). The increase in traffic of 599 trips per day represents a 162 percent increase over existing conditions, which is considered substantial. As

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

noted in Section 2.0, Project Description (under Circulation and Roadway Improvements and in Figure 2.0-14), the project proposes improving Rincon Way to meet the County's Local Class II roadway standards by providing two 10-foot vehicle travel lanes within the existing 30-foot-wide public roadway and utility easement. As noted on Figure 2.0-14, minor portions of the existing roadway alignment that lie outside the existing 30-foot easement would be realigned to fall within the existing easement or additional easements would be required along the existing alignment. These improvements would ensure that the roadway could accommodate up to 2,000 ADT. However, the county's General Plan indicates that a Local Road (e.g. Rincon Way) provides access for areas with traffic volumes between 101 ADT and 2000 ADT. Therefore, implementation of the project would not exceed the capacity of Rincon Way. In addition, the project includes a Road Maintenance Agreement between the applicant and the County, which will provide a legal description of all properties that have the right to use Rincon Way and Rodeo Flat Road, the way that responsibility for repairs is to be shared by the parties, how the costs for repairs will be incurred by the parties, and the consequences for non-participation in the maintenance. Therefore, ~~While~~ While the change in traffic will be noticeable to the neighborhood residents, and in terms of numbers of cars per day the change from the very low existing volumes ~~is~~ would be considered substantial, the roadway conditions would be improved to accommodate the increased volumes, and total traffic is volume would be within the design expectations of the roadways and consistent with similarly designed roadways in the county. This impact is therefore considered **less than significant**.

Response 60-2: The comment is concerned with the "current very vague" evacuation plan and states that a detailed evacuation plan must be put in place prior to the approval of the Draft EIR with input from the community. See Master Response 2.

Response 60-3: The comment states the project is located in an area with limited services and should be located closer to existing municipal services. As noted in Draft EIR Section 3.13, Public Services and Utilities, existing fire protection and law enforcement services are provided to the area, and utilities are provided to the area by various utility providers. The only municipal service that would require annexation by an existing utility provider is wastewater treatment, which requires annexation into Nevada County Sanitation District #1 (Lake of the Pines) as noted on page 3.13-28. This process would require approval by the Nevada County Local Agency Formation Commission (LAFCo) prior to extension of services. In addition, the project would include local services (i.e., chapel, library, post office) on site as described on pages 2.0-33 through -34 of Draft EIR Section 2.0, Project Description, which would reduce the need to travel off-site for additional services.

Response 60-4: The comment states that a development of this size is not in the General Plan or designed to be placed in such a rural setting. The CCRC use was included in General Plan Housing Element Program HD-8.1.6, which states, "The County shall amend the Zoning Regulations to create a definition and development standards to allow Continuing Care Residential Communities or Life Care residential facilities in PD and SDA designated areas where it can be determined that the PD/SDA has access to adequate infrastructure (public

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

sewer and water service and adequate ingress/egress)." The comment regarding the location of the project in a rural setting is forwarded to the decision-makers for their consideration.

Response 60-5: The comment expresses the need for development to be intelligent, conscientious, and thoughtful, and states the proposed project does not fit the area where it is being proposed. This comment is noted and is forwarded to the decision-makers for their consideration.

Letter 61



March 18, 2012

To the Nevada County Planning Department

Re: Rio Del Rio Project

Please add this correspondence to the Rincon Del Rio (RDR) project. This correspondence addresses issues and concerns regarding the RDR project and the adequacy of the DRAFT EIR and should be included as part of Nevada County's administrative process in the event a court action occurs.

I moved onto my property in the Lake of the Pines Ranchos (LOPR) 30 years ago because of my desire to live in "rural beauty of Nevada County". I quickly fell in love with the exquisite and majestic views of the sunsets over the hills and valleys below my property with the quiet of the moment being accented by the sounds of birds and the appearance of other wildlife below. The serenity and beauty of the night skies is gorgeous. Now this area as well as all rural areas within Nevada County are now being threatened because the proposed Rincon Del Rio (RDR) building project now before the Planning Department.

As you are probably well aware, the RDR development is a business venture being pushed by Jim and Carol Young who own the property where it is being proposed. In order for them to build this project it will require a major change in the General Plan for Nevada County... I am pretty certain you also know this fact. By making this change to the General Plan, you will be opening the door to make like changes in every nook and cranny of Nevada County, thereby destroying the rural aspects that make Nevada County the choice for so many of its citizens.

61-1

Of course, there are many other reasons why the RDR project should be denied by the County Planning Department, most of which have to do with PUBLIC HEALTH AND SAFETY ISSUES for the citizens of Nevada County. Here are 3 extremely serious issues that can not be mitigated away by discussion or simple words on a page...these are 3 PUBLIC HEALTH AND SAFETY ISSUES that are extremely important:

- Hwy 49, with a speed limit of 65 miles per hour is already a death trap for many. The addition of an estimated 900 additional cars per day (Ref: CALTRANS report), most of which will be trying to pass to the other side of the road to head in a southerly direction will create a nightmare situation for all who travel Hwy 49 and greatly threaten their SAFETY.
- In case of a wildfire (there will be hundreds of new people who are not used to living in such a rural setting, thus not aware of the extreme fire danger that exists most of the year) the residents of RDR are expected to evacuate over the hill through the LOPR where they and those from Combie Lake Estates, Dark Horse and all those within the LOPR and their horses will be racing to evacuate down Combie Road. The addition of the 400 residents and the numerous caretakers plus those running the commercial establishments along with their clients in RDR will make an already bad situation unbearable. Also disturbing, is the fact that the usual direction of the winds will be blowing the fire directly at those attempting to leave the valley...PUBLIC SAFETY IS NON-EXISTANT IN SUCH a SITUATION!
- The LOP Waste Management System is NOT adequate to handle the RDR project. This is a well know fact...and yet it is being discussed like it is manageable. It was studied and reported that the system could not handle 72 dwelling units; do they really expect us to believe that the system could handle the proposed 400+ residents, their caregivers and the commercial businesses with their workers and clients? AGAIN, PUBLIC HEALTH AND SAFETY IGNORED!

61-2

61-3

61-4

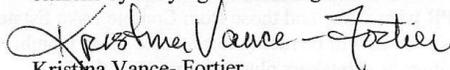
Letter 61 Continued

The other issues not adequately addressed in the DEIR are as follows:

- What impact the lighting from a commercial village in the middle of a rural setting have on the surrounding area needs to be adequately addressed. | 61-5
- What impact will the noise of the Sewer pumping station running 24/7 have on the residence living in the surrounding rural community? | 61-6
- What impact from the noise and vibration of all the blasting of ground rock in order to build this project, have on the surrounding rural areas and residence? How much blasting will be required and how long will this blasting take. Blasting is greatly disturbing & threatening to our wildlife & domestic animals and residence in the surrounded rural areas. | 61-7
- What impact will the lights during construction and after project is completed have on our rural night sky. Note: As it is now I look down on the Young's Residence home/potential Clubhouse, when the lights are on it completely deters my vision of the stars at night in that direction. Should a village be built down there what impact will all the lights from the village have on our rural night skies? | 61-8
- The sounds from the emergency vehicle sirens coming and going to pick up the elderly RDR residence in need of emergency care, what impact will the noise from sirens have on all of us uphill here in the Ranchos. (Sound travels uphill). | 61-9
- What impact will the noise from all the gatherings, skeet shooting, community parties, at the club house have on the surrounding rural community? | 61-10
- What impact would a failure of the 30ft earthen damn have on the Bear River Bridge below should a catastrophe occur? This is another health and safety issue that was deemed as insignificant in the DEIR report. This is a serious enough issue it should be address in the DEIR in detail with the fact that the Hwy 49/Bear River Bridge is below the RDR and in direct line of water and debris should the earthen dam give way. | 61-11
- How long will this proposed project take to complete and what impact will all this construction have on the surrounding rural community and those traveling the Hwy 49 passing Rincon Way. | 61-12
- In order to install a sewer line on Rodeo Flat and Timber Ridge to the LOP Waste Station, what impact will the grading and blasting of these roads have on the residents of Rodeo Flat and Timber Ridge. | 61-13
- What will the traffic safety impact be, for the entire community in and on Combie Road and to LOP? | 61-14

Nevada County is Rural and the location proposed for the RDR is extremely rural. The idea behind the proposed RDR project is a wonderful concept...but it is in the wrong location!

I ask you to do your job and protect the rural aspects of Nevada County and the Health and Safety of its citizens by denying the building of the Rincon Del Rio Project.



Kristina Vance- Fortier
26250 Table Meadow RD
Auburn, CA 95602

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter 61 – Kristina Vance-Fortier

- Response 61-1:** The comment states that by amending the General Plan, the door will be opened to make similar changes elsewhere in the county. The commenter is referred to Response 14-1.
- Response 61-2:** The comment expresses concern with the speed limit on SR 49 and states that the additional cars generated by the project that will be turning left across SR 49 will create a nightmare situation and threaten their safety. Traffic hazards are address on page 3.14-20 of Draft EIR Section 3.14, Traffic and Circulation. Records do not support the commenter's view of the existing conditions on SR 49 causing safety hazards. Implementation of mitigation measure MM 3.14.4a would stripe westbound Rincon Way to include dedicated left and right turn lanes in order to provide positive guidance for motorists queuing along Rincon Way while waiting to enter the northbound or southbound SR 49 traffic flow.
- Response 61-3:** The comment expresses concern with the use of Combie Road for evacuation. As noted in Draft EIR Section 3.8, Hazardous Materials/Human Health, page 3.8-18, the primary evacuation route for the project site would be via Rincon Way. However, the project would provide a secondary emergency-only roadway connection through Rodeo Flat Road, which would provide a greater number of emergency access options for the evacuation of area residents, including those in the Ranchos/Combie Road corridor area, and the mobility of fire suppression, emergency response, and law enforcement vehicles during an emergency.
- Response 61-4:** The comment states that the LOP Waste Management System is not adequate to handle the project and that it was studied and reported that the system could not accommodate 72 dwelling units. As noted on page 3.13-27 of Draft EIR Section 3.13, Public Services and Utilities, the wastewater treatment facility would need to be expanded by approximately 3 cassettes to accommodate the proposed project, and the facility has the design capacity to be expanded to accommodate the proposed project. Mitigation measure MM 3.13.5.1 requires that the applicant fund the cost of the expansion to accommodate project flows.
- Response 61-5:** The comment states that lighting from the commercial village in a rural setting is not adequately addressed, but does not state why the analysis provided on page 3.1-17 of the Draft EIR (see Section 3.1, Aesthetics) was not adequate. As discussed on page 3.1-17, the project would be required to comply with the Nevada County Land Use and Development Code, Section L-II 4.2.8, Lighting, which establishes standards to provide for efficient, safe, and attractive outdoor lighting while minimizing nighttime light pollution and energy waste. The code also requires all outdoor light fixtures to be fully shielded to prevent the light source or lens from being visible from adjacent properties and roadways. The proposed project would be required to submit a lighting plan depicting the location, height, type, style, and positioning of all light fixtures that demonstrates compliance with the Code. The proposed light fixtures would be IDA (International Dark-Sky Association)-approved, meaning

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

that they would minimize glare, reduce light trespass, and would not pollute the night sky. This was therefore found to be less than significant.

Response 61-6: The comment states that the noise impacts associated with the sewer pump station running 24/7 will have on the residents living in the surrounding community was not adequately addressed, but does not state specifically why the analysis provided on pages 3.11-23 through -31 of the Draft EIR (see Section 3.11, Noise) was not adequate. Draft EIR pages 3.11-23 through -31 provides a detailed analysis of this potential noise impact and identifies that implementation of mitigation measure MM 3.11.3 would reduce this impact to less than significant.

Response 61-7: The comment states that the noise and vibration impacts generated by blasting of rock are not adequately addressed and asks how much blasting will be required and for how long. Typical construction blasting activities can reach intermittent levels of approximately 94 dBA L_{max} at 50 feet, which is similar to that of other construction equipment and activities as analyzed in the Draft EIR. Therefore, noise generated by construction-related blasting would not exceed construction noise levels disclosed in the Draft EIR. The Draft EIR found short-term construction-generated noise to have a potentially significant impact. Implementation of mitigation measure MM 3.11.1(a), Draft EIR page 3.11-22, would prohibit construction activities, which would include blasting activities, during the more noise-sensitive nighttime hours. With implementation of mitigation measure MM 3.11.1(a), noise generated by construction-related activities would be considered less than significant.

Response 61-8: The comment asks what the lighting impact will be. The commenter is referred to the analysis on page 3.1-17 of the Draft EIR in Section 3.1, Aesthetics.

Response 61-9: The comment asks what the noise impacts from sirens will be. The commenter is referred to Response 47-4.

