
3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

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3.1 INTRODUCTION

No new significant environmental impacts or issues, beyond those already covered in the Draft EIR for the Rincon del Rio Continuing Care Retirement Community project, were raised during the public review period for the Draft EIR. Nevada County (County), acting as the lead agency, directed that responses to the comments on the Draft EIR be prepared. Responses to comments received during the comment period do not involve any new significant impacts or “significant new information” that would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5.

3.2 LIST OF COMMENTERS

The following individuals and representatives of organizations and agencies submitted comments on the Draft EIR:

Letter	Individual or Signatory	Affiliation	Date
A	Scott Morgan	Governor’s Office of Planning and Research	3/6/12
B	Genevieve Sparks	California Regional Water Quality Control District, Central Valley Region	2/3/12
C	Shannon Calbertson	California Department of Transportation, District 3	3/1/12
D	Shannon Matteoni	Nevada Irrigation District	3/5/12
E	Samuel Longmire	Northern Sierra Air Quality Management District	3/20/12
1	Karen Abbott	Resident	3/8/12
2	Karen Abbott	Resident – NOTE THIS COMMENT LETTER WAS SUBSEQUENTLY WITHDRAWN BY MS. ABBOTT	3/18/12
3	Karen Abbott	Resident	3/20/12
4	William Abbott	Resident	3/8/12
5	Joyce Ash	Resident	3/19/12
6	John and Rosi Beal	Residents	3/19/12
7	Debra Brown	Resident	3/14/12
8	Virginia Brunini	Resident	3/19/12
9	C.E. “Butch” Chamberlain	Resident	3/18/12
10	John Chase	Resident	3/8/12
11	Angela Davis	Resident	No Date
12	Ray and Connie Davis	Residents	3/16/12
13	Margo Donovan	Resident	No Date
14	Cathy Dye	Resident	3/20/12
15	Michael Dye	Resident	3/20/12
16	Darryl Ecke	Resident	No Date
17	Adrian Juncosa	EcoSynthesis	3/27/12
18	William Fortier	Resident	3/17/12

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Letter	Individual or Signatory	Affiliation	Date
19	Peter Guilbert	Resident	3/5/12
20	Peter Guilbert	Resident	3/16/12
21	Virginia Guilbert	Resident	3/5/12
22	Virginia Guilbert	Resident	3/19/12
23	Ron and Sandee Gustavson	Residents	3/19/12
24	Don Harris	Lake of the Pines Ranchos Community Services District	3/19/12
25	Blake Hinman	Lantex	3/8/12
26	William and Judith Kinney	Residents	3/19/12
27	David Kirk	Resident	3/7/12
28	Marty Koulax	Resident	3/6/12
29	Peggy LeMasters	Resident	3/20/12
30	Peter Lemmon	Law Office of Lemmon – Land & Law	3/6/12
31	Jerry Lindgren	Resident	No Date
32	Gregory and Susan Lovejoy	Residents	3/18/12
33	McCamant & Durrett	Architects	No Date
34	Dai Meagher	Resident	3/20/12
35	Mark Mills	Resident	3/7/12
36	Martin Mortensen	Resident	1/22/12
37	Charlene Moule	Resident	3/5/12
38	Charlene Moule	Resident	3/15/12
39	Mike Moule	Resident	No Date
40	Sherry Moura	Resident	3/19/12
41	Kevin and Stephanie O'Callaghan	Resident	3/8/12
42	Renee O'Callaghan	Resident	3/7/12
43	Thomas O'Callaghan	Resident	3/6/12
44	Jim and Helen Pachaud	Residents	2/10/12
45	Cindy Peterson	Resident	3/16/12
46	Elfriede Prestel	Resident	3/7/12
47	Wally, Billie, Elfriede Prestel	Residents	3/7/12
48	Waldemar and Billie Prestel	Residents	3/7/12
49	Rangel Municipal Consulting	Consultant/Resident	3/19/12
50	Sietske Rauwendaal	Resident	3/19/12
51	Chris Rauwendall	Rauwendall Extrusion Engineering	No Date
52	Dave and Sue Ritter	Resident	2/27/12
53	Annamaria Sauer	Resident	3/12/12

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Letter	Individual or Signatory	Affiliation	Date
54	Dale Creighton	SCO Planning, Engineering & Surveying, Inc.	3/13/12
55	Benton Seeley	Nevada County Rural Rights Coalition	3/8/12
56	Patricia Seeley	Resident	3/5/12
57	Kathy Sherman	Resident	3/19/12
58	Terry and Kim Thompson	Residents	3/1/12
59	Amy Traynor	Resident	3/1/12
60	Dale and Susan Turner	Residents	No Date
61	Kristina Vance-Fortier	Resident	3/18/12
62	Sherry Warren	Resident	3/15/12
63	Harry Wyeth	Resident	3/19/12
64	Maria Wirtz	Resident	3/20/12
65	Carol Young	Resident	3/20/12
PTC	Various	Nevada County Planning Commission Meeting	3/8/12

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3.3 COMMENTS AND RESPONSES

3.3.1 REQUIREMENTS FOR RESPONDING TO COMMENTS ON A DRAFT EIR

CEQA Guidelines Section 15088 requires that lead agencies evaluate all comments on environmental issues received on the Draft EIR and prepare a written response. The written response must address the significant environmental issue raised and must provide a detailed response, especially when specific comments or suggestions (e.g., additional mitigation measures) are not accepted. In addition, the written response must be a good faith and reasoned analysis. However, lead agencies need only to respond to significant environmental issues associated with the project and do not need to provide all the information requested by commenters, as long as a good faith effort at full disclosure is made in the EIR (CEQA Guidelines Section 15204).

CEQA Guidelines Section 15204 recommends that commenters provide detailed comments that focus on the sufficiency of the Draft EIR in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. CEQA Guidelines Section 15204 also notes that commenters should provide an explanation and evidence supporting their comments. Pursuant to CEQA Guidelines Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

CEQA Guidelines Section 15088 also recommends that where the response to comments results in revisions to the Draft EIR, those revisions be noted as a revision to the Draft EIR or in a separate section of the Final EIR.

3.3.2 MASTER RESPONSES

Some subjects were mentioned frequently in comment letters on the Draft EIR. Rather than provide individual responses to each of these comments, the Final EIR includes a "master response" that discusses the topic based on all of the comments received. By responding in this manner, the County is better able to address all aspects of the topic by:

- Simplifying the responses to comments by avoiding unnecessary repetition in individual responses, and
- Addressing issues in a broader context than might be required by individual comments.

When issues are addressed in this broader context, the interrelationships between some of the individual issues raised can be better clarified; it is also possible to provide a single explanation of an issue that is more thorough and comprehensive than would be accomplished by separate, more narrowly focused responses.

The following themes are discussed in the master responses:

- Emergency access via Rodeo Flat Road
- Fire danger/evacuation
- Project consistency with the General Plan

Master Response 1 – Emergency Access via Rodeo Flat Road

Comments on the Draft EIR express concern about emergency access through Rodeo Flat Road based on the contention that an unlocked gate at this access point would encourage through traffic on Rodeo Flat Road, because signage will be ignored, and result in traffic and road degradation in adjacent subdivisions, such as Lake of the Pines Ranchos. As discussed in Section 2.0, Project Description, of the Draft EIR, Rodeo Flat Road would be designated for emergency-only access and would include a self-closing but unlocked gate (see Draft EIR page 2.0-51).

As noted on Draft EIR page 3.14-4 (see Section 3.14, Traffic and Circulation), the project site would be accessed via Rincon Way. Rodeo Flat Road will provide alternative access for only emergency vehicles. The connection to Rodeo Flat Road will be gated and will automatically close. Through implementation of mitigation measure MM 3.14.5, prominent signage will be provided indicating that the access is intended for emergency vehicle access only, or other wording limiting the access roadway to emergency vehicle traffic.

The issue of drivers ignoring the signs and opening the gate is mentioned in numerous comments to the Draft EIR. The County discussed whether the gate could be locked to prevent unauthorized access, but was concerned that a locked gate might prove a barrier to emergency evacuation as some drivers would be unwilling to “push over” a gate, even if signage and/or emergency personnel directed them to do so. The commenters generally assume that drivers would ignore the signs and use the emergency roadway to gain access to Lake of the Pines or State Route (SR) 49. While the proposed project assumes that drivers will respect both signage and anti-trespassing laws, there are a number of possible methods of addressing the issue.

For emergency vehicle access that is not normally used as access for other vehicles, such as on the proposed project site, the project is proposing to install an emergency crash gate, designed in such a manner that it would prevent non-emergency vehicle access but could be knocked down easily for quick passage of vehicles. Under this design, a gate would be constructed at the connection point at Rodeo Flat Road. The gate would be secured in a manner that would not allow opening of the gate by hand. However, the gate would be designed to be opened by bumping/forcing it open with a vehicle to allow use of the emergency access point from either direction. Signage would be provided at the gate on how to force it open during an emergency. The gate will be inspected by project employees on regular basis to ensure that the gate is in good working order and has not been forced open. The Higgins Fire Protection District has determined that this gate design would be acceptable for emergency access needs.

1. Lock the gate. This raises potential issues of access during an emergency by non-emergency personnel. It is assumed that emergency personnel have the means and training to overcome a locked gate. This method addresses all of the comments and eliminates all but the most determined driver from gaining access during non-emergency events.
2. Lock the gate during non-wildfire season. During the winter months, when the potential for wildfire is greatly reduced, the gate could be locked to prohibit casual entrance to the private roadway. This has the potential for causing a barrier during an unseasonable wildfire or other emergency, but would address the access of issue for much of the year. Of course if drivers were told of a locked gate via signage on Rodeo Flat Road and the

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gate was locked during part of the year, the uncertainty of a locked gate may deter drivers.

3. Use an electronic lock for the gate allowing keyed access by emergency personnel, but no vehicular access without the key. The physical gate would be more of a lift-gate as seen in parking garages rather than a large physical presence. As the electronic mechanism would present a locked gate, but could be overridden or perhaps manually lifted in case of emergency, the physical gate would appear to be less of a barrier to drivers during an emergency event.
4. Place video cameras and post signage of fines and prosecution for trespassing at the entrance to the gate. By monitoring the gate, providing photographic evidence, and pursuing legal action in the case of unwarranted access, the additional efforts may serve to deter drivers.

For purposes of the Draft EIR, the County assumed that signage and the physical gate would be sufficient to deter most drivers, as typically residents would obey the law. With a gate and signage, the Draft EIR concluded that the project would not provide traffic on Rodeo Flat Road and there was no reason to include the roadway in the traffic analysis. The County notes that it is possible that familiarity with operations of the proposed project, and less vigilance of unauthorized access at the gate(s), may increase the potential for illegal traffic through the site. The methods listed above, as well as others that could be employed, would ensure that the secondary access was used only on an emergency basis. It should also be noted that the main gate at the project entrance would be staffed and monitored during daytime hours (although the specific hours are not known at this time). During the day, when the entry is staffed, only residents, employees, and registered guests would be allowed access, thus prohibiting the ability for the project to be used as a "bypass" between State Route 49 (SR 49) and Rodeo Flat Road. During non-daylight hours, the gate would be accessible only via a pass-code or pass-key. At times when the front gate is not staffed, the front gate would be monitored by a closed-circuit television system. As part of the project site security, the front gate would not be open to the public for noncontrolled entry at any time. Camera monitoring of the gate when the front gate is not staffed will provide an opportunity for project employees to address and correct illegal access.

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. 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).

Page 3.14-25 of the Draft EIR states that the proposed project is intended to provide a pedestrian-oriented environment with maximum on-site travel, and the site design locates shopping, services, and activities within walking distance of the residences in order to reduce the need for off-site trips. In addition, the project would offer alternative on-site transportation options including staff-driven vehicles (golf carts) and employee-facilitated carpooling and organized ridesharing. These features would reduce impacts to private off-site roadways and

trails surrounding the project site. Lastly, the project entrance at Rincon Way would consist of a gate house that would function to prohibit through traffic outside of the project moving from SR 49/Rincon Way to Rodeo Flat Road. The main gate at the project entrance would be staffed and monitored during daytime hours (although the specific hours are not known at this time). During the day, when the entry is staffed, only residents, employees, and registered guests would be allowed to enter the grounds. During non-daylight hours, the gate would be accessible only via a pass-code or pass-key. At times when the front gate is not staffed, the front gate would be monitored by a closed-circuit television system. As part of project security, the front gate would not be open to the public for noncontrolled entry at any time.

Consequently, with the combination of signage and the physical gate on Rodeo Flat Road and the strict controls on access at the Rincon Way gate, the potential for through traffic illegally using the project site as a shortcut to access SR 49 would be minimal.

Master Response 2 – Evacuation in the Event of Fire

Comments on the Draft EIR express several concerns about the ability to evacuate the project area and surrounding developments in the event of a fire. Reasons noted in comments include the age and physical condition of future residents of Rincon del Rio, the width and grade of Rodeo Flat Road, and the amount of traffic from Lake of the Pines Ranchos, Lake of the Pines, Dark Horse, Hidden Ranch Estates, and Rincon del Rio would be excessive. Comments also state the information regarding how Rincon residents would be evacuated is insufficient and that fire responders would not be able to access the site. Comments also requested that the Draft EIR include a Master South County Evacuation Plan for Lake of the Pines Ranchos, Lake of the Pines, Dark Horse, and Hidden Ranch Estates, as well as Rincon del Rio.

Regarding the age and condition of future residents of the project, approximately 10 percent of the residents of the project would be in the “nursing care” facility, and those residents would be in varying condition, so not all would be immobile or terminally ill as implied in several comments. Draft EIR mitigation measure MM 3.8.7 (page 3.8-22) requires the development of an emergency evacuation plan for the proposed project. The plan would consider the special needs of residents in determining the types of transportation required in that it would address methods of notifying and evacuating all residents, guests, and employees in a safe and efficient manner in the event of an emergency, including but not limited to vanpooling, transport of residents under nursing care, and identification of an emergency meeting location. As stated in the mitigation measure, the plan must be completed prior to project occupancy and would be enforced and implemented by the Nevada County Community Development Agency and the Higgins Fire Protection District. Review by these agencies would ensure that the plan adequately addresses any special needs of project residents.

In response to concerns that the additional access provided by the Rodeo Flat gate would make it more difficult to evacuate residents of Rincon Way, Hidden Ranch Road, Lake of the Pines, Dark Horse, and Combie Road, it should be emphasized that the project is providing an *additional* emergency route for the adjacent neighborhoods where one currently does not exist. In addition, the project does not intend that the Rodeo Flat Road emergency access is to be used to the exclusion of all other routes. It is assumed that local residents would use the route that is most accessible to them, given the emergency at hand. With multiple options available to residents, the additional access provided via Rodeo Flat Road would result in an improvement over existing conditions with regard to emergency access. It should be also noted that this emergency access has been designed in coordination with County and Higgins Fire Protection District staff.

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Emergency responders, specifically the Higgins Fire Protection District, would be able to access the site in the event of an emergency. Rincon Way would provide primary access, and secondary/emergency access would be provided via a connection to Rodeo Flat Road. As discussed above regarding mitigation measure MM 3.8.7, the Higgins Fire Protection District would be one of the agencies responsible for implementing and monitoring the evacuation plan developed for the project. If, during initial review of the emergency evacuation plan, the district determines there would be inadequate access to the site, they could require changes to the plan to remedy the deficiency. As discussed in the Draft EIR (page 3.8-22), the emergency evacuation plan for the proposed project, developed with oversight from the Higgins Fire Protection District, would ensure adequate emergency access. It should also be noted that the structures in the proposed project would include fire sprinklers to reduce risks associated with structure fires.

With respect to comments that the Draft EIR should include a Master South County Evacuation Plan, the project provides a secondary evacuation route for the project that could be used as an additional evacuation route by residents to the north of the site. The new access point would not worsen evacuation conditions at these developments, but would instead provide another option to the west in case other access points are not accessible. CEQA requires that there be a nexus between mitigation measures and project impacts and that mitigation measures be roughly proportional to the impact (CEQA Guidelines Sections 15126.4[a][4][A] and 15126.4[a][4][B]). Thus, an individual project must mitigate its own impacts; the project would do so through components included in the project and implementation of mitigation measures identified in the EIR. The County cannot justify burdening the project with creating an evacuation plan for developments that have previously existed in the county.

Regarding the variance due to the grade on Rodeo Flat Road, 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, on-site water storage, and hydrants (see Draft EIR page 3.14-22).

In terms of level of service on local roads during an emergency evacuation, the ability for area residents to have multiple routes of egress is of primary concern, not the level of service. A secondary access is required of the project, and the Rodeo Flat Road access was determined, in close consultation with the Higgins Fire Protection District, to be able to serve the proposed project and provide an additional outlet for development to the east. The Draft EIR provides an analysis of conditions during typical operations of the project. Determining the level of service for area roadways during a natural disaster is beyond the scope of the EIR and is not required by the County.

Regarding concerns that the Rodeo Flat Road access is a Regional Emergency Access Road, but does not satisfy the criteria for a Regional Emergency Access Road, the project proposes an emergency access route that was developed in coordination with the County and Higgins Fire Protection District and will improve the County's Emergency Operations Plan (see Draft EIR pages 3.8-17 through -20). As noted above, fire protection officials (Higgins Fire Protection District and CAL FIRE) requested this access point not only for the proposed project, but to provide an additional evacuation route for residents to the east of the project. The project does not propose this access point as a Regional Emergency Access Road, so the criteria noted in the comment do not apply to the project.

Master Response 3 – Project Consistency with the General Plan

Comments on the Draft EIR express concern about the project's consistency with the Nevada County General Plan. Specific comments regarding General Plan consistency include, but are not limited to, statements that the project is not consistent with the County General Plan and zoning, that the General Plan and zoning are being changed to “fit” the project, and that the Draft EIR is flawed in the sense that it assumes the General Plan Amendment and other entitlements would be granted.