Response 61-10: The comment asks about noise from the gatherings, skeet shooting, parties, and the clubhouse. The operational noise impacts are addressed on pages 3.11-23 through -31 in Draft EIR Section 3.11, Noise. While the project applicant's website may advertise skeet shooting as an activity in which residents could participate, it was not meant to describe skeet shooting as an on-site activity; "off-site activities" will be available to residents, organized through the on-site administration. The applicant does not intend to provide skeet shooting as an on-site activity (Creighton 2012).

As noted on page 3.14-10, the continuing care retirement community (CCRC) may contain special services such as medical, dining, recreational, and limited retail supporting facilities, which would reduce the need to travel outside of the site. Continuing care retirement communities are typically designed as self-contained villages. The project applicant has further identified that the project would not be available for outside members of the public to rent or utilize for special events such as weddings, music concerts, and the like. The on-site amenities proposed are for residents only and potentially their immediate family activities if approved by management (Creighton 2012).

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

- Response 61-11:** The comment asks what impact dam failure would have on the Bear River Bridge and states that this is another health and safety issue that was deemed insignificant. The standard of significance for dam inundation is noted on page 3.9-16 of Draft EIR Section 3.9, Hydrology and Water Quality. The proposed project does not propose alteration of the existing dam nor would it place any structures within the probable inundation area below the existing dam. Therefore, the proposed project would not expose people or structures to a significant risk of loss, injury, or death involving flooding as a result of the failure of this dam as noted on page 3.9-22.
- Response 61-12:** The comment asks how long the project would take to complete and what impact the construction will have on the community and those traveling on SR 49. The timing of construction would occur in phases, with the construction assumed by phase described on page 2.0-34 of Draft EIR Section 2.0, Project Description, while the timing of each phase is summarized in Draft EIR Section 3.5, Climate Change and Greenhouse Gases, page 3.5-15. Construction impacts are addressed throughout each section of the Draft EIR.
- Response 61-13:** The comment asks what impact will be associated with grading and blasting during the installation of sewer lines within Rodeo Flat Road and Timber Ridge Drive. As noted on page 3.13-28 of the Draft EIR, impacts associated with the construction of the conveyance infrastructure, such as biological, cultural, air quality, and noise impacts, are addressed as part of the analysis of the project as a whole and disclosed in the appropriate sections of the Draft EIR. Off-site pipeline construction must ensure that no unstable or erodible slope conditions are created and that storm water quality is addressed (Nevada County Land Use and Development Code Section L-V19.3B).
- Response 61-14:** The comment asks what the traffic safety impact would be for the entire community in and on Combie Road and to Lake of the Pines. Traffic safety impacts are addressed on page 3.14-20.

Letter 62



RINCON DEL RIO DEVELOPMENT

Mar. 15, 2012

Mr. Foss,

Please add my concerns to those of my neighbors about the Rincon Del Rio project. I have enjoyed my country home here for 30 years, this project will turn my area in to a small city. The traffic, fire concerns, the noise, the loss of privacy & security. We live here because we enjoy our rural life style. This is not the area for elderly people, some with serious health needs, to live far from medical care. In an environment that is a challenge to live in at many different times of the year.

How can you justify re-zoning a rural area that affects thousands of residents for one person ??? Remember you" CAN NOT UN-RING THE BELL" this could change the whole landscape of our community forever.

62-1

Sincerely, Sherry Warren

22355 Hidden Ranch Rd.

Letter 62 – Sherry Warren

Response 62-1: The comment expresses concern with the traffic, fire, noise, and the loss of privacy and security the project will bring to their rural community. The commenter also questions how the elderly can live far from medical care and how rezoning can be justified. As noted on Draft EIR page 2.0-35, staff would include on-site nursing, two EMT personnel on site at all times, and contract physicians providing geriatric care for the residents within the project. The on-site EMT personnel are capable of handling most fall incidents and can make diagnostic assessments, minimizing unnecessary trips to medical facilities. In addition, as noted on page 3.14-10, the continuing care retirement community (CCRC) may contain special services such as medical, dining, recreational, and limited retail supporting facilities, which would reduce the need to travel outside of the site. Continuing care retirement communities are typically designed as self-contained villages. These comments do not specifically address the adequacy of the Draft EIR. See Draft EIR sections 3.14, Transportation and Circulation, 3.13 Public Services and Utilities, and 3.11, Noise, respectively, regarding impacts related to traffic, fire, and noise. Privacy is not a CEQA issue and the comment provides no details regarding changes to security.

Letter 63

WILLOW POND RANCH

20862 E. Spring Ranches Rd.
Grass Valley, CA 95949
(530) 346-6081

RECEIVED

MAR 20 2012

Nevada County Community
Development Agency

Harry B. Wyeth
hbwyeth@earthlink.net

Karen A. Wyeth
kawyeth@earthlink.net

March 19, 2012

Brian Foss
Acting Planning Director
County of Nevada
950 Maidu Ave.
Nevada City, CA 95949

RE: Rincon del Rio EIR Comments

Dear Mr. Foss;

Please accept the following comments regarding the draft environmental impact report on the proposed Rincon del Rio project.

There are two areas of concern: Lighting and trail access.

Lighting: The developer is to be commended for planning on installation of outdoor lights approved by the International Dark Sky Association ("DSA"). DSA standards are very good and should be universally adopted for projects in this county. My concern is not with the lights themselves, but with their number and height. Given the small size of the project, thirty-five twelve foot lights is excessive. The map in the EIR indicates such a light standard at almost every road and driveway intersection, no matter how minor. Most of these could be changed to eight foot lights with no adverse effect.

Moreover, the overall number of lights, both twelve and eight foot, should be reduced by at least one quarter. There is no need for lighting of every section of the project, no matter how shielded the individual lights may be.

Finally, the type of lights should be restricted to low pressure sodium. Both high- and low-pressure sodium lights produce a orange-yellow glow, but the low pressure type is more energy efficient and is least likely to interfere with viewing of the night sky. They are used exclusively in many areas where visibility of the night sky is still good, such as the island of Hawaii (the "Big Island"), and should also be used in Nevada County.

63-1

Letter 63 Continued

Trails: The developer has proposed a number of trails in the project, but there are no provisions for public access to the trail system. There even appears to be a gate house and provision for restricting access to the area to residents. Unless public access to the trail system developed in Rincon del Rio is permitted, future public access to the adjoining section of the Bear River will never be realized.

Such future access is contemplated by the County's trail master plan. Indeed, section 3.17.7.2 and following of the EIR states that the project would have no negative impact on existing park and recreation opportunities, but simultaneously points out the the project has the potential to provide multi-use non-motorized recreation trails as identified in the trail master plan. This clear discrepancy needs to be addressed, and provision made for present day--not future--public access to the project's trail system. This could be achieved easily by creating a separate small parking lot for public users of the trail system, with signs directing hikers and other users to the appropriate trailheads.

Please accept these comments as part of the record of these proceedings.

Very truly yours,


HARRY B. WYETH

63-2

Letter 63 – Harry B. Wyeth

Response 63-1: The comment is concerned with the number and height of the lights for such a small project. The comment recommends that the light standard could be changed from 12-foot to 8-foot lights and that the number of lights be reduced by one quarter. The commenter also states that the lights should be restricted to low-pressure sodium. These comments do not address the adequacy of the environmental document, but express design details of the project. These comments are forwarded to the decision-makers for their consideration.

Response 63-2: The comment notes that there are a number of trails proposed, but there are no provisions for public access to the trail system, and that the proposed project would restrict access to a section of the Bear River that is contemplated in the County's trail master plan. As noted in Draft EIR Section 3.13, Public Services and Utilities, page 3.13-36, the Bear River Recreation and Parks District (BRRPD) has determined that no new recreational facilities would be required and no deterioration of existing park facilities would occur as a result of the implementation of the project. Therefore, public access to trails is not required by the BRRPD. As noted by the commenter, on page 3.13-36 of the Draft EIR, it is noted that "the proposed project has the potential to provide a multi-use (pedestrians, equestrians, and bicyclists) non-motorized recreational trail consistent with Route 2 as identified in the plan (Feiler 2010)." Per the referenced memorandum (Feiler 2010) regarding the proposed tentative map, a recommended condition of approval would be an offer for dedication of a non-motorized public trail that includes at least a 30-foot-wide easement along the entire extent of the Bear River and north of the 100-year floodplain. However, trail easements will not be accepted until a process has been established by the Board of Supervisors to accept such offers.

Letter 64

Maria Wirtz
25145 Rodeo Flat Road
Auburn, Ca 95602

March 20, 2012

Mr. Brian Foss
Nevada County Planning Department
County of Nevada
950 Maidu Avenue
Nevada City, CA 95959

Re: Rincon Del Rio Project - Draft Environmental Impact Report Comments

Dear Mr. Foss,

Following are my comments on the Draft Environmental Impact Report (DEIR) for the proposed Rincon del Rio (RDR) project. This letter contains website links to various sources of information that I relied on in preparing my comments, and I incorporate the information contained in these links by reference herein. As a result, I would anticipate that any response to one of my comments that contains a link to a website should also address the contents of the link. I have decided to incorporate the links instead of printing out the contents for each site to minimize the impact of the volume of paper necessary, but this does not obviate the County from adequately addressing the contents of those sources.

64-1

Please add this correspondence as part of the public record and the administrative record related to the proposed Rincon del Rio project. This correspondence addresses serious issues and concerns regarding the RDR project and the adequacy of the DRAFT EIR. This letter be included as part of Nevada County's administrative process in the event a court action occurs.

Aesthetics 3.01

Impact 3.1.3 Implementation of the proposed project would introduce some urban uses to a primarily undeveloped and rural area that currently includes few existing sources of light or glare. This impact is **less than significant**.

Implementation of the proposed project would also introduce new sources of light that currently do not exist on the project site. Project site lighting would include 88 pole lights, 40 of which would be 8 feet tall and 48 of which would be 12 feet tall, as well as 26 bollard-style lights and 90 wall-mounted lights. Individual residential units would also have porch entry lights. These new light sources could adversely affect adjacent areas with light spilling over and could contribute to skyglow conditions in the project area. As discussed under Impact 3.1.2, rural residences both north and west of the project site would have views of various components of the project. Project site lighting would also be visible from these residences, primarily those along Connie Court near the five pole lights near the Village Center as shown in **Figure 2.0-9**.

COMMENT: The DEIR does not adequately address the increase in visible lighting, glare, and other impacts to the nighttime skies of the local residents. If a project were to be built as the land is currently zoned, the impacts would be less severe, as single-family residences will have fewer lights than the small town that is proposed.

64-2

In addition, the DEIR also failed to address other aesthetic considerations. First, the DEIR failed to address impacts to local residents from tree removal, and having to look at a small city in their backyard. If neighbors are able to see the project site from their homes, then instead of viewing what they originally expected to be a rural subdivision much like their own, they will instead see a densely-populated town in that area, not the rural atmosphere that so many residents were looking for when they moved here. The EIR should address the visual impacts to homeowners living in the area, and from computer models render at least four drawings that show what the proposed project will look like from various home sites overlooking the proposed project area. In addition, the EIR should also include rendered computer models of what the site would look like developed as 3-acre home sites to provide a comparison. A small

Page 1 of 16

Letter 64 Continued

Maria Wirtz
25145 Rodeo Flat Road
Auburn, Ca 95602

city in a rural area is incompatible with the General Plan, even as it is proposed to be amended - it is inconceivable that the County can consider a small village with retail businesses to be rural.

64-2

Biological Resources 3.04

MISSING IN DEIR ANALYSIS: California has twenty-five bat species, eighteen of which are rare and/or considered Species of Special Concern by Department of Fish and Game, Species of Concern by the U.S. Fish and Wildlife Service or Sensitive by the U.S. Forest Service. The DEIR and associated studies made available to the public during the review period failed to mention many sensitive species that may exist on the project site. See below for examples.

MISSING IN DEIR ANALYSIS: The DEIR concludes that no special status species exist in the area. However, there was no mention of any surveys being conducted for many species that may exist in the project area. For example, there is no mention of the pallid bat in the DEIR, which is likely in the area. According to the Department of Fish & Game, it is a Species of Special Concern. "In California pallid bats are associated with oak woodlands at lower elevations (BioSystems 1994) and may roost in a variety of places including tree cavities, rock crevices and man made structures." In addition, "Pallid bats are very sensitive to disturbance of maternity colony sites. Because this bat is highly associated with oak woodlands and these woodland habitats are declining, so could the numbers of pallid bats." (source: <http://www.dfg.ca.gov/delta/reports/stanriver/sr448.asp>). In order to ensure that this species is not adversely impacted, a bat survey must be completed on the Rincon del Rio site to rule out its presence, or, if found, to document locations in order to properly develop mitigation measures. Any anecdotal evidence regarding no recent sightings of other similar statements do not take the place of a formal study conducted by a properly-qualified professional. The "if you don't look, you won't see it" approach to species surveys is inadequate under CEQA.