According to CEQA Section 21061, an EIR is an informational document, the purpose of which is to provide public agencies and the public in general with detailed information about the effect a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project. CEQA Guidelines Section 15378(c) states that the term “project” refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term “project” does not mean each separate governmental approval. Finally, pursuant to CEQA Section 21002.1(d), the lead agency shall be responsible for considering the effects, both individual and collective, of all activities involved in a project. These statutes and guidelines are cited in order to demonstrate that the County is obligated under CEQA to consider the potential physical environmental effects of all activities involved in a project. In the case of the proposed project, the applicant is requesting that the County approve a General Plan Amendment and zoning amendment, as well as the other entitlements listed on pages 2.0-65 and 2.0-66 of the Draft EIR. These actions are all being proposed; therefore, they are all activities included in or resulting from the project and the Draft EIR must assume they would be implemented in order to analyze their potential environmental effects. For clarity, it is important to note that while an EIR assumes implementation of all aspects of a project in order to identify the potential environmental effects, it does not trigger the need for approval of a project. A project may be denied or modified even though an EIR is certified. Under CEQA Guidelines Section 15093, a lead agency (in this case, the County) must balance consideration of adverse environmental impacts with economic, legal, social, technological, or other benefits in deciding whether to approve a project. If certified, the environmental impacts identified in the EIR would be only one set of several factors that the County would consider in deciding whether or not to approve or deny the proposed project. Therefore, the EIR is not flawed in discussing the environmental impacts of a General Plan Amendment and zoning amendment; on the contrary, it is required to do so because those entitlements are included in the proposed project.

Many comments state that the proposed project is inconsistent with the County General Plan and zoning, and several of the comments include lists of General Plan policies with which the commenter(s) believe the project is inconsistent. It is within the discretion of the Board of Supervisors to determine whether the proposed project is consistent with the County General Plan. In making this determination, it would be appropriate for the Board to carefully consider all arguments – both “pro” and “con” and whether made in this EIR, by the project applicant, or by a project opponent or other member of the public, and reach its own independent conclusion as to whether the project is consistent. It should be noted that courts have held that the local decision-making body (whether it is a county board of supervisors or a city council) has broad discretion in interpreting its general plan and making the consistency determination. Some courts have recognized that a proposed project is not required by CEQA or by state law to be in perfect conformity with each and every policy of the County's General Plan. Legal precedent has determined that “any general plan must try to accommodate a wide range of competing interests—including those of developers, neighboring homeowners, prospective homebuyers, environmentalists, current and prospective business owners, jobseekers, taxpayers, and providers

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and recipients of all types of city-provided services—and to present a clear and comprehensive set of principles to guide development decisions. Once a general plan is in place, it is the province of elected city officials to examine the specifics of a proposed project to determine whether it would be 'in harmony' with the policies stated in the plan (*Sequoayah Hills Homeowners Association v. City of Oakland*, (1998) 23 Cal.App 4th 704 (1993))." According to the *State of California General Plan Guidelines* (Governor's Office of Planning and Research 2003), the California Attorney General has confirmed that in regard to consistency statutes "the term 'consistent with' is used interchangeably with 'conformity with' (58 Ops.Cal.Atty.Gen. 21, 25 (1975))." The guidelines also state that a "general rule for consistency determinations can be stated as follows: 'An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.' The city or county is responsible for determining whether an activity is consistent with the general plan. Any given project need not be in perfect conformity with each and every policy of the general plan if those policies are not relevant or leave the city or county room for interpretation (*Sequoayah Hills Homeowners Association v. City of Oakland*, (1998) 23 Cal.App 4th 704 (1993)). Case law interpreting planning and zoning law (Government Code Section 65000 et seq.) makes it clear that (i) the meaning of such policies is to be determined by the Board of Supervisors, as opposed to County staff, EIR consultants, or members of the public, and (ii) the Board of Supervisors' interpretations of such policies will prevail if they are "reasonable," even though other reasonable interpretations are also possible. (See *No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, 245–246, 249.)

The EIR is only required to discuss inconsistencies that are related to physical environmental issues to assist the Board of Supervisors in making their determination. CEQA Guidelines Section 15125(d) requires an EIR to "discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans." The Draft EIR meets the requirements of CEQA—potential General Plan and other land use inconsistencies are discussed in Section 3.10, Land Use, and potential inconsistencies with specific, applicable General Plan policies in Appendix 3.0-A, General Plan Consistency Tables. The discussions in the Draft EIR on the subject of General Plan consistency represent the best attempt of County staff and the County's EIR consultant to advise the Board of Supervisors of their opinions as to whether the proposed project is consistent with identified goals and policies of the County's General Plan. The CEQA Guidelines do not identify inconsistencies with applicable plans as physical impacts to the environment. Rather, CEQA Guidelines Appendix G notes that inconsistencies with applicable plans, policies, etc., would result in a physical impact only if the plan or policy was adopted for the purpose of avoiding or mitigating an environmental effect. As stated in Section 3.10 of the Draft EIR, the County's General Plan, the Land Use and Development Code, and the Western Nevada County Design Guidelines place emphasis on the use of cluster development as a means to minimize public health and aesthetic concerns, reduce dependence on automobiles, preserve open space and environmentally sensitive areas, support grazing, forest management, and crop production, and generally provide for the maintenance of a rural quality of life and protection of environmental resources. These attributes of cluster development also serve to reduce land use conflicts as most land use incompatibilities stem from these related environmental concerns (increased traffic, loss of farmland and open space, visual resource impacts, etc.). The concept of clustering development to mitigate environmental effects is a central theme in the County's General Plan, and the proposed project is consistent with this concept. The proposed project is also consistent with other General Plan policies intended to mitigate environmental effects, as discussed in the General Plan Consistency Tables in Appendix 3.0-A of the Draft EIR. Based on the evaluations contained in this EIR, County staff believes that the proposed project is generally consistent with the Nevada County General Plan. It should be

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noted, however, that the opinions expressed in this Draft EIR are in no way binding on the Board of Supervisors in the exercise of its discretion.

Comments that the County is amending its codes and General Plan policies to fit the project do not pertain to a specific physical environmental effect, but it should be noted that the Nevada County General Plan Housing Element contains a program with the intent to allow continuing care residential communities in the county. Program HD-8.1.6 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 sewer and water service and adequate ingress/egress)." Therefore, the proposed project would serve to implement a program required by the Housing Element. Furthermore, pursuant to Section L-II 5.9 of the Land Use and Development Code, amendments to the Nevada County General Plan and Zoning Ordinance may be requested by a property owner.

3.3.3 RESPONSES TO COMMENT LETTERS

Written comments on the Draft EIR are reproduced on the following pages, along with responses to those comments. To assist in referencing comments and responses, the following coding system is used:

Public agency comment letters are coded by letters and each issue raised in the comment letter is assigned a number (e.g., Comment Letter A, comment 1: A-1).

Individual and interest group comment letters are coded by numbers and each issue raised in the comment letter is assigned a number (e.g., Comment Letter 1, comment 1: 1-1).

Where changes to the Draft EIR text result from responding to comments, those changes are included in the response and demarcated with revision marks (underline for new text, ~~strikeout~~ for deleted text). Comment-initiated text revisions to the Draft EIR and minor staff-initiated changes are also provided and are demarcated with revision marks in Section 4.0, Errata, of this Final EIR.

Letter A



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA

GOVERNOR'S OFFICE of PLANNING AND RESEARCH



KEN ALEX
DIRECTOR

March 6, 2012



Brian Foss
Nevada County Planning Department Comm. Dev. Agency
950 Maidu Avenue
Nevada City, CA 95959-8617

Subject: Rincon-del Rio Continuing Care Retirement Community Project
SCH#: 2011052030

Dear Brian Foss:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on March 5, 2012, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,


Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Letter A Continued

Document Details Report State Clearinghouse Data Base

SCH# 2011052030
Project Title Rincon del Rio Continuing Care Retirement Community Project
Lead Agency Nevada County

Type EIR Draft EIR
Description The project proposes the development of a continuing care retirement community (CCRC) featuring a variety of independent and supportive living arrangements including independent living, assisted living, nursing care, physical rehabilitation, and memory impairment housing within a campus setting featuring commercial and recreational uses and transportation and a variety of other services. The proposed project consists of a number of entitlements, including: General Plan Amendment (to text and Land Use Diagram), Zoning Code Amendments and Rezone (changes to text and Zoning map), Multi-Phase Tentative Subdivision Map, Use Permit, Development Permit, Comprehensive Master Plan (CMP), Management Plan, Development Agreement, Road Standard Exception, Building Permit, and Grading Permit.