64-3

The Townsend's Big-eared bat is another Species of Special Concern and may live in tree cavities (hollow holes in either live or dead trees), caves, or abandoned buildings. (Source: http://www.blm.gov/id/st/en/prog/wildlife/bats/townsend_s_big-eared.html). Although the Townsend's Big-eared bat prefers caves, they have been known to live in trees and, therefore, they should be included in the biological survey for the same reasons.

According to the range map of the Western Red Bat (nrm.dfg.ca.gov/FileHandler.ashx?DocumentVersionID=18803), this species may also live within the Rincon del Rio project site. This species is considered a Species of Special Concern in California and needs to be included in the biological survey.

Proposed mitigation should be consistent with the impact that is being mitigated. Most typically, this impact involves the alteration or loss of a roosting site. In general, the closer the mitigation action comes to providing replacement habitat for that which is lost the more likely it is to be successful. This means that on-site and in-kind solutions have the highest probability of success. While experimental roost designs require further exploration, off-site solutions need to offer habitat conditions comparable to on-site roosts. The EIR should discuss the impact of tree removal and construction (noise) will have on bats. In addition the EIR should discuss how to mitigate these impacts by minimizing the number of trees destroyed and providing bat houses to replace trees that will be destroyed. (source: "CALIFORNIA BAT MITIGATION: TECHNIQUES, SOLUTIONS, AND EFFECTIVENESS," December 2004, website: nrm.dfg.ca.gov/FileHandler.ashx?DocumentVersionID=19685)

MISSING IN DEIR ANALYSIS: The DEIR does not evaluate the impact of the project on predators and scavengers with the associated increased human presence. The project site may have increased opportunity for scavengers and predators from inadequate waste management, residential garbage, cat food left outside from pets, etc. This leads to an increase in population of predators and scavengers, and therefore, a disruption to natural ecosystem function in this area. The EIR needs to address the increased presence of predators and scavengers (raptors, raccoons, cats, etc.) on special status species.

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GENERAL COMMENT: The rare plant survey that occurred in Dec 2008 and Feb 2009 was conducted during non-blooming times for most species (common sense tells me that the middle of winter is not the best time to look for flowering plants). A survey must be conducted at times when plants can be seen by the naked eye (i.e., blooming times). Similarly, animal surveys must be conducted when animals are not hibernating and would therefore be most likely to be seen onsite. Migration times must be taken into account as well.

Further, and if, as is stated in the DEIR, special species (plant and animal) are "unknown" to be onsite, then Nevada County must require the developer to perform due diligence and complete required studies *prior* to the BOS vote. Deferring these studies until the BOS has acted on the project is unacceptable. Without essential data and facts at its disposal, the BOS is unable to make an informed decision as to the impacts to such species.

64-5

In short, new plant and animal surveys must be conducted when species will be blooming and active, respectively. A plant study may have to occur multiple times to adequately catalog the species onsite because all special status species do not bloom at exactly the same time, nor do blooming times occur at the same time every year due to varied precipitation amounts and high and low temperatures. Again, these must be conducted, documented, and presented in report format prior to any final action by the BOS.

Page 3.4-26: Brandegee's clarkia (*Clarkia biloba* ssp. *brandegeeeae*; CNPS rank 1B.2) may occur in the upland areas of the project site, specifically in the rocky areas adjacent or upslope from the Bear River.

COMMENT: "Brandegee's Clarkia is found in dry habitats below 2,500 feet in six counties of the northern Sierra. It typically grows on gravelly slopes above creeks and rivers and along roadsides. Brandegee's Clarkia may bloom from May to July depending on weather conditions and location" (Source: <http://www.sierranevadavirtuallmuseum.com/docs/galleries/nathist/plants/rarenative.htm>). This plant also occurs on cut slopes and along roadsides, so if any roads are present on-site, this plant may occur above or below the roads. Surveys and mitigation measures need to include the possibility of presence of Brandegee's clarkia in the entire area of the project site if there are roads present that have any form of cutbank. It is not surprising that the presence of this species onsite is currently unknown; the plant survey occurred during December 2008 and February 2009, which are non-blooming times.

64-6

If the species is present, dust from heavy usage of the road (especially during the four years or more it would take to construct the project) would be unhealthy and may kill the plant, and adequate mitigation measures must be developed (after an adequate study is conducted, of course).

A new survey for sensitive plant species must be conducted during blooming times for all plants, including Jepson's Onion and Butte County Fritillary. The DEIR also did not discuss whether transplantation of these particular species is even a feasible or viable approach to minimizing impacts to each of these specific species. An appropriate analysis (or citation to existing research) must be conducted regarding survivability of each species after being transplanted, as well as measures to be taken to maximize the potential survivability. If a species is not likely to survive transplanting, then use of transplanting as a mitigation measure is inappropriate, and alternative mitigation measures need to be discussed.

MM 3.4.3b If vegetation removal or ground surface disturbance (any form of grading) is to occur between March 1 and August 31, the project applicant shall retain a qualified biologist to conduct a focused survey for active [avian] nests within 14 days prior to the disturbance of the construction area.

64-7

COMMENT: This mitigation measure is inadequate. Raptors (e.g. Red-tailed hawks) can build a nest in as little as 4 days (Source: Cornell Lab of Ornithology's website at http://www.allaboutbirds.org/guide/red-tailed_hawk/lifehistory/ac). Therefore, the biological survey(s) needs to be conducted within three days of construction in order to adequately survey for active nests.

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Nest Description of Red-Tailed Hawk: Both members build the nest, or simply refurbish one of the nests they've used in previous years. Nests are tall piles of dry sticks up to 6.5 feet high and 3 feet across. The inner cup is lined with bark strips, fresh foliage, and dry vegetation. Construction takes 4-7 days. (Cornell Lab of Ornithology's website)

There is a resource protection reason for animal surveys to occur within three days of construction activity. Raptors can build nests in as little as 4 days (Source: Cornell Lab of Ornithology's website at http://www.allaboutbirds.org/guide/red-tailed_hawk/lifehistory/ac). (It was unclear if the nests built in four days were only those that were refurbished or if raptors can build new nests in four days. I assumed that a new nest can be built in four days.) If a raptor began nest building four days prior to construction, and a survey occurred four days prior to construction, it would be easy to miss the beginnings of a nest.

64-7
cont

GENERAL COMMENT: This link provides a list of birds protected under the Migratory Bird Treaty Act: <http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/mbtandx.html>. Each bird species must be adequately analyzed. The DEIR does not contain sufficient information in which to make an informed decision as to whether adequate analyses were conducted for each species.

64-8

MISSING IN DEIR ANALYSIS: There was no mention of mitigating bird collision with man-made structures. Given that it appears the developer could propose large buildings on site at least three stories in height (as the zoning ordinance is proposed to be amended), the EIR must address the issue of bird collisions with man-made structures. While bird collisions vary depending on site structure and site-specific aspects, some general solutions exist to mitigate the problem - some treatments are available to help make structures and windows more visible to birds. In addition, lights on at night can be adjusted to minimize impacts to birds.

64-9

The following is a document to help design buildings and lighting in order to reduce bird mortality due to man-made disturbances:
<http://www.abcbirds.org/newsandreports/BirdFriendlyBuildingDesign.pdf> (58 pages). The DEIR should include these concepts as a required mitigation measure.

Impact 3.4.6 Implementation of the proposed project would result in the removal of or damage to protected landmark oak trees and groves during construction. This is considered a **potentially significant** impact.

The project design was repeatedly adjusted to minimize direct or indirect impacts on the landmark oak trees and groves mapped within the project site through incorporation of the recommendations of the draft Habitat Management Plan (EcoSynthesis 2009b), developed to specify mitigation actions for potential direct and indirect impacts on landmark oak groves (see **Appendix 3.2-A**). All of the individual landmark oak trees are avoided, but no feasible design could be reached that achieved project objectives and regulatory requirements (for example, necessity for a secondary fire protection access road) with no grading within the canopy of any landmark oak grove. Also, in order to achieve the extremely desirable environmental goal of clustering all development in the western part of the project site, it was necessary to allow for minor amounts of grading with the limits of some small patches of landmark oak grove.

64-10

COMMENT: The DEIR is inadequate in that it did not discuss alternative locations for a secondary fire protection access road. Throughout the entire DEIR, and throughout a review of all of the various reports, project submittals, maps, etc., on the County's web portal that pertain to this project, alternate locations of the secondary fire access road were never discussed to any significant extent. In terms of Impact 3.4.6, an analysis that would relocate the secondary fire protection access road to minimize the number of landmark oak trees destroyed should be conducted. It appears very evident from a review of all documents accessible to the public that the secondary road connecting to Rodeo Flat was decided upon very early on in the project design process, and there has been absolutely no serious consideration given to alternate locations. This design-then-write the documentation later approach is expressly prohibited by CEQA.

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MM 3.4.7 For all project elements that must unavoidably be constructed within 100 feet of riparian or wetland areas, the project shall implement water quality and wildlife habitat mitigation measures provided on pages 7 through 9 of the Rincon del Rio Habitat Management Plan.

COMMENT: No alternatives were given for location of the proposed row crops, trails or the fire road. Certain elements are avoidable: Relocate or remove row crops as a project element; trails should be relocated or possibly removed as a project element if they cannot be relocated. The fire road should be relocated so that it is greater than 100 ft from wetlands, the main tributary, and/or adjacent riparian area. If those elements cannot be relocated or removed as a project element, perhaps this is good reason to choose an alternative project site.

64-11

MM 3.4.2a A habitat assessment for California red-legged frog shall be conducted by a USFWS-approved biologist according to the *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog* (USFWS 2005).

COMMENT: It should be noted that red-legged frogs (RLF) can migrate up to one mile from a water source after the first rains (October); therefore, any survey conducted during the wet season, which can occur as early as October and as late as May, should include areas within one mile of available water sources. "During the course of a wet season, movements up to 1.6 km (1 mi) are possible (USFWS 2002). During dry weather, the subspecies tends to remain very close to a water source (M. Jennings pers. comm.)." Further, adult "California red-legged frogs frequently remain near aquatic habitat; however, significant seasonal movements between local aquatic and terrestrial habitats have been documented (Jennings and Hayes 1994). Individuals have been observed more than 100m (328 ft) from water in adjacent dense riparian vegetation, although they typically occur within 60 m (200 ft) of water (USFWS 2004, Bulger et al. 2003, Fellers and Kleeman 2007)." (Source: http://www.yoloconservationplan.org/yolo_pdfs/speciesaccounts/amphibians/Cal-red-legged-frog.pdf)

64-12

GENERAL COMMENT: No future survey period is discussed in the DEIR. A survey for the presence of RLF must be conducted prior to any consideration of the project by the BOS, and then consistently during all construction activities. If the pre-BOS survey documents the presence of the RLF, then appropriate consultation with the USFWS must be conducted in order to better develop mitigation strategies and/or project re-design to maximize RLF habitat avoidance.

3.4, Aquatic Communities. Please note that a formal jurisdictional wetland delineation has not been conducted on the project site; therefore, the following findings are general in nature and subject to modification. Also: **Figure 3.4-4A, Vegetative Communities Within the Project Site** - this map shows generalized locations of seasonal and fresh emergent wetland communities. The map's attributed source is listed as CA Dept. of Conservation FMMP, 2008; Bing Maps, 2011.

COMMENT: Until such a time as a formal jurisdictional wetland delineation map has been prepared and reviewed by the U.S. Army Corps of Engineers, the extent and quality of the wetland resources, and in particular any seasonal wetlands, will be unknown. Wetland delineation constitutes more than just walking the site and making general observations of the plant communities - it also involves species density measurements, observation of hydrologic indicators, and determining whether hydric soils are present. It is certainly possible that additional seasonal wetlands will be identified in a formal delineation effort. Given that the U.S. Army Corps of Engineers' approach to wetland mitigation through their 404 program is to first avoid the resource, and only then, if redesign of the project is impossible, can the impacts be mitigated.

64-13

Until the geographic extent of the wetlands are known, it is impossible to have any certainty as to project design. Since the project site is relatively large, and since the facilities are currently proposed to be densely clustered, it would be reasonable to presume that the site could be redesigned to avoid any wetland resources. Obviously, this cannot occur until the extent of the wetlands are known. As such the

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DEIR is inadequate in describing the extent of wetland and other Waters of the United States in the proposed project area.

64-13
cont.