Lead Agency Contact

Name Brian Foss
Agency Nevada County Planning Department Comm. Dev. Agency
Phone 530 265 1256 **Fax**
email brian.foss@co.nevada.ca.us
Address 950 Maidu Avenue
City Nevada City **State** CA **Zip** 95959-8617

Project Location

County Nevada
City
Region
Lat / Long 39° 1' 4.53" N / 121° 5' 24.55" W
Cross Streets Rincon Way and SR 49
Parcel No. 57-240-17,-18,-19, & 57-130-13
Township **Range** **Section** **Base**

Proximity to:

Highways SR 49
Airports No
Railways No
Waterways Bear River
Schools Pleasant Ridge Union SD, Nevada Joint Union HS
Land Use Designated by the Nevada County General Plan as Planned Development; Estate (PD-EST) and Z: RA-3-PD (Residential Agricultural, 3-acre, Planned Development).

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Game, Region 2; Cal Fire; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 3; Regional Water Quality Control Bd., Region 5 (Sacramento); Native American Heritage Commission; State Lands Commission

Note: Blanks in data fields result from insufficient information provided by lead agency.

Letter A Continued
Document Details Report
State Clearinghouse Data Base

Date Received 01/20/2012 *Start of Review* 01/20/2012 *End of Review* 03/05/2012

Note: Blanks in data fields result from insufficient information provided by lead agency.

Letter A – Scott Morgan, Governor’s Office of Planning and Research

Response A-1: The comment states that the Draft EIR has been submitted to selected state agencies for review and that comments received from responding agencies are enclosed. The comment acknowledges that the County has complied with the State Clearinghouse requirements. Comment noted.



Matthew Rodriguez
Secretary for
Environmental Protection

Letter B
California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair

11020 Sun Center Drive, #200, Rancho Cordova, California 95670-6114
(916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>



Edmund G. Brown Jr.
Governor

3 February 2012



Brian Foss, Interim Planning Director
Nevada County
950 Maidu Avenue
Nevada City, California 95959-8617

CERTIFIED MAIL
7011 2970 0003 8939 7776

**COMMENTS TO DRAFT ENVIRONMENTAL IMPACT REPORT, RINCON DEL RIO
CONTINUING CARE RETIREMENT COMMUNITY PROJECT, SCH NO. 2011052030,
NEVADA COUNTY**

Pursuant to the State Clearinghouse's 20 January 2012 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Draft Environmental Impact Report* for the Rincon Del Rio Continuing Care Retirement Community Project, located in Nevada County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

Construction Storm Water General Permit

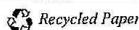
Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

B-1

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

California Environmental Protection Agency



Letter B Continued

Rincon Del Rio Continuing Care
Retirement Community Project
SCH No. 2011052030
Nevada County

2

3 February 2012

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed for the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

B-1
cont.

Letter B Continued

Rincon Del Rio Continuing Care
Retirement Community Project
SCH No. 2011052030
Nevada County

3

3 February 2012

Waste Discharge Requirements

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

B-1
cont.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

If you have questions regarding these comments, please contact me at (916) 464-4745 or gsparks@waterboards.ca.gov.



Genevieve (Gen) Sparks
Environmental Scientist
401 Water Quality Certification Program

cc: State Clearinghouse Unit, Governor's Office of Planning and Research, Sacramento

Letter B – Genevieve Sparks, California Regional Water Quality Control District, Central Valley Region

Response B-1: The comment provides information regarding the Construction Storm Water General Permit, Phase I and II Municipal Separate Storm Sewer System (MS4) Permits, Industrial Storm Water General Permit, Clean Water Act Section 401 and 404 permits, and waste discharge requirements. The project would be required to comply with these requirements. These permits and the project's responsibility for compliance are discussed in Section 3.9, Hydrology and Water Quality, of the Draft EIR (see Draft EIR pages 3.9-9 through -14).

Letter C

Brian Foss

From: Shannon Culbertson [shannon_culbertson@dot.ca.gov]
Sent: Thursday, March 01, 2012 9:05 AM
To: Brian Foss
Cc: Richard Helman; Jeff Pulverman
Subject: 032012NEV0001 Rincon Del Rio CCRC (SCH# 2011052030)
Attachments: ATT00001.jpg

Mr. Foss:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Rincon Del Rio CCRC project on Rincon Way, just east of State Route (SR) 49 in Nevada County.

The DEIR prepared for this project adequately addresses the comments we previously provided you in 2009, 2010, and 2011.

As a reminder, all work proposed and performed within the State Highway right-of-way must be in accordance with Caltrans' standards and requires a Caltrans Encroachment Permit prior to commencing construction. This requirement specifically relates to the work described in MM 3.14.4a.

If this project is approved, please provide our office with a copy of the conditions of approval once available. Additionally, please reply by email at your earliest convenience to confirm receipt of this email.

If you should have any questions or require additional information, please do not hesitate to contact me.

Thank you,

Shannon Culbertson

Associate Transportation Planner

Caltrans – District 3
Office of Transportation Planning
703 B Street
Marysville, CA 95901

Phone: (530) 741-5435 | Email: shannon_culbertson@dot.ca.gov

C-1

Letter C – Shannon Culbertson, California Department of Transportation, District 3

Response C-1: The comment states that the Draft EIR adequately addresses the comments previously provided by Caltrans. The comment also states that any work performed in a state right-of-way would require a Caltrans encroachment permit. The comment is noted.



Letter D

NEVADA IRRIGATION DISTRICT

1036 W. Main Street, Grass Valley, CA 95945-5424 ~ www.nidwater.com
(530) 273-6185 ~ Fax: (530) 477-2646 ~ Toll Free: (800) 222-4102

March 5, 2012

Brian Foss, Interim Planning Director, Nevada County
Community Development Agency, Planning Department
950 Maidu Avenue
Nevada City, CA 95959-8617

Re: Rincon del Rio Draft Environmental Impact Report (DEIR) – Comments

Dear Mr. Foss:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the proposed project. The referenced project is located within the boundaries of the Nevada Irrigation District, and therefore, entitled to water in accordance with Division 11 of the California Water Code. Water service and all rates and charges for service shall be subject to the District regulations and State laws. Water service shall also be in compliance with State and County health departments.

The District would serve the proposed development from the Lake of the Pines Treatment Plant. As noted in the DEIR, treated water for domestic service is not presently available to the project. The developer will be required to extend the water system pursuant to the terms and conditions of Section 10 of District Rules and Regulations.

On May 20, 2009, the District issued a letter to the Nevada County Planning Department regarding the proposed project – copy attached. Since that time, the Rodeo Flat Assessment District, and related pump station and pipelines have been completed. According to the DEIR, the developer plans to connect to the Rodeo Flat pipelines; however, there are unique requirements for this option (addressed below). There are at least two other methods to extend treated water to the project – both are acceptable and more desirable to the District. These methods should be evaluated and included as part of the DEIR (maps attached). The purpose of providing at least three potential alignments for consideration is to offer flexibility, without limiting the possibilities, of extending water to the project. Furthermore, the District is open to exploring the public benefits of each alignment, along with the potential of contributing to the cost of construction or reimbursing the developer for certain costs that benefit other properties in accordance with District Rules and Regulations.

D-1

The storage tank as described in the current proposal should be clarified; it is referred to as a “non-potable water tank” on page 3.13-20 third paragraph of Impact 3.13.4.2. As proposed, this tank will provide storage for a private system for fire protection (hydrants and building sprinklers) to the development. Its sole purpose is to supply adequate water flow in the event of a fire within this development. This tank would not serve a benefit to other parcels in the District, and therefore will not be accepted in the District’s distribution system for operation and maintenance. As such, this proposed

D-2

SERVING PORTIONS OF NEVADA, PLACER & YUBA COUNTIES

Letter D Continued

Mr. Brian Foss, Interim Planning Director, Nevada County
Community Development Agency, Planning Department
Re: Rincon del Rio DEIR Comments
March 5, 2012
Page 2 of 2

option would necessitate a dual water system within the project: one for treated water and one for fire protection. It should be noted that the potable water pipelines must be a minimum of 8-inch diameter and extend to the westerly property line on Rincon Way. Should the storage tank be relocated to a higher elevation, suitable for treated water storage, it would provide regional benefit to the public; consequently, the District would be willing to operate and maintain the tank and related pipelines, and therefore participate in the cost of construction.

D-2 cont.

Regardless of which method is chosen to extend water facilities to the project, it is important to note that an off-site pipeline, connecting the water systems at the Darkhorse development and the Lake of the Pines development (map attached for reference), must be installed and operational before water can be provided to the proposed project. The District currently has an agreement with the County of Nevada to facilitate this connection; completion is anticipated by September 2012.

D-3

As a matter of correction to section 3.13.4.1 - Setting, the reference to District storage should read a "total of 280,380 acre-feet" (occurring in the first and second paragraphs). Additionally, the reference to irrigation season should state that it ends mid-October (second paragraph).

D-4

Within the section 3.13.4.2 – Regulatory Framework (Local), it should be noted that the District has completed and adopted its 2010 Urban Water Management Plan; however it is still under review at the Department of Water Resources.

D-5

There are two references made regarding not requiring mandatory rationing of urban customers because the urban demands are anticipated to remain a small portion of the District's overall demands (page 3.13-19 second to last paragraph and page 3.13-22 Proposed CCRC Development). The District has an established Drought Contingency Plan which would be implemented to any and all District customers depending on severity of conditions.

D-6

In areas where canal encasement is not required, the District remains concerned that adequate protection/safeguards be considered as they pertain to new construction activities, roadways and drainage that could affect water quality in any manner by the construction of the proposed development. Water within the Combie Phase II Canal is used for irrigation and domestic purposes; therefore, water quality within this facility should not be compromised. All drainage should be designed to route storm water runoff away from the Combie Phase II Canal in accordance with the District Canal Protection Policy.

D-7

Should there be any questions regarding any of the above information, I would encourage contact be made directly with the District to discuss and/or provide clarification.

Sincerely,



Shannon Matteoni
Business Coordinator

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter D – Shannon Matteoni, Nevada Irrigation District

Response D-1: Draft EIR pages 2.0-52 through -61 and 3.13-20 and -21 describe the project-proposed water supply infrastructure improvements. While the alternatives identified by the Nevada Irrigation District (NID) are not part of the proposed project, the following analysis is provided for each of the connection alternatives identified.

Option 1 (Pipeline Extension to the Lake of the Pines Wastewater Treatment Plant)

Description of Option 1

This option would consist of the extension of a 12-inch water supply pipeline from the Lake of the Pines Wastewater Treatment Plant (WWTP) south to the project site (approximately 8,300 feet). Extension would require obtaining easements on two to three private properties between the WWTP and Hidden Ranch Road along undeveloped land. The remaining alignment would be placed within the existing public utility easements on Hidden Ranch Road and Pheasant Court to reach the northern border of the project site. A summary of potential environmental impacts based in technical information provided in the Draft EIR and aerial review of Option 1 is provided below.

Aesthetic Impacts

Option 1 would result in temporary visual impacts to private views along Hidden Ranch Road and Pheasant Court. However, once the pipeline is completed and placed underground, no operation visual or lighting impacts would occur. Thus, no new significant aesthetic impacts (beyond what was disclosed in the Draft EIR) would occur.

Agriculture and Forest Resources Impacts

This option would not result in the loss of important farmland as defined by CEQA (Prime Farmland, Farmland of Statewide Importance, and Unique Farmland) and would only result in potential temporary conflicts with agricultural uses during construction. It would also not result in the loss of forestland or Williamson Act lands. Thus, no new significant agriculture and forest resource impacts (beyond what was disclosed in the Draft EIR) would occur for project and cumulative conditions.

Air Quality Impacts

Option 1 would increase the extent of construction-related air quality impacts by enlarging the area of disturbance as compared to the proposed project (approximately 0.57 acres of new disturbance) (see Impact 3.3.1 on Draft EIR pages 3.3-14 through -19, Section 3.0, Air Quality). These additional emissions (ROG 3.6 pounds per day, NO_x 27.11 pounds per day, PM₁₀ 13.05 pounds per day, and PM_{2.5} 3.6 pounds per day associated with 8,600 linear feet of pipeline construction) would occur during Phase 1 of the project that has the highest emissions (see Draft EIR Section 3.3, Table 3.3-7, page 3.3-15). However, application of mitigation measures MM 3.3.1a through MM 3.3.1d

and NSAQMD Rule 226 would ensure that this impact would remain less than significant.

Biological Resources Impacts

This option would result in increased biological resource impacts associated with the potential to impact special-status plant species (finger rush, brownish beaked-rush, Jepson's onion, Brandegee's clarkia, oval-leaved viburnum) identified for the proposed project (see Draft EIR Section 3.4, Biological Resources, pages 3.4-26 through -33). However, application of mitigation measure MM 3.4.1 would ensure that this impact would remain less than significant for project and cumulative conditions.

Based on the proposed alignment, Option 1 would result in additional wetland impacts north of Hidden Ranch Road. These impacts would be in addition to project wetland impacts identified on Draft EIR pages 3.4-41 through -43. However, application of mitigation measure MM 3.4.4 would ensure that this impact would remain less than significant for project and cumulative conditions.

Option 1 could also result in further impacts to nesting birds and raptors during construction identified for the project (see Draft EIR pages 3.4-39 through -41). However, application of mitigation measure MM 3.4.3b would ensure that this impact would remain less than significant for project and cumulative conditions.

Climate Change and Greenhouse Gas Emissions Impacts

Option 1 would result in additional construction-related greenhouse gas emissions identified for the project (see Draft EIR Section 3.5, Climate Change and Greenhouse Gases, pages 3.5-14 through -17). However, application of mitigation measure MM 3.5.1a would ensure that this impact would remain less than significant for construction activities and ensure that this option's contribution would not be cumulatively considerable.

Cultural Resources Impacts

Option 1 would increase the extent of potential cultural and paleontological resource impacts by enlarging the area of disturbance as compared to the proposed project (approximately 0.57 acres of new disturbance) (see Impacts 3.6.2, 3.6.3, 3.6.5, and 3.6.6 on Draft EIR pages 3.6-17 through -22, Section 3.6, Cultural and Paleontological Resources). However, application of mitigation measures MM 3.6.2a, MM 3.6.2b, and MM 3.6.3 would ensure that this impact would remain less than significant for project and cumulative conditions.

Geology and Soils Impacts

Option 1 would increase the extent of potential ground disturbance by enlarging the area of disturbance as compared to the proposed project (approximately 0.57 acres of new disturbance). However, these improvements would not trigger any new significant geologic or soil stability

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

impacts since pipeline improvements would be consistent with County, NID, and California Building Standards Code requirements.

Hazardous Materials/Human Health Impacts

Option 1 would increase the extent of potential ground disturbance by enlarging the area of disturbance as compared to the proposed project (approximately 0.57 acres of new disturbance). However, these improvements would not trigger any new significant hazard impacts since pipeline construction activities would be consistent with local, state, and federal hazardous material handling requirements.

Hydrology and Water Quality Impacts

Option 1 would increase the extent of potential ground disturbance by enlarging the area of disturbance as compared to the proposed project (approximately 0.57 acres of new disturbance). However, these improvements would not trigger any new significant construction-related water quality impacts since pipeline construction activities would be required to comply with the Statewide General Permit (Water Quality Order 2009-0009-DWQ) and County grading requirements that would provide water quality protection measures (see Draft EIR Section 3.9, Hydrology and Water Quality, pages 3.9-17 through -19). Option 1 would also not alter any existing drainage facilities in the area. Thus, no new significant hydrology and water quality impacts (beyond what was disclosed in the Draft EIR) would occur for project and cumulative conditions.

Land Use Impacts

Option 1 would not physically divide an established community or conflict with existing land uses or environmentally protective local policy provisions or standards. These improvements would not trigger any new significant land use impacts.

Noise Impacts

Option 1 would increase the extent of potential ground disturbance by enlarging the area of disturbance as compared to the proposed project (approximately 0.57 acres of new disturbance) and expose additional area residents to construction noise. Area residents may be exposed to construction noise levels as high as 85 dB. This activity would be temporary and would be subject to mitigation measure MM 4.11.1 (see Draft EIR Section 4.11, Noise) that would provide noise attenuation measures which could reduce noise levels by 10 dB. However, the resultant construction noise levels would still be higher than the proposed project based on sensitive receptor proximity to the pipeline alignment.

Population/Housing/Employment Impacts

Option 1 would not result in any additional potential for housing and population or employment growth beyond what was disclosed for the proposed project in the Draft EIR.

Public Services and Utilities Impacts

Option 1 would not result in any additional demand for public services or utilities that could trigger environmental effects beyond what was disclosed for the proposed project in the Draft EIR.

Traffic and Circulation Impacts

Option 1 would not result in any additional operational traffic beyond what was disclosed for the proposed project in the Draft EIR. This option would result in minor construction traffic along Hidden Ranch Road, Pheasant Court, and Timber Ridge Drive. However, this construction traffic is temporary, and construction traffic control would be required to ensure safety of existing traffic and maintain roadway access.

Option 2 (Pipeline Extension Table Meadows)

Description of Option 2

This option would consist of the extension of a 10- to 12-inch water supply pipeline from a new one million gallon water tank and pump station at the Timber Ridge Drive/Rodeo Flat Road intersection to the project site (approximately 8,600 feet). This alignment would utilize existing public utility easements within Rodeo Flat Road, Scooter Bug Lane, China Hollow Road, and Table Meadow Lane. A summary of potential environmental impacts based in technical information provided in the Draft EIR and aerial review of Option 2 is provided below.

Aesthetic Impacts

Option 2 would result in temporary visual impacts to private views along Rodeo Flat Road, Scooter Bug Lane, China Hollow Road, and Table Meadow Lane. However, once the pipeline is completed and placed underground, no operation visual or lighting impacts would occur. However, the one million gallon water tank would be a new visual feature at the Timber Ridge Drive/Rodeo Flat Road intersection that could be landscaped to reduce its visual impact. Given that similar public infrastructure facilities already exist in this area, no new significant aesthetic impacts (beyond what was disclosed in the Draft EIR) would occur.