As for the map (Figure 3.4-4A, it appears to have been taken from a much larger-scale map, and as such, does not have any guarantees of accuracy for the level of detail necessary in the DEIR. Again, until a jurisdictional wetland map is prepared and certified by the U.S. Army Corps of Engineers, the true extent of wetlands on site cannot be provided with any certainty, and as a result, the DEIR is inadequate in terms of discussion of impacts to those resources.

Hydrology and Water Quality 3.09

Drainage

3.9-2 According to the Natural Resource Conservation Service Web Soil Survey, the project site is underlain by Boomer, Sobrante, and Chaix series soils, including Boomer Loam, Boomer-Rock Outcrop, Sobrante Loam, and Chaix Rock Outcrop. These soils are well drained and classified as hydrologic groups B and C (USDA-NRCS 2011).

COMMENT: The DEIR states that the RDR site has well-drained soils; however, comments by one of the Planning Commissioners indicates that many soil types in the area are shallow and underlain with granite, necessitating blasting to create trenches for pipelines. Shallow soils also are more susceptible to disturbance and erosion, and given the shallow depths, revegetation may be more difficult. Appropriate mandatory mitigation measures to minimize soil disturbance, noise impacts, and revegetation efforts must be developed and included in the final EIR.

64-14

3.9-2 The FEMA Flood Insurance Rate Map for the project area (Community-Panel No. 060210 0750 C) shows that the majority of the project site is in Flood Zone C, indicating that the area has minimal flood hazard but may experience ponding and local drainage problems that do not warrant a detailed study or designation as a floodplain (see **Figure 3.9-1**). The remainder of the site, located along its southern boundary and the Bear River, is in Flood Zone A, indicating that it has a 1 percent annual chance of flooding and a 26 percent chance of flooding over the life of a 30-year mortgage (FEMA 1987, 2011). Flood Zone A is considered a Special Flood Hazard Area (SFHA), meaning land area covered by the floodwaters of the base flood.

64-15

COMMENT: Part of the site is considered a flood zone. It is unclear from the DEIR what development activities are contemplated in these area, or whether the appropriate agencies were consulted with regard to risk factors and/or required avoidance of activities in these areas.

3.9-5 As shown in **Figure 3.9-2**, portions of the project site, including portions of the site proposed for development, are within the dam failure inundation areas for both Rollins Dam and Combie Dam (California OES 2007). Both dams are owned and operated by NID and are regulated by the California Division of Safety of Dams (DSD). Rollins Dam (DWR Dam No. 61-021) is located on the Bear River and was constructed in 1965. It is an earth and rock dam with a capacity of 66,000 acre-feet and a crest height of 242 feet. Combie Dam (DWR Dam No. 61-009) is also located on the Bear River and was constructed in 1928. It is a variable radius arch dam with a capacity of 5,555 acre-feet and a crest height of 85 feet (DSD 2011).

64-16

COMMENT: The proposed project location is within not one, but two potential dam failures areas! This serves to underscore my primary contention that there are far more suitable locations within the County for such a development.

3.9-5 The earthen dam on the project site is not currently regulated by the DSD. In the event of a failure of the on-site dam, it is assumed, given the topography of the site, that the water would flow southward into the Bear River.

64-17

COMMENT: Given that a dam failure, even a minor failure, has the risk of loss of life, it would be far better to conduct a survey and hydrologic analysis of a catastrophic dam failure inundation zones than it would be to "assume" that the water would flow southward. This comment underscores the inadequacy

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of the analysis conducted on this point.

Impact 3.9.6 The project site is located within the dam failure inundation areas for both the Rollins and Combie dams. In addition, the existing pond located on the project site is retained by an earthen dam, and two canals retained by levees traverse the site. Failure of any of these dams or levees could result in inundation of portions of the project site. This impact is **less than significant**.

As described previously in this section, the project site is located within the inundation areas of both the Rollins and Combie dams. These dams are owned and maintained by NID and are of sufficient height and capacity to be regulated by the California Division of Safety of Dams (DSD). The DSD performs annual maintenance inspections of these and other dams under state jurisdiction, including monitoring for compliance with seismic stability standards. Regular inspection by the DSD and maintenance by the Nevada Irrigation District ensure that the dams are kept in safe operating condition. As such, failure of these dams is considered to have an extremely low probability of occurring and is not considered to be a reasonably foreseeable event.

64-17
cont.

Weeks Canal crosses the northwestern portion of the site and the Magnolia Ditch crosses the eastern portion of the site flowing from south to north. These canals are used by NID for irrigation purposes. All canals under NID jurisdiction are continually patrolled and maintained to control water loss (NID 2010, p. 6-15). Maintenance of the canals ensures that the condition of the levee system will be in good order. Additionally, as part of the project, Weeks Canal will be encased within the street system as it enters the project site, further diminishing the possibility of levee failure. The existing pond located near the center of the project site is retained by an approximately 30-foot-tall earthen dam that is not currently regulated by the DSD. As such, the dam's structural integrity and general condition is not currently known and its inundation area has not been mapped. However, in the event of a failure of the dam, it is anticipated, given the topography of the site, that the water would flow southward into the Bear River. The project does not propose to locate any structures between the on-site pond and the Bear River; only recreational components such as the barbecue area, volleyball area, horseshoe pits, and river overlook would be located in this area. Therefore, the project would not expose people or structures to a significant loss, injury, or death involving flooding as a result of the failure of the on-site dam. Impacts would be considered to be **less than significant**.

Mitigation Measures
None required.

COMMENT: Again, given the risk that individuals could potentially be killed if the earthen dam were to break, it stands to reason that some basic analysis and survey could better define the extent of inundation from a catastrophic dam failure. Further, the dam should be inspected by licensed professional dam inspector. Presuming that the dam is in good condition, then proposing to build recreational facilities for elderly individuals in the general downslope area, coupled with the fact that the geographic extent of this area has not been mapped, does not constitute adequate analysis under CEQA. A study is required before anyone can make a finding of significance.

3.9-15 STANDARDS OF SIGNIFICANCE

The impact analysis provided below is based on the following State CEQA Guidelines Appendix G thresholds of significance:

- ...
- 7) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map.
- 8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows.
- 9) Expose people or structures to a significant loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.
- 10) Inundation by seiche, tsunami, or mudflow. Water supply impacts are addressed in Section 3.13, Public Services and Utilities. As described above, the project site is not located in the vicinity of any water bodies of sufficient size to pose a risk of seiche or tsunami. The 3.25-acre pond on the project site is not large enough and is located too far from proposed project development to result in impacts associated with seiches. Therefore, these

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issues (part of Standard of Significance 10) will not be addressed further in this Draft EIR.

64-18
cont.

COMMENT: See comments above for 3.9-5 and 3.9-6 as they apply equally here.

Land Use 3.10

Impact 3.10.2 The proposed project is not consistent with the existing General Plan land use designation or zoning for the project site. However, the project proposes amendments to the land use map and text of the General Plan and the zoning map and text of the County's Zoning Ordinance in order to achieve consistency. Therefore, this impact is considered to be **less than significant**.

COMMENT: This is the most blatant example of how a project should NOT be planned, and how a finding of less than significant cannot be done. The developer decided to build something that was not consistent with the County's General Plan (which the DEIR describes as "the overall guiding policy document for the unincorporated areas of Nevada County." As a result, the project is inconsistent with the general plan. Problem? No! Let's just change the guiding document to be consistent with the project. Bingo! Less than Significant.

64-19

This is exactly the sort of "reverse-engineering" that makes the general public believe that ANY guiding policy document not worth the paper it is written on. Why should taxpayers fund the considerable expense and effort necessary to create a General Plan if a moneyed developer can simply change it to suit their desires?

In addition, it appears the County is developing the southern portion of Nevada County piecemeal via General Plan amendments, something not allowed by CEQA. For example, the Higgins Marketplace apparently changed the land use designation for 15 acres from Business Park to Community Commercial, and for 1.38 acres from Business Park to Office and Professional; the Rezone application changed the property zoning for 15 acres from BP-SC-SP to C2, and for 1.38 acres from BP-SC-SP to OP, or some other more restrictive zoning. This was considered justified, in part, by a finding that there would be very little population increase south of the marketplace. This "finding" was made at the time that the Rincon del Rio developer was approaching the County with this proposal!

64-20

Not only is a piecemeal approach to land management disallowed by CEQA and case law, it also serves to undermine the confidence of the County's residents in their government's ability to effectively lay out a blueprint for the County's future and then have the backbone to actually stick to it when money comes knocking.

Population Housing and Employment 3.12

STANDARDS OF SIGNIFICANCE

The impact analysis provided below is based on the State CEQA Guidelines Appendix G thresholds of significance, which indicate that the project would have a significant impact if it would:

- 1) Induce substantial population growth in an area, either directly or indirectly.
- 2) Displace substantial numbers of existing housing, necessitating the construction or replacement housing elsewhere.
- 3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

Induce Population, Housing, and Employment Growth (Standard of Significance 1)

64-21

Impact 3.12.1 Implementation of the proposed project would result in an increase of 239 more new residents than the 176 new residents the existing General Plan designation and zoning would allow on the project site. The population increase represents 0.14 percent of the county as a whole and therefore a **less than significant** impact.

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The proposed project would result in development of the 215-acre project site with a continuing care retirement community (CCRC) featuring a variety of independent and supportive living arrangements including independent living, assisted living, and nursing care within a campus-like setting featuring commercial and recreational uses, transportation, and a variety of other services. The CCRC would include a total of 345 dwelling units, 275 of which would be single occupancy units and 70 of which would be double-occupancy units. As shown in **Table 3.12-3** below, the proposed dwelling units would accommodate a maximum of 415 additional residents on the project site. In addition, the project would result in the need for approximately 43 employees on the project site.

COMMENT: The EIR is using fuzzy numbers to justify a finding of less than significant. The project would certainly be less than significant if one were to compare the project's new residents to the State of California. However, the issue in this EIR is the impact to the local community, not the County as a whole. If you look at the project site itself (which is the boundary used for the rest of the resources discussed here, there would be an increase of 241 residents at the project site, which is an approximately **140% increase for the project area**. This is certainly a significant impact to the local area. The impact could still be significant (or at least cumulative) if you were to include this project plus the expected eventual build-out of Dark Horse, Winds Aloft, etc.

64-21
cont.

However, if the EIR intends on using the County's boundaries as the geographic scale, then all impacts from the project (including the General Plan amendments and Zoning ordinance amendments) must also be taken into account. As a result, the population numbers would necessarily have to include the increase in residents from the 22 other suitable locations identified in the DEIR that could be CCRC's in the future. This would be the true potential impact to the County as a whole. Using a much broader geographic boundary to justify the no significance finding is faulty.

3.12-4 The EIR states that that as many as 60 to 70 percent of the proposed project's residents would be drawn from western Nevada County and that the project is intended to serve existing Nevada County senior residents.

Comment: While this would reduce the cumulative population growth effects of the project, the existing homes vacated by the seniors would presumably be occupied, potentially by new residents from outside of Nevada County. Furthermore, it does not appear that the project applicant intends to restrict residency based on whether the new resident is a Nevada County citizen.

64-22

The developer is already advertising Rincon del Rio on the internet as already being completed. This shows their intent to advertise well beyond the confines of Nevada County. Their contribution to and marketing at the Bear River Run in 2011 shows that they are actively marketing to as many people as possible regardless of whether they live in the County; these runs draw people from all over the area - not only Nevada County, but Placer, Sacramento and even more distant counties.

Even if these statements were to be given serious consideration, it would be unlikely that the average Nevada County citizen could afford to live there. The statement in the DEIR, without a discussion of the expected asking price of a unit (including entrance fees, monthly dues, etc) as compared to the average ability of an elderly Nevada County resident to pay such prices, becomes a conclusion lacking any factual foundation, and is therefore faulty.

3.12-5 The project, as proposed, would increase the allowable density on the project site by 136 percent and result in greater general intensity of use than would be allowed under the current Nevada County General Plan designation (415 proposed residents - 176 residents under current designation = 239 additional residents; 345 proposed units - 72 units allowed under current designation = 273 additional units). The increase in population represents 0.14 percent of the county's total projected buildout population of 175,760 ($239/175,760 = 0.00135$), which is not considered a substantial increase in population.

64-23

COMMENT: The County would not allow 0.6 houses to be built, therefore the number of houses under the current designation is 71 houses. This means that 274 additional units would be build on 215 acres. The

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64-23
cont.

correct number of residents under the current designation is 174 persons.

3.12-5 Other than construction jobs, it is unlikely that the existing zoning of the property would result in new employment opportunities. The project would also employ up to 43 employees, possibly increasing employment opportunities in Nevada County. With the County's unemployment rate of 11.4 percent, it is likely that at least some of the new jobs could be filled by existing Nevada County residents.

64-24

COMMENT: Because Auburn is closer to the proposed project site than Grass Valley and Nevada City, it is reasonable to expect increased employment opportunities for Placer County residents as well. Further, if this section is intended to show justification for the project's beneficial impacts, it would be only fair and justified to analyze any increase in jobs against the population of Nevada County as a whole, similar to the analysis used to discuss the increase in number of residents in section 3.12-1 of the DEIR. How does a 43-job increase compare with the total number of jobs in Nevada County?

3.12-5 While the proposed project would result in a higher residential density and general intensity of use on the project site than was anticipated in the Nevada County General Plan, the amount of population is minor when considered within the context of the county as a whole. The 0.14 percent potential increase in population is considered **less than significant**.

64-25

COMMENT: You are not taking localized impacts into account. While it may not be significant for Nevada County as a whole (or the state of California for that matter), it **will** be significant for the residents along Rincon Road and surrounding properties. The proper question should be, what is the population increase for that part of southern Nevada County?

3.12-7 As discussed under Impact 3.12.1 above, implementation of the proposed project would result in the addition of 345 dwelling units, 415 residents, and 43 employees on the project site, an increase of 273 dwelling units and 239 residents over what would be allowed under the current Nevada County General Plan designation. For purposes of this analysis and to consider the worst-case environmental scenario, it is assumed that not only the project site residents but all of the 43 anticipated employees would be new residents of Nevada County. Under this assumption, the proposed project could result in an additional 282 residents over what would be allowed under the current Nevada County General Plan designation.

64-26

COMMENT: Again, the DEIR is attempting to justify amending the General Plan to fit a project, rather than what should be occurring. Why not just build something that fits into the County's blueprint?

3.12-7 As previously discussed, as part of the County's General Plan Final EIR certification process, the Board of Supervisors attempted mitigation of certain countywide environmental impacts by adopting General Plan policies generally consistent with the environmentally superior Alternative No. 4. This adoption of mitigating policies was intended to effect a reduction in buildout capacity from approximately 181,000 persons to 140,000 persons countywide. However, a General Plan Implementation Measure for a county buildout growth limitation tied to growth in the cities was never adopted. Therefore, the County has determined that this 140,000 capacity level is not a "cap" in the sense of a growth limitation. Rather, it is merely an estimate for the buildout capacity that was expected to result from the General Plan as mitigated by the policies consistent with Alternative No. 4. Moreover, it was never intended to require growth in the unincorporated county to be limited or reduced by reason of added buildout capacity in the incorporated cities. The estimate was not intended to preclude land use decisions by the County because of increases in buildout capacity within city limits that are beyond the County's control (see Final EIR, Vol. 1, p. 3-24). In addition, other approved projects in the county have not and do not always achieve maximum density due to site-specific conditions and Planning Commission decisions. Therefore, over time, the net changes in buildout capacity appear to be in equilibrium with increases offset by decreases. This equilibrium is very consistent with the policies and estimates in the adopted General Plan, including those policies consistent with Alternative No. 4.

64-27

COMMENT: Again, the DEIR makes much noise about the General Plan and its intent; however, since the developer wants to build something that is not in accordance with that blueprint, it seems easiest to

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simply change the General Plan to their purposes.

3.12-8 General Plan and Zoning Ordinance Text Amendments

As discussed in further detail in Section 4.0, Cumulative Impacts Summary, the proposed General Plan and Zoning Ordinance text amendments are policy actions that would not directly result in population and housing impacts within the cumulative setting.

COMMENT: The proposed General Plan and Zoning Ordinance text amendments are policy actions that would directly result in cumulative population and housing impacts within the setting. In order to justify the project, the developer wants to not only ignore the General Plan and existing Zoning Ordinances, but also make changes that could conceivably result in at least 22 additional sites within the County that could have CCRCs without any future General Plan amendment (some potential zoning changes may be required). As a result, and to properly consider cumulative impacts to the County, the DEIR's analysis of the potential population growth must include the 22 other CCRC-compatible locations identified.

3.12-8 General Plan and Zoning Ordinance Text Amendments

However, future cumulative development in Nevada County would be subject to the new uses allowed by the proposed amendments, meaning that, after implementation of the proposed project, CCRCs would be permitted in either a PD (Planned Development) or SDA (Special Development Area) land use designation with approval of a zone change.

COMMENT: A more appropriate and open way of saying this is that if Rincon del Rio is approved, then the path for upwards of 22 more CCRC's has been "paved." The General Plan then makes the rural portions of the County seem much less rural.

3.12-8 General Plan and Zoning Ordinance Text Amendments

As the PD and SDA designations are intended for the development of a variety of uses, future CCRC development would only be allowed in areas already planned for urban development and associated population and housing increases.

COMMENT: That statement is internally inconsistent, to say the least. The DEIR's entire premise is to amend the General Plan to fit some developer's project, notwithstanding the General Plan and Zoning limitations imposed. No offense, but it is impossible to believe this statement in light of what is being proposed here. Who's to say that another sizeable chunk of land (one of the 22 in NC) will be rezoned and the next to be developed as a CCRC... and then the next... when does it end?

As an example, one of the responses from PMC to a comment made during the Higgins Marketplace EIR comment period discussed zoning of south the Higgins Marketplace. The response generally stated that because the area south of Higgins Marketplace is zoned as rural residential, the population was not expected to increase. However, that EIR was approved on July 7, 2009, **after** the application for Rincon del Rio was submitted (April 2009). If the Higgins Marketplace FEIR was approved with incorrect statements as to future development in that region, how can the general public believe what is contained in this EIR? It's the same County and the same consultant.

3.12-8 General Plan and Zoning Ordinance Text Amendments

Therefore, the cumulative impacts of the proposed General Plan and Zoning Ordinance text amendments are considered **less than cumulatively considerable**.

Mitigation Measures

None required.

COMMENT: No offense to County staff, but in light of the comment above about knowingly false statements contained in the Higgins Marketplace DEIR, it is impossible to believe this finding, or that there

64-27
cont.

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64-27
cont.

is no mitigation required.

Transportation and Circulation 3.14

Section L-II 4.1.9 – Transportation Alternatives: The Nevada County Land Use and Development Code, Section L-II 4.1.9, requires all projects to consider methods for reducing dependence on the automobile by exploring alternative modes of transportation. There is no discussion of this in the DEIR, and as a result, it is flawed. Reliance on the County's existing bus system, with it's 2-hour frequency, cannot be considered to be adequate compliance with this requirement. Any real measures must be include as enforceable requirements that will continue into perpetuity.

64-28

Substantial Increase in Traffic (Standards of Significance 1 and 2)

Impact 3.14.1 Development of the proposed project could cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system surrounding the project site (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections). This impact is considered **less than significant**. The proposed project will increase traffic on Rincon Way by an estimated 969 trips per day. The current estimated volume of traffic on Rincon Way is 370 trips per day. The total traffic on Rincon Way after implementation of the project would be approximately 1,339 ADT (969 ADT + 370 ADT = 1,339 ADT). The increase in traffic of 599 trips per day represents a 162 percent increase over existing conditions, which is considered substantial. However, the county's General Plan indicates that a Local Road (e.g. Rincon Way) provides access for areas with traffic volumes between 101 ADT and 2000 ADT. Therefore, implementation of the project would not exceed the capacity of Rincon Way. Therefore, while the change in traffic will be noticeable to the neighborhood residents, and in terms of numbers of cars per day the change from the very low existing volumes is substantial, the total traffic is within the design expectations of the roadways and consistent with similarly designed roadways in the county. This impact is therefore considered **less than significant**.

64-29

COMMENT: How will drivers be impacted with people walking on the neighborhood roads? Without sidewalks, how safe are the roads with that much increased traffic? The DEIR failed to consider the impacts to pedestrians who use these lightly-traveled local (and private) roads for recreation.

3.14-22 Nevada County Land Use and Development Code Chapter XVI (Fire Safety Regulations) and Chapter XVII (Road Standards) include standards for roads and private driveways to facilitate emergency access for evacuation and service response to structural and wildland fires. The onsite fire standard access road would be constructed consistent with County standards. However, the proposed project includes a Petition for Exception to the 16 percent grade requirement because approximately 97.7 feet of Rodeo Flat Road has been surveyed at a 16.3 percent grade. Given that the roadway standard would be exceeded by less than half of a percentage point and that the portion of roadway exceeding the standard is relatively short in length (less than 100 feet), the use of Rodeo Flat Road as a secondary emergency access would be considered adequate to serve the proposed project. Furthermore, CAL FIRE has indicated that the Fire Captain/Deputy Fire Marshall has reviewed and does not oppose the proposed emergency vehicle access/requested exception because the roadway grade is an existing condition, the length of roadway exceeding the standard is limited, and the project design includes a number of fire safe features, including site design, the use of sprinklers and alarms, onsite water storage, and hydrants (Adamson 2011).

64-30

COMMENT: The justifications for creating an emergency exit on Rodeo Flat with a >16% grade revolve around fire. Although it is likely that fire is a high risk, there are other emergencies that may warrant using the emergency access road. If the roads are covered in snow, how will senior drivers driving their passenger vehicles fare on Rodeo Flat Rd headed downhill on a steep grade?

MM 3.14.5 The project applicant shall include visually prominent signage on or beside the proposed emergency access gate separating the site and Rodeo Flat Road. The signage shall indicate that the access is intended for emergency vehicle access only, or other wording limiting the access roadway to emergency vehicle traffic.

64-31

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The gate shall be designed to close automatically via spring, gravity, or other means to ensure that it presents a "closed" visual to drivers on Rodeo Flat Road. The roadway in front of the gate shall have a Fire Marshall approved turnaround that does not involve entering the gate.

Timing/Implementation: Prior to issuance of occupancy permit

Enforcement/Monitoring: Nevada County Department of Public Works

Although the connection between Rodeo Flat Road and the proposed project site would be gated, mitigation measure **MM 3.14.5** would clearly identify the gated connection as emergency access and would ensure that the gate would remain closed except during emergencies. Furthermore, as the proposed project would provide two options for emergency access and would generally improve emergency access in the entire Ranchos/Combie Road corridor area, impacts associated with emergency access would be **less than significant**.

COMMENT: First and foremost: a sign is not a mitigation measure. We have teenagers and young adults "park" on our roadways to do what (some) teenagers do at that age; do you think they'll heed a sign? Visitors to these streets routinely ignore the posted speed limit signs (sometimes to a considerable degree), and they will similarly ignore these signs as well. A self-closing gate cannot be self-closing while someone drives through it, can it? Please define a "self-closing gate." A self-closing gate would close on the car as it moved through the opening, would it not? The unlocked and closed gate will not be unlocked and closed the first time someone props opens the gate, drives through, and is too lazy to get back out of their car and close it.

64-31
cont.

Second, once the gate is open, and remains so for any period of time, it will eventually turn into a through street to State Route (SR) 49. Drivers from LOP, Dark Horse, etc., will use the through road to cut their mileage and head out to SR 49 from Rodeo Flat (or shorten their trip to Dark Horse golf course from SR 49 by three miles).

Third, there is no discussion as to possible alternative emergency route locations. The EIR does not discuss or cite to any study or other analysis showing that connecting RDR to Rodeo Flat as the secondary access road is the most appropriate and safest access route. Similarly, the EIR does not cite to any analysis that proves that connecting Rodeo Flat road to RDR will make things safer - without a study by an independent third party showing otherwise, it is equally likely that adding a secondary access road will increase problems. In the event that residents of RDR are driving up the secondary access road one way, while other residents are fleeing the fire by driving on the secondary access road in the opposite direction, it is possible that you will have snarled traffic from Rincon del Rio all the way to Combie Road. This is obviously not a safe scenario. Alternate locations for the fire road must be analyzed before any fire access is selected.

Traffic Studies (Appendix to Part 3.14)

Two separate traffic studies were included in the DEIR. The first traffic study, completed over three years ago (December 13, 2008 by Scott E. Richie of Roundabouts and Traffic Engineering, herein, the "first traffic study") is so deficient in so many significant respects, that a careful reader must conclude that others identified these deficiencies and is the reason the second study, performed by K.D Anderson & Associates) was conducted. If the DEIR relies to any extent on this first traffic study, the DEIR will similarly also be deficient. Following is a brief list of the deficiencies in the traffic studies:

64-32

1. Both traffic studies failed to analyze the impacts of the project on the internal roadways and instead focused on SR 49/Rincon Way intersection; as a result, there was no meaningful analysis of RDR traffic on residents and pedestrians along Rincon Way and other streets in that area. Further, the traffic study failed to analyze impacts from the secondary access road along Rodeo Flat Road (an unlocked gate on a fire road is the functional equivalent to a secondary access road the first time someone is too lazy to shut the gate behind them). If the studies relied upon by the developer to create the DEIR is deficient in one aspect, the DEIR is also deficient in that aspect.