Agriculture and Forest Resources Impacts

This option would not result in the loss of important farmland as defined by CEQA (Prime Farmland, Farmland of Statewide Importance, and Unique Farmland) and would only result in potential temporary conflicts with agricultural uses during construction. It would also not result in the loss of forestland or Williamson Act lands. Thus, no new significant agriculture and forest resource impacts (beyond what was disclosed in the Draft EIR) would occur for project and cumulative conditions.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Air Quality Impacts

Option 2 would increase the extent of construction-related air quality impacts by enlarging the area of disturbance as compared to the proposed project (approximately 0.59 acres of new disturbance) (see Impact 3.3.1 on Draft EIR pages 3.3-14 through -19). These additional emissions (ROG 3.6 pounds per day, NO_x 27.11 pounds per day, PM₁₀ 13.05 pounds per day, and PM_{2.5} 3.6 pounds per day associated with 8,600 linear feet of pipeline construction) would occur during Phase 1 of the project that has the highest emissions (see Draft EIR Table 3.3-7). However, application of mitigation measures MM 3.3.1a through MM 3.3.1d and NSAQMD Rule 226 would ensure that this impact would remain less than significant.

Biological Resources Impacts

Option 2 could also result in further impacts to nesting birds and raptors during construction identified for the project (see Draft EIR pages 3.4-39 through -1) given the potential for further disturbance to nesting habitat. However, application of mitigation measure MM 3.4.3b would ensure that this impact would remain less than significant for project and cumulative conditions.

Climate Change and Greenhouse Gas Emissions Impacts

Option 2 would result in additional construction-related greenhouse gas emissions identified for the project (see Draft EIR pages 3.5-14 through -17). However, application of mitigation measure MM 3.5.1a would ensure that this impact would remain less than significant for construction activities and ensure that this option's contribution would not be cumulatively considerable.

Cultural Resources Impacts

Option 2 could increase the extent of potential cultural and paleontological resource impacts by enlarging the area of disturbance as compared to the proposed project (approximately 0.59 acres of new disturbance) (see Impacts 3.6.2, 3.6.3, 3.6.5 and 3.6.6 on Draft EIR pages 3.6-17 through -22). However, this area has already been disturbed through residential and roadway development and the potential for discovering cultural and paleontological resources is low. Application of mitigation measures MM 3.6.2a, MM 3.6.2b, and MM 3.6.3 would ensure that this impact would remain less than significant for project and cumulative conditions.

Geology and Soils Impacts

Option 2 would increase the extent of potential ground disturbance by enlarging the area of disturbance as compared to the proposed project (approximately 0.59 acres of new disturbance). However, these improvements would not trigger any new significant geologic or soil stability impacts since pipeline improvements would be consistent with County, NID, and California Building Standards Code requirements.

Hazardous Materials/Human Health Impacts

Option 2 would increase the extent of potential ground disturbance by enlarging the area of disturbance as compared to the proposed project (approximately 0.57 acres of new disturbance). However, these improvements would not trigger any new significant hazard impacts since pipeline construction activities would be consistent with local, state, and federal hazardous material handling requirements.

Hydrology and Water Quality Impacts

Option 2 would increase the extent of potential ground disturbance by enlarging the area of disturbance as compared to the proposed project (approximately 0.59 acres of new disturbance). However, these improvements would not trigger any new significant construction-related water quality impacts since pipeline construction activities would be required to comply with the Statewide General Permit (Water Quality Order 2009-0009-DWQ) and County grading requirements that would provide for water quality protection measures (see Draft EIR pages 3.9-17 through -19). Option 2 would also not alter any existing drainage facilities in the area. Thus, no new significant hydrology and water quality impacts (beyond what was disclosed in the Draft EIR) would occur for project and cumulative conditions.

Land Use Impacts

Option 2 would not physically divide an established community or conflict with existing land uses or environmentally protective local policy provisions or standards. These improvements would not trigger any new significant land use impacts.

Noise Impacts

Option 2 would increase the extent of potential ground disturbance by enlarging the area of disturbance as compared to the proposed project (approximately 0.59 acres of new disturbance) and expose additional area residents to construction noise. Area residents may be exposed to construction noise levels as high as 85 dB. This activity would be temporary and would be subject to mitigation measure MM 4.11.1 that would provide noise attenuation measures which could reduce noise levels by 10 dB. However, the resultant construction noise levels would still be higher than the proposed project based on sensitive receptor proximity to the pipeline alignment.

Population/Housing/Employment Impacts

Option 2 would be routed through an area that is currently developed and not result in any additional potential for housing and population or employment growth beyond what was disclosed for the proposed project in the Draft EIR, as the pipelines would be sized to serve the project.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Public Services and Utilities Impacts

Option 2 would not result in any additional demand for public services or utilities that could trigger environmental effects beyond what was disclosed for the proposed project in the Draft EIR.

Traffic and Circulation Impacts

Option 2 would not result in any additional operational traffic beyond what was disclosed for the proposed project in the Draft EIR. This option would result in minor construction traffic along Rodeo Flat Road, Scooter Bug Lane, China Hollow Road, and Table Meadow Lane. However, this construction traffic is temporary, and construction traffic control would be required to ensure safety of existing traffic and maintain roadway access.

Response D-2: The comment is noted regarding the use of the non-potable water tank and pipeline sizing for the potable water system. The water tank identified in Draft EIR Section 3.13, Public Services and Utilities, page 3.13-20, is currently intended for fire flow for the project only, while on-site water supply pipelines would be 8-, 10-, and/or 12-inch diameter in size.

Response D-3: The comment is noted. This is a regional facility that would be constructed off-site of the project and is not a component of the project.

Response D-4: The comment is noted. The following text changes are made to the Draft EIR.

On Draft EIR page 3.13-14, the following text change is made to the last paragraph:

NID receives its water supply from four main sources: the watershed, carryover storage in surface reservoirs, contract purchases, and recycled water. Watershed runoff includes all runoff produced by NID's watershed during the water year, which usually lasts through June or July. NID has ten main storage reservoirs totaling a maximum of 280,3890 acre-feet. Carryover storage is the amount of water left in these reservoirs at the end of a normal irrigation season, which generally ends in mid October ~~late September~~. Contract water purchases are available each year through the NID's 1963 agreement with Pacific Gas and Electric (PG&E). In years of at least normal precipitation, the maximum amount available is 59,361 acre-feet, and in dry years, this amount reduces to a maximum of 23,591 acre-feet. NID recycled water supplies are made up of treated water from four municipal wastewater treatment plants, blended with surface water and conveyed to NID customers.

Response D-5: The comment is noted. The following text changes are made to the Draft EIR.

On Draft EIR page 3.13-17, the following text change is made to the second paragraph under the subheading Nevada Irrigation District Urban Water Management Plan Update:

NID recently adopted its ~~As of June 2011, NID is in the process of updating the~~ 2010 Urban Water Management Plan (UWMP). The UWMP is currently

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

under review at the California Department of Water Resources. The UWMP update will bring NID ~~the plan~~ into compliance with new requirements to the Urban Water Management Planning Act, including consistency with use as a document for water supply assessments and written verification of water supply. The UWMP update also includes updates to water use projections and update and evaluation of demand management measures.

Response D-6: The comment is noted. The following text changes are made to the Draft EIR.

On Draft EIR page 3.13-19, the following text change is made to the paragraph directly beneath Table 3.13.4-4:

As shown in the table above, NID has sufficient water to meet anticipated demands through 2035 in average precipitation years. In addition, a 50 percent reduction in NID's overall supply (which is more severe than a hypothetical three-year worst-case scenario) does not necessitate require mandatory rationing of urban customers because the urban demands are anticipated to remain a small portion of the district's overall demands. While the project proposes to change its General Plan designation and allow for greater development on the project site than what was estimated in the Nevada County General Plan, NID would still have an adequate raw water supply to meet the estimated water demands of the project. This additional water demand can easily be met by NID, which has over half of its 410,633 afy supply remaining. It should be noted that NID has established a Drought Contingency Plan, which would apply to any and all NID customers depending on the severity of conditions.

On Draft EIR page 3.13-22, the following text change is made to the first paragraph:

The proposed project, in combination with other proposed and approved projects in the area, would result in a cumulative demand for water supply that is consistent with the projections in the 2010 UWMP and the facilities already constructed by NID. Water supply, delivery, and fire flows must be demonstrated on a project-by-project basis. As indicated in **Table 3.13.4-3**, NID has sufficient raw water to meet anticipated demands through 2035 in average precipitation years. ~~In the event of a~~ A 50 percent reduction in NID's overall supply (which is more severe than a hypothetical three-year worst-case scenario), ~~ne~~ does not necessitate mandatory rationing of urban customers would be necessary as urban demands are anticipated to remain a small portion of the district's overall demands. It should be noted that NID has established a Drought Contingency Plan, which would apply to any and all NID customers depending on the severity of conditions. Because there is adequate water available to serve cumulative development in the NID service area, the proposed project would have a **less than cumulatively considerable** contribution to water supply impacts.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Response D-7: As identified in Section 2.0, Project Description, of the Draft EIR, project proposed improvements near the canal are limited recreation trails, infrastructure improvements, and the emergency access road connection to Rodeo Flat Road. Water quality control measures required during construction would ensure that no adverse impacts to the canal would occur (see Draft EIR pages 3.9-17 through -19).