2. The traffic studies failed to adequately account for the increases in number of daily trips from the

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46 new employees, visitors, delivery vehicles, emergency vehicles, buses, etc (ambulances), which will increase overall traffic numbers and possibly change the conclusions reached.

3. The traffic studies made certain presumptions about the split in traffic heading south and north on SR 49, since, as stated in the first study, "the site is nearly equidistant between Grass Valley and Auburn's commercial centers, employment centers, and educational facilities within the project area." It is unclear how these presumptions were derived, as there is not factual basis, nor discussion of the rationale used in making these guesses. Since I have lived in the area for over eight years and travel this stretch of SR 49 multiple times a week, I have just as much knowledge about this stretch of road as does a traffic engineer who surveys numbers for one day. As a result, I believe that there will be many more cars turning south from Rincon Way.

64-32
cont.

First, the north Auburn area (defined loosely here as the area near SR 49 and Bell Road) has experienced a significant increase in the types, numbers, and variety of shopping experiences in the last five years (Home Depot, Circuit City, BevMo, etc.). This area is only six miles from the Rincon Way/SR 49 intersection, while the closest shopping center in Grass Valley (McKnight Road and SR 49) is more than twice as far away (15 miles). In addition, it is presumed that residents will leave RDR for other reasons endemic to larger population centers (airport, ball games, etc.) - most, if not all significant population centers are accessed by traveling south from the project site. As a result of this flawed presumption, the traffic study significantly underestimates the impact the project will have on this intersection, and as a result, the conclusions of the traffic studies are questionable.

4. The traffic studies take the conclusions from the analysis discussed above and then makes projections about possible future traffic conditions. As an example, the first traffic study used the an estimated 1.9% increase in future population growth from the City of Grass Valley's general plan (see first traffic study, pp 14-15). It does not appear from the traffic study whether this estimate was analyzed or otherwise examined for reliability; furthermore, there did not appear to be any attempt to analyze future projected population increases in the nearest high-density residential area, namely Auburn/north Auburn area). Use of the 1.9% growth rate without any justification, analysis, or accuracy verification results in a questionable analysis.

5. The traffic studies failed to properly account for all past, present, and reasonably foreseeable future increases in traffic sources, such as Dark Horse (once fully built out), Winds Aloft (if ever built), etc.

3.14-4 The exception for Rodeo Flat Road is necessary as County road standards currently require that fire standard access roads not exceed a 16 percent grade. On May 23, 2011, SCO Planning, Engineering, and Surveying submitted a memorandum to the County summarizing the results of a topographic field survey conducted on Rodeo Flat Road in May 2011. The memorandum, which is included in **Appendix 3.14-A**, indicates that the grade on Rodeo Flat Road is below 16 percent in all but one location just north of its terminus, where approximately 97.7 feet of roadway is at a 16.3 percent grade. As such, the proposed project includes a Petition for Exception to the 16 percent grade requirement. The proposed emergency vehicle access would provide emergency access from two directions. First, emergency vehicle access could occur via Rincon Way from SR 49 or via Rodeo Flat Road from Combie Road, depending on the responder's location. Second, emergency vehicle access could provide a secondary access to SR 49 should evacuation of the Lake of the Pines community be required during a catastrophic event. Traffic would proceed from Combie Road, along Rodeo Flat Road, and through the project site to access SR 49.

64-33

COMMENT: Considering the grade and sharp curves, it appears that the DEIR should also include a discussion of alternate emergency access routes. This road, as currently proposed, will wind uphill in a generally north-east direction from the proposed project's residences. This is directly in the path of any fire that would eliminate use of Rincon Way as an exit, since the prevailing winds in the area come from the southwest. This puts fleeing residents directly in the fire's most likely path. Further, the DEIR suggests that Lake of the Pines could use the emergency access road as well, but there are no numbers or any analysis to suggest that this road (as well as Timber Ridge and Rodeo Flat Road) could support this

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volume of added traffic.

64-33
cont.

Cumulative Impacts 4.0

COMMENTS: "It is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them." [Citation.] A cumulative impact analysis which understates information concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decision maker's perspective concerning the environmental consequences of a project, the necessity for mitigation measures, and the appropriateness of project approval. [Citation.] An inadequate cumulative impact analysis does not demonstrate to an apprehensive citizenry that the governmental decision maker has in fact fully analyzed and considered the environmental consequences of its actions." *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal. App. 3d 421, 431 (quoting *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal. App. 3d 61, 79).

CEQA guidelines Sections 15064, subd. (h)(1), 15065, SUBD. (a)(3); 15355, SUBD. (b). discuss the need for an adequate cumulative effects analysis, because although a project may cause an "individually limited" or "individually minor" incremental impact that, by itself, is not significant, the increment may be "cumulatively considerable," and thus significant, when viewed together with environmental changes associate anticipated from past, present, and probably future projects.

In light of this standard, the cumulative impacts analysis in the DEIR is inadequate for, at a minimum, the following environmental categories discussed in the DEIR:

1. Traffic - the traffic studies have numerous deficiencies and assumptions that do not appear justified given the facts presented (see comments above). As a result, it is impossible to make any conclusion about cumulative impacts.

64-34

One traffic study's conclusions about projected future traffic increases on SR 49 relies on a 1.9% population estimate found in the city of Grass Valley's General Plan and used historic traffic counts for in intersection of SR 49 in north Auburn six miles away. Incredibly, the firm conducting the first traffic analysis apparently failed to even bother contacting the County when it prepared the traffic analysis. On page 15 of the traffic study, the following statement was made:

"the current [traffic] count data ... was increased linearly by an average of 1.9% per year to obtain future conditions. No further adjustments or additions to these volumes were accounted for in the estimated future traffic volumes at the study intersection since **no other submitted or currently approved but not-yet-built projects within the area could be identified**. According to the past four years of posted Caltrans count data at Cottage Drive (MP 5.99), traffic volumes have remained relatively constant on SR49 from 2004 to 2007" (traffic study, p15, emphasis added).

First, if the traffic engineer had contacted the County (or if he did and spoke with someone who knew the Combie Drive area), several County-approved but not-yet-built projects would have been identified. The Dark Horse development at the end of Combie Road (approved, very few homes built), the now-bankrupt Winds Aloft development on Combie Road, and the approved but not-yet-built Higgins Marketplace all would have been identified. Each of these developments will increase traffic but are not discussed in the analysis. Further, the DEIR mentions another possible development to the southeast of the RDR project site (the Tindley site). In short, these developments are known and have not been built out, and so the data collected for the traffic study in 2008 does not account or analyze the expected future traffic increases from these developments.

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In short, the traffic studies' projected future traffic impacts at the SR 49/Rincon Way intersection, which formed the basis for the DEIR's conclusion as to cumulative effects, is unreliable. The traffic analyses failed to properly account for at least three (and possibly four) projects in the immediate vicinity of the project that will add to future traffic in the area. **64-34 cont.**

Other Impacts

MISSING IN DEIR ANALYSIS: California teeters on the edge of a drought every few years. Implementing water saving techniques helps the community and the environment. Water will be supplied by NID. The project should consider using water-saving techniques and use of recycled water for irrigation; collecting of rainwater for irrigation is a viable option. **64-35**

MISSING IN DEIR ANALYSIS: The EIR should address LEED certification. Commit to apply for LEED certification to insure that water efficiency and other sustainable features are installed and implemented correctly. Final evaluation by LEED should take place after project is 100% functioning. "The LEED green building rating system -- developed and administered by the U.S. Green Building Council, a Washington D.C.-based, nonprofit coalition of building industry leaders -- is designed to promote design and construction practices that increase profitability while reducing the negative environmental impacts of buildings and improving occupant health and well-being." (Source: <http://www.nrdc.org/buildinggreen/leed.asp>) **64-36**

Conclusion

As you can see from the comments above, and given the length of the DEIR, I was only able to focus my review on a few portions of the DEIR; however a review of those sections showed serious and significant shortcomings; I can only presume, based on comments provided by other individuals, that the remainder of the DEIR is similarly flawed and inadequate. While I want to believe that my property taxes are paying for quality government who works for me and others similarly situated, after reviewing this DEIR and the EIR for the Higgins Marketplace, it appears that this County government is for sale to the bidder who promises to bring in the biggest tax increase. I certainly hope that these beliefs will prove to be unfounded during the remainder of this project's planning and entitlement process, but I am not holding my breath.

Sincerely,

Maria Wirtz

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter 64 – Maria Wirtz

- Response 64-1:** The comment states website links have been provided as sources of information relied on in preparing comments, and information provided in the links should be responded to when responding to comments. The contents of those websites are not comments on the adequacy of the Draft EIR; therefore, no response is required.
- Response 64-2:** The comment states the Draft EIR does not adequately address the increase in lighting, glare, and other impacts to the nighttime skies to local residents and the impact would be less under the existing zoning. The comment also states that the Draft EIR failed to address impacts to local residents from tree removal and having to look at a “small city” in their backyard. The commenter requests that the visual impacts to homeowners be addressed using computers that show at least four drawings of the project as viewed from various homesites and how the site would look developed with 3-acre homesites. Impact 3.1.3 addresses lighting impacts, including skyglow, generated by the proposed project (see Draft EIR Section 3.1, Aesthetics). The commenter is referred to Responses 14-6 and 58-2 regarding lighting impacts to surrounding uses. The change in visual character of the site and surroundings uses, including the removal of trees and visibility to nearby residences, are addressed under Impact 3.1.2 on pages 3.1-14 through -15 of the Draft EIR. Visual simulations and elevations of the proposed project have been provided; additional visual simulations would not alter the conclusions of the Draft EIR and are not required.
- Response 64-3:** The comment states the Draft EIR and associated studies failed to mention many sensitive species that may exist on the project site (specifically pallid bat, Townsend's big-eared bat, western red bat) and that the document concludes no special status species existing in the area. As noted on page 3.4-13 of Draft EIR Section 3.4, Biological Resources, Figure 3.4-2 identifies the locations of special-status species occurrences as recorded in the CNDDDB within a 1-mile radius of the project site. In addition, all rare or endangered plants and federally listed or candidate species that could potentially be affected by the project were listed and evaluated in Draft EIR Appendix 3.4-A. Furthermore, in addition to the special-status species assessment conducted by EcoSynthesis, an independent evaluation of a species' potential to occur on the project site or to be affected by the proposed project was conducted. Table 3.4-2 on page 3.4-14 identified the various habitat types within the project site and the special-status species associated with those habitats. Impacts 3.4.2 and 3.4.3 in Draft EIR Section 3.4 identify that implementation of the proposed project could result in direct and indirect loss of habitat and individuals of listed and unlisted special-status species. This is a potentially significant impact. The special-status species assessment conducted by EcoSynthesis (Appendix 3.4-A) did not identify any suitable roosting sites for Townsend's big-eared bat on the project site, and PMC's independent review (Appendix 3.4-A) also identified that there were no previously recorded occurrences of Townsend's big-eared bat within a 5-mile radius of the project site. Since caves are not located on the project site, this species is not expected to roost on the project site. Multiple project site-specific searches of databases managed by the US Fish and Wildlife Service

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

and California Department of Fish and Game (Appendix 3.4-A), which have jurisdiction over special-status species, did not identify the potential for pallid bats or western red bats to occur in the vicinity of the project site. Since no bats or suitable roosting sites were determined to occur in the vicinity of the project site, no mitigation for bats is warranted.

Response 64-4: The comment states the Draft EIR does not evaluate the impact of the project on predators and scavengers associated with increased human presence. The area already contains residential uses that could have dogs, cats, and the availability of pet food. The comment that the proposed project would increase predators and scavengers is based on speculation. No further discussion of the topic is required.

Response 64-5: The comment states that plant and animal surveys must be conducted when species will be blooming and active, respectively. In addition, it states that the special species are “unknown” to be on site and that due diligence and required studies must be conducted prior to the Board of Supervisors’ vote. Mitigation measure MM 3.4.1 requires, prior to construction activities, focused plant surveys during the appropriate flowering periods (for the specific species) and/or during periods of physiological development that are necessary to identify the plant species that have the potential to occur on site. Blooming periods for the species of concern are provided in Table 3.4-3 of the Draft EIR. Mitigation measure MM 3.4.2a requires habitat assessment and surveys for individuals as necessary in accordance with the *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog*. As noted on pages 3.4-40 and -41, surveys for western pond turtle are required one week prior to disturbance of habitat, and focused surveys for active nests must be performed within 14 days prior to ground-disturbing activities during the nesting season. Implementation of mitigation as noted would ensure protection. Conducting surveys for active nests and species prior to project approval would not ensure that the species are not present during construction activities, which is the intent of the mitigation.

Response 64-6: The comment states that surveys and mitigation for Brandegee's clarkia (CNPS rank 1B.2) are needed. Brandegee's clarkia is considered in the Draft EIR and is specifically referenced in mitigation measure MM 3.4.1 on page 3.4-31.

Response 64-7: The comment states that mitigation measure MM 3.4.3b requiring survey within 14 days prior to disturbance of the construction area is inadequate because raptors (red-tailed hawks) can build a nest in four days; therefore, the comments requests surveys be conducted within three days of construction. Preconstruction surveys identified in mitigation measure MM 3.4.3b are adequately timed to ensure that construction activities to ensure no adverse impacts would occur based on the EIR biologist’s experience with these species in the region. However, the mitigation measure has been modified to require periodic field surveys during construction to ensure nests have not been established during construction activities.

Response 64-8: The comment states the Draft EIR does not contain sufficient information to make an informed decision as to whether adequate analysis was conducted for each species listed under the Migratory Bird Treaty Act. Appendix 3.4-A includes multiple studies and results of database searches that identify which

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

bird species have the potential to be present on the project site. Appendix Table 2, Consolidated List of Wildlife Special-Status Species, identifies species protected under the Migratory Bird Treaty Act with a federal listing of "MNBMC."

Response 64-9: The comment states that there was no mentioning of potential bird mortality due to man-made disturbances. Bird mortality due to collisions with buildings is primarily caused by lighting. Lighting escaping from interiors of building or exterior lighting can confuse birds. Due to the type of land use proposed (a retirement facility as opposed to an office building), light escaping from the interior of the building at night is anticipated to be similar to that of the existing surrounding residential uses. Exterior lighting impacts to wildlife are addressed on page 3.4-35. Given this and the clustered design of the project adjacent to existing rural residential uses, no adverse impacts are expected.

Response 64-10: The comment states the Draft EIR is inadequate because it did not discuss alternative locations for a secondary fire protection access road. See Response 3-37.

Response 64-11: The comment states no alternatives were provided for the location of the proposed row crops, trails, or fire road but does not state why they should be relocated except that the fire road should be relocated at least 100 feet from a wetland, the main tributary, and/or adjacent riparian area. Alternatives are analyzed to address significant effects of the project. Any potentially significant effects to wetlands caused by the fire road would be mitigated to a less than significant level through implementation of mitigation measures MM 3.4.4 and MM 3.4.7 as discussed on pages 3.4-42 through -43 and 3.4-49, respectively. These mitigation measures would ensure that water quality impacts to wetlands and other waters of the United States are minimized and that measures provided in the Habitat Management Plan to reduce wetlands impacts are implemented. CEQA Guidelines Section 15126.6(a) states, "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which ... would avoid or substantially lessen any of the significant effects of the project." As the proposed row crops, trails, and fire road were not determined to result in significant impacts, the Draft EIR does not explore alternatives to those issues.

Response 64-12: The comment states that no future survey period for red-legged frog is discussed in the Draft EIR and that surveys must be conducted prior to any consideration of the project by the Board of Supervisors. The comment continues that surveys for red-legged frogs should be conducted during the wet season and include areas within 1 mile of available water sources. The Draft EIR assumes this species could be present and incorporates mitigation accordingly. As noted on page 3.4-36, mitigation measure MM 3.4.2a requires habitat assessments and field surveys if determined appropriate in accordance with the *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog*. The guidance provided by the US Fish and Wildlife Service includes appropriate timing and survey area requirements. Furthermore, this mitigation measure requires the incorporation of requirements into the contract plans and that surveys be conducted prior to vegetation or ground-disturbing activities and, if frogs are determined to be present, monitoring shall continue during construction. If surveys were

conducted prior to project approval, there would be no guarantee that the species would be absent or present prior to construction activities.

Response 64-13: The comment is in regard to the discussion of aquatic communities and states that until a formal jurisdictional wetland delineation is conducted, the extent and quality of wetlands will be unknown. The comment states that the Draft EIR is inadequate in describing the extent of wetland and other waters of the United States on the project site. The commenter continues that Figure 3.4-4a does not have any guarantee of accuracy for the level of detail necessary in the Draft EIR. In accordance with CEQA Guidelines Section 15151, an evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Qualified biologists surveyed the site and determined that aquatic communities are present on the project site; the biologists quantified and described each type of aquatic community present as noted on pages 3.4-9 through -10 of the Draft EIR. Figures 3.4-4a and 3.3-4b identify the vegetative communities that would be impacted based on project information provided. The Draft EIR provides mitigation to ensure that a formal wetland delineation is conducted for areas which will be permanently or temporarily impacted by the proposed project. If jurisdictional waters cannot be avoided, the project applicant would apply for a Clean Water Act Section 404 permit from the US Army Corps of Engineers and a Section 401 permit from the Regional Water Quality Control Board. These permits must be obtained prior to issuance of grading permits and implementation of the proposed project. This process requires that there is no net loss of waters of the U.S. (including wetlands). The Draft EIR need not speculate if or how the project could be changed in the process. Therefore, the Draft EIR provides a sufficient analysis.

Response 64-14: The comment states that the project site may have shallow soils which may require blasting and are more susceptible to disturbance and erosion and that appropriate mandatory mitigation measures to minimize soil disturbance, noise impacts, and revegetation efforts must be developed and included in the EIR. The commenter is referred to Response 3-18 regarding noise impacts associated with blasting. Soils present on the project site are described on pages 3.7-7 (Section 3.7, Geology and Soils) and 3.9-2 (Section 3.9, Hydrology and Water Quality) of the Draft EIR. As noted on pages 3.9-18 and -19 of the Draft EIR, the proposed project would be required to comply with the requirements of the Statewide General Permit (Water Quality Order 2009-0009-DWQ) for construction activities, Chapter V, Article 19 of the Nevada County Land Use and Development Code, and the Rincon del Rio Habitat Management Plan. Compliance with the mandatory requirements of the Statewide General Permit would require the project applicant to prepare a stormwater pollution prevention plan (SWPPP), including implementation of best management practices and low impact development techniques as described on page 3.9-14 of the Draft EIR. Compliance with the grading permit requirements would include preparation of erosion and sediment control plans and other measures as described on page 3.9-15. Compliance with the Rincon del Rio Habitat Management Plan (Draft EIR Appendix 3.2-A) requires implementation of specific measures near wetlands, winterization, and permanent revegetation.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Response 64-15: The comment is in regard to Impact 3.9.2 and states that it is unclear what development activities are contemplated in the flood zone and whether the appropriate agencies were consulted with regarding risk factors. The Federal Emergency Management Agency (FEMA) publishes maps, called Flood Insurance Rate Maps (FIRMs). The purpose of a FIRM is to show the areas in the community that have a 1 percent or greater chance of flooding in any given year, known as Special Flood Hazard Areas (SFHAs). FIRMs are the result of engineering studies that are performed by engineering companies, other federal agencies, or the community and are reviewed and approved by FEMA.

As noted on page 3.9-2, according to FEMA's Flood Insurance Rate Map (Community Panel No. 060210 0750 C), a majority of the project site is in Flood Zone C and a portion along the river is located in Flood Zone A. The area in Flood Zone A is considered a Special Flood Hazard Area. As noted on page 3.9-21, under Impact 3.9.2, no development is proposed within the area designated as a Special Flood Hazard Area. No additional consultation is necessary.

Response 64-16: The comment states that the project site is located within two potential dam failure areas and that there are far more suitable locations within the county for the proposed development. The Draft EIR identifies the potential dam inundation areas. This comment does not question the adequacy of the EIR, but states an opinion about the merits of the project. It is forwarded to the decision-makers for their consideration.

Response 64-17: The comment states that dam failure has the risk of loss of life and that the EIR is inadequate because no survey and hydrologic analysis of catastrophic dam failure inundation zones was conducted. The commenter is referred to Response 61-11 regarding failure of the earthen dam located on-site. Dam inundation zones for the Rollins and Combie dams have already been established and approved by the California Office of Emergency Services, which are reflected in Figure 3.9-2. As noted on page 3.9-21 of the Draft EIR, failure of these dams is considered to have an extremely low probability of occurring and is not considered to be a reasonably foreseeable event. In addition, the Nevada County and Nevada Operational Area Emergency Operations Plan provides emergency procedures in the event of dam failure. Due to the extremely low probability of dam failure to occur and the existing Emergency Operations Plan, exposure to people or structures to a significant loss, injury, or death due to dam failure would be considered a less than significant impact.

Response 64-18: The comment refers to previous comments for Impact 3.9.5 and Impact 3.9.6. The commenter is referred to Responses 64-16 and 64-17.

Response 64-19: The comment states that the project is inconsistent with the General Plan. The commenter is referred to Master Response 3.

Response 64-20: The comment claims that it appears the County is developing the southern portion of Nevada County piecemeal via General Plan amendments, which is not allowed by CEQA. The General Plan was developed by the County to provide the framework for future physical growth and serve as the foundation for land use decisions. Pursuant to Section L-II 5.9 of the Land Use and

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Development Code, amendments to the Nevada County General Plan and Zoning Ordinance may be requested by a property owner.

Response 64-21: The comment is in regard to Impact 3.12.1. The comment states that the EIR is using fuzzy numbers to justify the finding and that the increase in residents to the area would be significant. The commenter is referred to Responses 3-13, 3-14, and 15-11.

Response 64-22: The comment is in regard to Impact 3.12.4 and states that the conclusion that 60 to 70 percent of the proposed project's residents would be drawn from western Nevada County lacks any factual foundation and therefore is faulty. As noted on page 3.12-4 (see Draft EIR Section 3.12, Population, Housing, and Employment), the Draft Economic Analysis of the Proposed Rincon del Rio Senior Housing Project in Nevada County, California, indicates that as many as 60 to 70 percent of the proposed project's residents would be drawn from western Nevada County and that the project is intended to serve existing Nevada County senior residents. The Draft EIR continues to state that because there is no requirement or guarantee that project site residents would be from Nevada County, growth on the project site would result in direct localized impacts (i.e., population, housing, and employment growth), as well as indirect environmental effects associated with growth (such as increased noise, increased demand for public services, increased traffic). Consequently, the effects of the population of the project have been considered in the Draft EIR, irrespective of the place of origin of that population.

Response 64-23: The comment is in regard to Impact 3.12.5 and states that the County would not allow 0.6 houses to be built; therefore, under the current designation, 71 houses (instead of 72) and a population of 174 residents (instead of 176) would be allowed and the project would result in 274 additional units (instead of 273). The comment is noted. See Response 15-11 regarding population assumptions used for analysis of impacts of the project.

Response 64-24: The comment states that the project will increase employment opportunities for Placer County residents as well and that analysis of the jobs should be against the population of Nevada County as a whole. The comment asks how the number of jobs generated by the project compares with the total number of jobs in Nevada County. It should be noted that the inclusion of a comparison of jobs in the Draft EIR is not intended to provide evidence of minimizing any physical impact of the project or to appear to justify the project due to economic benefits. The comparison was provided based on the project applicant's estimates of employment and the likely area that would serve the project for employees. Due to the large geographical area, it is not likely that employees will commute from all areas of the county; therefore, western Nevada County was the focus for evaluating generation of jobs. As noted in the Draft Economic Analysis of the Proposed Rincon del Rio Senior Housing Project in Nevada County, California, the analysis of the western Nevada County area included three subareas: Grass Valley/Highway 49 Corridor (zip codes 95945 and 95949); Nevada City (zip code 95959); and Highway 20 Corridor (zip codes 95975 and 95946).

Response 64-25: The comment states that the localized impacts due to increased population are not taken into account. The Draft EIR is based on the projected population

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

on the site and the physical impacts that would be caused by that population. As discussed throughout the Draft EIR, most of the potential effects of the project would occur locally. See also Responses 3-13, 3-14, and 15-11.

Response 64-26: The comment states that the Draft EIR is attempting to justify amending the General Plan to fit the project. The commenter is referred to Master Response 3

Response 64-27: The comment is in regard to consistency with current General Plan and zoning. The commenter is referred to Master Response 3.

Response 64-28: The comment states that the Draft EIR does not consider alternative modes of transportation. Existing alternative modes of transportation are discussed on page 3.14-7 of the Draft EIR, and impacts to alternative modes of transportation are addressed on pages 3.14-25 and 3.14-26 of the Draft EIR (see Section 3.14, Traffic and Circulation). See also Response 22-9.

Response 64-29: The comment asks how drivers will be impacted with people walking on the neighborhood roads without sidewalks and how safe the roads are with that much increased traffic. The commenter states that the document failed to consider the impacts to pedestrians who use the local roads for recreation. As noted in Draft EIR Section 2.0, Project Description, the project would be accessed via Rincon Way. This is the only existing local roadway that would experience a substantial increase in traffic, as disclosed on page 3.14-17 of the Draft EIR. However, the proposed project would include improvements to Rincon Way that would upgrade the facility to meet County Local Class II standards as noted on Figure 2.0-14 and as clarified in Response 60-1. These improvements would provide two 10-foot-wide lanes of travel and a 2-foot-wide shoulder within the existing 30-foot-wide easement, which would improve safety compared to the existing 18-foot-wide roadway conditions.