Letter E

Brian Foss

From: Rob Wood [rob@scopeinc.net]
Sent: Tuesday, March 20, 2012 3:21 PM
To: Brian Foss
Cc: Dale Creighton
Subject: FW: Rincon del Rio GHGs

Hi Brian,

Below is an email from Sam Longmire (NSAQMD) that I wanted to make part of the comments for Rincon DEIR. Thanks,

ROB WOOD

Project Manager

SCO Planning & Engineering
140 Litton Drive, Suite 240
Grass Valley, CA 95945
530-272-5841 (Office)
530-277-5092 (Cell)
530-272-5880 (Fax)
rob@scopeinc.net

From: Sam Longmire [mailto:sam@myairdistrict.com]
Sent: Tuesday, March 20, 2012 12:59 PM
To: 'Rob Wood'
Subject: Rincon del Rio GHGs

Dear Mr. Wood:

The Northern Sierra Air Quality Management District (NSAQMD) has reviewed draft portions of the Draft EIR for the proposed Rincon del Rio senior living project.

The Greenhouse Gas section (Sec. 3.5) includes a good discussion and background (although SB 375 has no direct affect in the project area because Nevada County has no MPO). The draft uses the Bay Area AQMD's greenhouse gas (GHG) methodology, along with other available quantification tools, to assess greenhouse gas impacts. While the methodology yields a conclusion of Significant and Unavoidable GHG impacts, it should be noted that the limitations of the quantification tools prevent a number of important mitigations from being counted. Also, the application of the tools does not appear to encompass all of the planned mitigations that could be quantified.

Mitigations that do not appear to be fully accounted for include:

- Including solar panels
- Following a "Construction Recycling Plan" to divert at least 50% of the construction waste stream
- Incorporating a heavy mixed-use component (including numerous goods and services on-site)
- Providing trails/paths for pedestrian use and on-site recreation
- Landscaping with xeric/drought-tolerant vegetation
- Providing a van/paratransit service for shopping and/or special events
- Providing an "errand runner"
- Meeting or surpassing California's Building Energy Efficiency Standards, including CALGreen Building Code Tier 1 standards
- Incorporating a greenwaste drop-off site
- Using line/grid power to the extent feasible for construction power needs
- Requiring all off-road and mobile equipment to meet Tier 2 emission standards
- Timing the delivery of construction materials to avoid peak traffic times

The inclusion of these mitigation measures, in addition to a few others not described here, reduces the project's GHG emissions considerably. It is impossible to know, based on current science, what quantity of GHG emissions is truly

E-1

Letter E Continued

significant. The Bay Area's methodology specifies a threshold of 4.6 metric tonnes per service population per year. The draft DEIR yields a figure of 10.2 metric tonnes per service population per year. If all of the unquantified mitigations that the project has committed to incorporating could be quantified, the figure would likely be well below 10.2 tonnes, but it is not possible to state that GHG emissions would be reduced to a "Less than Significant" level under the Bay Area's methodology that is being applied. Nonetheless, it appears that the project has fulfilled the minimization and mitigation intent of CEQA.

E-1
cont.

Feel free to forward this e-mail to the project planners and lead agency. Please contact me with any questions.

Sincerely,
Samuel F. Longmire
Air Pollution Control Specialist
Northern Sierra Air Quality Management District
(530) 274-9360 x106

Letter E – Sam Longmire, Northern Sierra Air Quality Management District

Response E-1: The comment states that, based upon review of the Greenhouse Gas section (Section 3.5 of the Draft EIR) by the Air District, the project appears to fulfill the minimization and mitigation requirements of CEQA, but notes that the Draft EIR may not have quantified all reductions of greenhouse gases that would be achieved by the mitigations. The comment further notes that even if these unquantified emissions had been quantified, it would still not be possible to state that the project's greenhouse gas impact would be less than significant. The commenter is referred to Response 33-1 where additional GHG modeling and quantification has been conducted on the project-proposed GHG reduction measures as well as the inclusion of mitigation measure MM 3.5.1g that consists of obtaining GHG offset credits to reduce the GHG impact to less than significant.

Letter 1

Karen M. Abbott
22595 Hidden Ranch Road
Auburn, CA 95602

March 8, 2012

Nevada County Planning Commission
950 Maidu Ave.
Nevada City, CA 95949

Ruth Poulter, District 1
Laura Duncan, District 2
Suzanne Smith, District 3
R. Douglas Donesky, District 4
Bob Jensen, District 5 (Chair)

Good Afternoon Commissioners,

My name is Karen Abbott. I am a resident of Hidden Ranch Estates in South Nevada County. I am speaking today on behalf of the community group Nevada County Rural Rights Coalition, NCRRC, of which I am a core member.

Please include this testimony as part of the public and administrative records regarding the Rincon del Rio Draft EIR.

My objective today is to give voice to the numerous individuals in our coalition who though they are not able to attend today's Commission meeting due to work or other personal obligations, desire to be included in the Planning Commission's administrative process regarding the problematic Rincon del Rio project. There are many coalition members, myself included, who have not yet completed their in depth research and analysis of the lengthy yet extremely inadequate Rincon del Rio Draft EIR. We do however intend to have our detailed comment letters regarding the DEIR completed and delivered to the Planning Department by no later than close of business the last day of the public comment period, March 20th, and we anticipate that those letters will indeed be included as part of both the public record and the administrative record and process with regard to the Rincon del Rio Draft EIR as was stated in writing by County Planner Brian Foss.

Those expansive letters will scrutinize each section of the Rincon del Rio Draft DEIR and provide testimony regarding the numerous inadequacies therein. I would like to synopsize the most relevant issues we will be addressing within those letters so that pertinent information may be included as part of today's official public testimony. Just to be clear, this synopsis is not all inclusive of every serious issue and concern that will be addressed by our coalition members regarding the adequacy of the Rincon del Rio Draft EIR, and we reserve the right to discuss any and all relevant topics in our forthcoming correspondence on or before close of business March 20, 2012.

That said, the most relevant DEIR topics are as follows:

Page 1 of 4

Letter 1 Continued

Transportation and Circulation - Specifically the out dated “fatally” flawed traffic study, dangerous non-lighted intersection at Highway 49, unlocked gate at Rodeo Flat Road, excessive public traffic on private roads and the subsequent serious liability issues. We will illustrate alternative superior circulation movements to and from the proposed location, up to and including a “private” entrance to the project. 1-1

Public Services - Public safety issues caused by an unsafe fire exit at Rodeo Flat Road which is intended to direct Lake of The Pines, the Ranchos, Darkhorse and other Combie area neighborhoods, businesses, and schools down thru the project and out our private road, Rincon Way without any sort of Master evacuation plan, likely resulting in catastrophic traffic congestion, accidents and even deaths during an emergency evacuation. We will explore and expound alternate routes and evacuation measures. 1-2

Utilities - Utilities (water and sewer) being directed away from the community sphere of influence out into rural lands rather than being more efficiently utilized within the sphere (a direct general Plan violation). We will explore and expound alternate superior solutions. 1-3

Population and Housing - The developer’s attempt to change current zoning in order to increase unit and population density five times higher than what is allowed in the rural area. We expound on the superfluous and self serving nature of the text being added to the General Plan and suggest alternative approval measures. 1-4

Employment – Conflicting data with regard to number of employees (full time, part time, and contracted) needed to provide all of the advertised amenities. Also employment and revenue issues involved with the extreme south county locale proposed for the project. We will explore economic viability of the project as proposed and provide superior economic alternatives. 1-5

Cumulative Impacts - The extensive amendments to the Nevada County General Plan and Zoning Ordinances being "assumed" by this developer will be precedent setting and could affect any rural area/open space in our County. We explore and illustrate the realistic cumulative effects this project will have on the entire County, and once again expound on the superfluous and self serving nature of the text amendments being suggested by the developer for the General Plan and Zoning Ordinance. We will suggest less cumulatively impacting alternatives. 1-6

Alternatives - The DEIR did not come close to suggesting adequate alternative solutions to this project and it’s questionable location. We will suggest in great detail superior alternatives in all alternative cases, except the “no project” option which obviously needs no further clarification. 1-7

Aesthetics – Rural agricultural views (open pasture and wooded areas) being replaced by a high density urban landscape. Street lights, parking lot lights and other urban city light issues casting a glare on our beautiful rural dark night skies and affecting local wildlife. We will suggest reasonable alternative measures to avoid obvious aesthetic issues basically dismissed by DEIR consultant as insignificant. 1-8

Noise – Years of construction heavy equipment noise and dust, and then a lifetime of high density urban residential and commercial activities, all from 7a-7p and likely even later for the 1-9

Letter 1 Continued

event lawn, band stand and the various clubhouses spread throughout the development, and let's not forget about party central, the existing 14,000 square foot white elephant "clubhouse" on the hill. We will suggest realistic alternative measures to avoid discernible noise issues not adequately addressed by DEIR consultant.