Response 64-30: The comment asks how senior drivers will fare on Rodeo Flat Road headed downhill on a steep grade in the snow. This comment does not pertain to the adequacy of the environmental document. It is forwarded to the decision-makers for their consideration. See also Responses 21-9 and 39-2.

Response 64-31: The comment refers to mitigation measure MM 3.14.5 and states signage will be ignored, requests a definition of a "self-closing gate," and states there is no discussion as to possible alternative emergency route locations. The commenter's opinion that signage will be ignored is noted. However, the Draft EIR does not assume violation of the law, as drivers using this gate in a non-emergency would be trespassing on private property. As noted on Draft EIR page 3.14-22, the gate is to be designed to "close automatically," which means without the aid of someone closing it. See Response 3-37 regarding alternative secondary access.

Response 64-32: The comment states that traffic studies prepared for the project are deficient in the following ways: failed to analyze on the internal roadways so there was no meaningful analysis of traffic effects on residents and pedestrian along Rincon Way and other streets; failed to analyze impacts from the secondary access road along Rodeo Flat Road since it will become a secondary access road when someone is too lazy to shut the gate; failed to adequately

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

account for the increases in number of daily trips from project employees, visitors, delivery vehicles, emergency vehicles, buses, etc; it is unclear how presumption on trips distribution were determined; questions the 1.9 percent growth rate without any justification, analysis, or accuracy verification; and failed to properly account for all past, present, and reasonably foreseeable future increases in traffic sources such as Dark Horse and Winds Aloft, etc.

As noted on page 3.14-9 of the Draft EIR, the traffic and circulation analysis in the EIR is based on the Traffic Impact Analysis for Rincon del Rio Continuing Care Retirement Community, Nevada County, California (TIA; Appendix 3.14-A of the Draft EIR) prepared for the proposed project by KD Anderson & Associates, Inc. (KDA) in 2011. As noted on page 1 of the study prepared by KDA, the study was prepared in accordance with Nevada County study parameters and California Department of Transportation (Caltrans) guidelines. County and Caltrans staff determined that the project's probable daily traffic volumes and the split between traffic heading north and south along SR 49 would not substantially affect the traffic conditions along SR 49. Page 12 of the TIA states that typical origin trips are expected to include, but not be limited to, residents, employees of the site, including the acute care facilities and facilities maintenance, and mail and delivery services. The analysis of traffic effects on residents and pedestrians along roadways is not a standard of review according to CEQA. However, the proposed project would make improvements to Rincon Way to upgrade the roadways to County standards, which would provide two 10-foot-wide travel lanes and 2-foot-wide shoulder. As for Rodeo Flat Road being a secondary access road, this is not the intent, and mitigation measure MM 3.14.5 on page 3.14-22 is intended to minimize the potential for this roadway to become a through road. As noted on page 17 of the TIA and page 3.14-26 of the Draft EIR, future traffic volumes were developed based on the most recent Nevada County Transportation Commission traffic model and the Higgins Marketplace traffic study completed in 2009. Nevada County and Caltrans determined use of these sources for reasonably estimating future trips to be acceptable.

Response 64-33: The comment states the Draft EIR should also include a discussion of alternate emergency access routes. The commenter is referred to Response 3-37.

Response 64-34: The comment states that the traffic studies have numerous deficiencies and assumptions, making it impossible to make any conclusion regarding cumulative impacts. Cumulative traffic impacts are discussed on pages 3.14-27 through -37. These impacts are based on the TIA prepared for the proposed project by KDA in 2011 included in Appendix 3.14-A of the Draft EIR. As noted on page 17 of the TIA and page 3.14-26 of the Draft EIR, future traffic volumes were developed based on the most recent Nevada County Transportation Commission traffic model and the Higgins Marketplace traffic study completed in 2009. It should be noted that the 2009 Higgins Marketplace traffic study was used for projections for future growth, but the Rincon del Rio Traffic Impact Analysis does not rely on the findings in the 2009 study, as stated in the comment. See also Response 64-32.

Response 64-35: The comment states that the project should consider using water-saving techniques and recycled water for irrigation and that collecting rainwater for irrigation is a viable option. As noted on page 3.13-14 of the Draft EIR, the

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Nevada Irrigation District (NID) would provide potable water service for the project. NID receives its water supply from four main sources: the watershed, carryover storage in surface reservoirs, contract purchases, and recycled water. As noted on page 3.13-17 of the Draft EIR (see Section 3.13, Public Services and Utilities), NID produces several brochures to assist its customers in voluntary water conservation to protect and preserve the district's water supply. The brochures include tips for personal activities such as showering and bathing, as well as household hints for washing dishes, laundry, and gardening and landscaping care. To reduce water demands for landscaping, the project includes water-saving landscaping features, as discussed in Draft EIR Section 2.0, Project Description, page 2.0-36.

Response 64-36: The comment states that the Draft EIR should address LEED certification. LEED certification is not a required standard of review under CEQA. The commenter is referred to mitigation measures MM 3.5.1a (page 3.5-16) and MM 3.5.1b (page 3.6-18) in Section 3.5, Climate Change and Greenhouse Gases, which accomplish many of the goals of LEED.

Letter 65

Brian Foss

From: Rincon del Rio [rincondelrio@rincondelrio.com]
Sent: Tuesday, March 20, 2012 5:00 PM
To: Planning
Subject: Rincon Del Rio

Mr. Foss,

The following comments are made to possibly help save the project from unnecessary expenditure (and provide more flexibility in decisions).

Impact 3.3.8 Long-term operation of the proposed project, in combination with existing, approved, proposed, and reasonably foreseeable development in the Mountain Counties Air Basin, would contribute to cumulative increases in emissions of ozoneprecursor pollutants (ROG and NOx) and PM10 that could contribute to future concentrations of ozone and PM10, for which the region is currently designated nonattainment.
CC Implement mitigation measures **MM 3.3.1a** through **MM 3.3.1d** and **MM 3.3.3**.

65-1

We wish the County will consider that statistically our residents are not imported and most will come from within a 30 mile radius. Therefore, it would appear the mitigation is unnecessary. If unchanged, the mitigation measures could be very costly over the life of the project regarding compliance measures.

Impact 3.4.4 Implementation of the proposed project would result in the loss of jurisdictional waters of the U.S., including wetlands

This was just in the Sacramento Bee yesterday. The 2006 Supreme Court decision in Rapanos said the US does not have jurisdiction over waters, ditches and other so-called wetlands that are not part of a interstate waterway or a “navigable” waterway. Read this link.

65-2

<http://www.csmonitor.com/2006/0620/p01s01-usju.html>

Therefore, it would seem the State and County are the only enforcement agencies regarding any “wetlands” on the property. Therefore a 404 permit should not be required. Therefore mitigation measures and/or fees to the ACOE should not be exacted from the applicant.

Impact 3.5.1 Implementation of the proposed project would result in a net increase in greenhouse gas emissions that would conflict with the goals of AB 32 or result in a significant impact on the environment

Again, as stated earlier, since the project is only transferring people from other areas to this location, it is not logical that there would be an increase in the cumulative impacts under “climate change”. The construction activities may actually be less than if 72 single family homes were constructed (built at different times over many years, individual driveways etc.). If

65-3

Letter 65 Continued

there were additional births at the project site, then an argument could be made for additional impacts on a regional basis, but births are not likely.

65-3
Cont

Therefore it would appear logical the measure is in no need of mitigation at all. Rather, the effect would be a wash.

Regarding the recycle issues. We suggest the project need only abide by existing State Law rather than an additional level of effort. The project is for older people who use much less in goods.

65-4

MM 3.5.1b The project applicant shall include the following energy-efficient building measures to be applied site development for each structure.

MM 3.5.1b is too restrictive and should be changed to the best product, cost efficient materials at the time of permit application. The materials and appliance industries are constantly upgrading and inventing. There should be more flexibility here. Allow a best practices provision rather than specific products. Use the phrase, "or equal" in the measures in place of designated products.

65-5

The electrical specifications should not be locked into the listed items but simply state the project will abide by the law at the time of permit application. There could be more efficient items, appliances, light bulbs etc., at the time of application. It seems more logical to not lock in specific items at this time. Use the phrase, "or equal" in the measure in place of designated products.

4.408.1. Add, "allow mill ends to be sold or used as kindling." Depending on the amount of scrap, this could be a good savings.

A4.403.2 Add, "if additives to concrete add 10% or greater to the cost per yard, then project can use standard concrete mixes as supplied by local vendors."

65-6

A4.405.3 Add, "if recycled material content in any product adds 10% or more to the standard costs of new or virgin materials, the project can reject them and use new or 100% virgin products."

A4.504.2 Add, "same as A4.405.3 for resilient flooring materials.

A4.504.3 Add, "Preference for a non formaldehyde fiberglass batt or blown in place product." This meets the intent of the measure.

Please accept these comments,

Carol Young

Letter 65 – Carol Young

Response 65-1: The comment notes that, statistically, the residents would come from within a 30-mile radius, making mitigation measures MM 3.3.1a through MM 3.3.1d and MM 3.3.3 unnecessary and that implementation of the measures over the life of the project would be very costly. The comment seems to imply that populating the proposed project with local residents would result in a reduction in countywide emissions. However, the Draft EIR assumes that if the project is populated with local residents, the homes currently occupied by those locals would be sold and/or occupied by new residents, resulting in an overall increase in county population.

As noted on page 3.3-27 of the Draft EIR (see Section 3.3, Air Quality), impacts of local pollutants are cumulatively significant when modeling shows that combined emissions from the project and from other existing and planned projects will exceed air quality standards. The combined emissions from the Loma Rica Ranch Specific Plan and the proposed project would exceed NSAQMD's Level C significance thresholds. Implementation of mitigation measures MM 3.3.1a through MM 3.3.1d and MM 3.3.3 would reduce cumulative impacts. However, increases in project-related emissions could on a cumulative basis contribute to existing nonattainment conditions.

Response 65-2: The comment cites the 2006 Supreme Court decision in *Rapanos*, which states that the US does not have jurisdiction over waters, ditches, and other so-called wetlands that are not part of an interstate waterway or a "navigable" waterway; therefore, the State and County are the only agencies with jurisdiction over wetlands on the property. However, a wetland delineation is required to determine if wetlands are connected to a navigable waterway. As noted in Draft EIR Section 3.4, Biological Resources, page 3.4-42, mitigation measure MM 3.4.4 requires that a formal wetland delineation be conducted for areas that will be permanently or temporarily impacted by the proposed project, including improvements to Rincon Way. This process requires concurrence by the USACE and will identify the presence of any jurisdictional waters, which may include wetlands that are adjacent to navigable waters or non-navigable permanent tributaries. If identified jurisdictional waters cannot be avoided, the project applicant would be required to apply for a CWA Section 404 permit from the USACE and a Section 401 permit from the RWQCB.

Response 65-3: The comment states that since the residents would come from within the same area, it is not logical that there would be an increase in the cumulative impacts to "climate change." In addition, the commenter claims that the construction activities may be less than if 72 homes were built on the site at different times over many years and residents of child-bearing age could increase population on-site. The commenter states there is no need to mitigate, and the effect would be "a wash." While the proposed project would cater to a different demographic than many developments, the project would still result in a net increase in housing units in the county. As noted in Response 65-1, the Draft EIR assumes that the existing homes of persons who relocate to the proposed project would be occupied after those residents move to the proposed project. Consequently, this project would

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result in a net population increase in the county and result in additional greenhouse gas generation in the county.

Response 65-4: The comment states that mitigation measure MM 3.5.1b is too restrictive and should be changed to the "best product, cost efficient materials at the time of permit application," due to the industry constantly being updated and upgraded. Mitigation measure MM 3.5.1b requires the project to meet CALGreen Building Code Tier 1 standards (Title 24, Part 11) at the time of building permit issuance (see Draft EIR Section 3.5, Climate Change and Greenhouse Gases). This mitigation measure does not require specific products to be used, only that the products used meet specific standards. The proposed project would be required to meet the Tier 1 standards in place at the time of building permit issuance. The commenter is also referred to Response 33-1.

Response 65-5: The comment recommends specific wording being added to the CALGreen Tier 1 standards listed on pages 3.5-18 through -20. However, the recommended wording proposed by the commenter is not included in the requirements outlined in Title 24, Part 11, nor would it reduce the impacts of the project. Therefore, the wording has not been changed as requested.