1-9
cont

Hazardous Materials and Human Health – Transportation of Bio-hazardous waste, oxygen and other medical related substances through our rural neighborhoods. We will expound on the dangers involved and request serious mitigation involving this serious human health and life threatening impact.

1-10

Air Quality, Climate Change and Green House Gasses – Our County is already the Ozone filter for all of Sacramento and Placer Counties...why add 540 parking spaces full of "particulate" spewing vehicles on the roads in our rural area? We will expound on the contradictory nature of the transportation and circulation data regarding the development and attempt to provide more realistic impact data.

1-11

Land Use – Project's lack of consistency with the Nevada County General Plan's land use guidelines and zoning ordinances...especially with regard to rural lands, and the developer's presumptuous manipulation of General Plan policies in an attempt to make the General Plan fit their project, rather than requiring the project to fit the General Plan. Once again, though redundant, we will illustrate the superfluous and self serving nature of the text being added to the General Plan by the developer in order to circumvent all policies and guidelines that currently prevent their project from being approved.

Our strongest point of contention with the Rincon del Rio DEIR is that throughout the entire document, serious environmental impacts and policy inconsistencies requiring thorough investigation and mitigation are simply dismissed with the following verbiage:

"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. "

1-12

If that presumptuous verbiage isn't alarming enough, it is often followed with the caveat:

"While this Draft EIR analyzes any inconsistencies between the proposed project and the Nevada County General Plan pursuant to CEQA Guidelines Section 15125(d), the Nevada County Board of Supervisors would make the ultimate determination of consistency with the General Plan. "

The overriding theme throughout the Rincon del Rio DEIR appears to be "it doesn't matter if there are General Plan or Zoning Ordinance inconsistencies with the project...we'll just change all those pesky conflicting laws to suit our personal agenda, and then presto NO MITIGATION REQUIRED." How can such flagrant circumventions of numerous carefully crafted laws, guidelines and policies be so lackadaisically presented as expert testimony by the PMC consultant throughout that legal document? We find the situation unconscionable.

Letter 1 Continued

It is important that you understand that the members of the Nevada County Rural Rights Coalition are *not* opposed to **sensible** growth and development *anywhere* in our beautiful County, nor are we opposed to the *idea* of the high density Rincon del Rio CCRC project. What we *are* opposed to is that urban scale project being built in the *proposed* very low density **rural** location, and that is not *just* because it will be “in *our* backyards” but because it will be in “Placer County’s *backyard*” rather than closer to Nevada County’s core, where a high density urban development such as this should be located for many fundamental and legitimate reasons, as I previously explained and justified at length in my 15 page NOP comment letter dated June 13, 2012. If you have not read that expansive document (see attached) please consider doing so as part of this administrative process.

1-13

In summary, we as good citizens must rely on our public officials to follow the laws of the land, Nevada County’s General Plan and it’s guiding policies, thereby assuring the protection of our County’s rural lands from exploitation and wanton overdevelopment. We expect that you will hold the PMC consultant to task with regard to acknowledging legitimate environmental impacts and providing logical mitigation of the various DEIR inadequacies we will address during the administrative process, and if lawful mitigations to serious impacts are unable to be achieved we trust that you will reject the Rincon del Rio project as currently proposed and seriously consider less impacting alternatives.

1-14

Thank you for your undivided attention today and for your serious consideration of the matters brought forth in this testimony.

Sincerely,

Karen M. Abbott
kmabbott@mac.com

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Letter 1 – Karen Abbott, Nevada County Rural Rights Coalition

The comment letter generally introduces a number of points that the commenter believes are inadequacies in the Draft EIR. Most of these comments do not contain specific comments, but merely introductions. The commenter has provided two other letters on the Draft EIR, included in this Final EIR, in which more detailed comments are provided. Responses are provided for those comments where applicable.

Response 1-1: The comment notes a “fatally flawed” traffic study, non-lighted intersection at SR 49, unlocked gate at Rodeo Flat Road, public traffic on private roads, and liability issues, but provides no specific comments on these issues or technical analysis to counter the conclusions of the Draft EIR. As described on Draft EIR pages 3.14-9 through -12, the Draft EIR traffic impact analysis is based on a detailed traffic analysis that includes estimation of project traffic volumes, traffic distribution, and technical modeling of traffic operations using industry accepted practices (*Highway Capacity Manual* and *Manual on Uniform Traffic Control Devices for Streets and Highways FHWA’s MUTCD 2003 Edition*, as amended for use in California).

Response 1-2: The comment references safety issues related to the emergency access at Rodeo Flat Road and states that this would result in catastrophic traffic, accidents, and death, but provides no evidence or technical analysis to support the statement. The commenter is referred to Master Response 2 regarding the design of the emergency access.

Response 1-3: The comment notes utilities being provided to rural lands rather than being utilized “within the sphere.” The commenter is referred to Draft EIR Section 3.13 Public Services and Utilities, pages 3.13-14 through -41, for a discussion of utilities. The need to annex into Nevada County Sanitation District #1 for wastewater service is acknowledged in the Draft EIR on page 3.13-28.

Response 1-4: The comment references a change in zoning to result in a population “five times higher than what is allowed in a rural area.” The commenter is referred to Draft EIR Section 3.12, Population, Housing, and Employment, for a discussion of population generated by the project. As specifically noted on Draft EIR page 3.12-5, the proposed project would result in up to 239 additional residents beyond current General Plan land use designations for the site. The physical environmental effects of allowing this extent of development are disclosed in the Draft EIR.

Response 1-5: The comment states there are conflicting data with regard to the number of employees in the project, but references no specific conflicts. Draft EIR pages 2.0-11 and 3.12-4 both identify that the proposed project could have 43 employees. No conflicts in the Draft EIR regarding employment have been identified.

Response 1-6: The comment states the amendments to the Nevada County General Plan would be precedent setting but provides no detail on the physical environmental effects that would result. Sections 3.1 through 3.14 of the Draft EIR address potential physical environmental impacts of the proposed amendments to the General Plan as well as to the Zoning Code. These impacts are also discussed on Draft EIR pages 4.0-5 through -9.

3.0 COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

- Response 1-7:** The comment states the alternatives analysis did not include adequate alternatives to the project. The County believes the alternatives analysis in the Draft EIR (see Section 5.0) provides a reasonable range of alternatives as required by CEQA. See also Response 3-3.
- Response 1-8:** The comment refers to alternative measures to avoid aesthetic issues created by the proposed project, but provides no detail regarding what impacts were not adequately addressed in the Draft EIR or any specific new mitigation. The commenter is referred to the visual impact analysis provided on Draft EIR pages 3.1-13 through -16, which provides a detailed analysis of the project's impact on public views.
- Response 1-9:** The comment refers to noise that could be generated by construction and operation of the project, but provides no detail regarding what impacts were not adequately addressed in the Draft EIR or any specific new mitigation. The commenter is referred to the analysis provided on Draft EIR pages 3.11-17 through -22, which provides a detailed analysis of the project's construction noise impacts, as well as to Draft EIR pages 3.11-23 through -31, which address operational noise impacts.
- Response 1-10:** The comment refers to impacts related to transport of hazardous materials through rural neighborhoods, but provides no detail regarding what impacts were not adequately addressed in the Draft EIR or any specific new mitigation. The use and handling of hazardous materials would be required to occur in accordance with applicable federal, state, and local laws that provide for protection of public health (see Draft EIR pages 3.8-14 through -15).
- Response 1-11:** The comment states Nevada County is the "ozone filter for all of Sacramento and Placer Counties" and questions the addition of 540 parking spaces that would generate particulate matter. See Draft EIR Section 3.3, Air Quality, for a discussion of ozone and particulate matter and the proposed project's contribution to these emissions.
- Response 1-12:** The comment states that the project is not consistent with the County General Plan and zoning and contends that the General Plan is being amended to make the General Plan fit the project. See Master Response 3.
- Response 1-13:** The comment expresses opposition to the project at the location proposed. The comment is noted.
- Response 1-14:** The comment generally references perceived inadequacies of the Draft EIR, but provides no specifics. County staff disagrees and considers the Draft EIR in compliance with CEQA.

Letter 2

Important: An unfinished draft copy of this DEIR comment letter dated March 18, 2012 was sent to the County in error, hence it may have also been sent to PMC. Please destroy any copies of that unfinished March 18, 2012 draft and replace them in total with this final copy dated March 20, 2012. This March 20, 2012 DEIR comment letter includes an extensive amount of additional DEIR relevant information that was not included in the unfinished March 18, 2012 draft. This is important because much of that additional DEIR relevant information necessitates a Consultant's response. This March 20, 2012 DEIR comment and the associated CD containing NCRRC Core members' DEIR and NOP comment letters have also been delivered to the County Planning Department to be included in the permanent public and administrative records, and to the Planning Commissioners, Board of Supervisors and Legal Counsel for review and to use as reference during the administrative process in the event a court action occurs.

Thank You

Letter 2 – Karen Abbott

The original comment letter dated March 18, 2012, was subsequently withdrawn by the author and replaced with a letter dated March 20, 2012. See Letter 3.