

## Errata to the Rincon del Rio Final EIR

### State Clearinghouse No. 2011052030

October 26, 2012

It was discovered that the final page of comment letter 34 (Dai Meagher) of the Rincon del Rio Final EIR had been inadvertently omitted (starting on Final EIR page 3.0-294). The final page of this comment letter is attached and the following responses to these comments are provided below.

**Response 34-14:** The comment states the EIR defines the fire danger as significant and that the analysis of fire impacts is incomplete. The commenter is referred to pages 3.8-21 and 3.8-22 of the Draft EIR, where the analysis concludes that the fire hazard is potentially significant before mitigation. The Draft EIR includes mitigation measure MM 3.8.7, which requires the applicant to prepare an emergency evacuation plan for the project site that addresses methods of notifying and evacuating all residents, guests, and employees in a safe and efficient manner in the event of an emergency, including identification of an emergency meeting location. The Draft EIR on page 3.8-21 also noted the following protection standards that the project would be required to comply with:

*...the proposed project would be required to comply with the 2010 California Building Standards Code (Title 24 of the California Code of Regulations) and Defensible Space Requirements (Public Resources Code Sections 4290 and 4291), which establish minimum standards for materials and material assemblies to provide a reasonable level of exterior wildfire exposure protection for buildings in wildland-urban interface areas, the use of ignition-resistant materials and design to resist the intrusion of flame or burning embers projected by a vegetation fire, and the provision of defensible space around all structures. For example Part 2, Chapter 7a of the California Building Standards Code (Wildland-Urban Interface Fire Area Building Standards) requires exterior walls to be constructed of approved noncombustible or ignition-resistant material, with heavy timber, or log wall construction providing protection from the intrusion of flames and embers. In addition, where the roof profile allows a space between the roof covering and roof decking, the spaces are required to be constructed to prevent the intrusion of flames and embers or be fire-stopped with approved materials. Part 9, Chapter 47 of the California Building Standards Code includes regulations regarding fire-resistance-rated construction, fire protection systems such as alarm and sprinkler systems, fire services features such as fire apparatus access roads, means of egress, and fire safety during construction and demolition. Public Resources Code Section 4291 generally requires a defensible space*

clearance of 100 feet be maintained from each side and from the front and rear of structures. In addition, Section 4291 requires the owner of any new development to obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards and that upon completion of construction the owner obtain from the local building official a copy of the final inspection report demonstrating that the dwelling or structure was constructed in compliance with all applicable state and local building standards. The proposed project would be required to comply with the above and all other standards of the 2010 California Building Standards Code.

In addition, the proposed project would be required to comply with all applicable Nevada County Code requirements intended to mitigate effects of wildland fire exposure within the SRAs. According to the Code, the requirements contained in Chapter XVI (Fire Safety Regulations), as well as Chapter II (Zoning Regulations), Chapter IV (Subdivision Regulations), Chapter VII (Street Addressing and Naming), and Chapter V (Buildings) and County adopted road standards collectively provide the necessary minimum wildfire protection standards to minimize public safety effects with the establishment of land uses and buildings within SRA lands within Nevada County. These requirements include standards for roads and private driveways to facilitate emergency service response to structural and wildland fires, which is addressed in part through the proposed secondary emergency-only access would be provided via a connection to Rodeo Flat Road, located at the northeast corner of the project site.

The EIR found that, with implementation of this mitigation measure and compliance with existing state and local regulations regarding fire safety, the impact related to fire danger would be less than significant for the project. However, cumulative wildland fire hazards were identified as significant and unavoidable (see Draft EIR page 3.8-23). The reader is also referred to Master Response 2 for further discussion of an evacuation in the event of a fire.

**Response 34-15:** The comment concludes that the EIR fails to inform the public and decision makers about potentially significant impacts of the project and fails to identify ways to avoid environmental impacts by labeling them as minor. The comment provides no specific inadequacies in this comment, while the conclusions of the Draft EIR are based on substantial evidence consisting of technical studies, field review, analyses by environmental professionals as required by CEQA. The reader is referred to responses 34-1 through 34-14 for a discussion of the specific comments provided by the commenter.

## Long Term Implications of The Project 6.0

### Wildfire Hazard Impact 3.8.8

With regard to Wildland Fire Hazards identified in impact 3.8.8, the analysis is deficient, and the mitigation measures are absent. The DEIR finds the wildfire impact as "significant", but presents incomplete analysis.

The legislative intent of CEQA is not to avoid presenting mitigating measures and in fact CEQA §15126 (d) establishes that the EIR discuss "*The Mitigation Measures Proposed to Minimize the Significant Effects.*"

The terrain, prevailing wind patterns, and fuels definitely suggest a "significant" impact. And it is a statistical fact a fire starting with the project area (both during construction and afterwards) is increased by the project.

But most important is the regional impact that fire could have especially disastrous consequences to the nearby community of the Lake of the Pines , the Bear River High School, the Magnolia Intermediate School, and the Cottage Hill Elementary School. The combined environment presents a scenario similar to that of the "Oakland Hills" fire of 1991.

It is paramount that this project identify and propose mitigating measures which at a minimum include measures identified by state, regional, and local fire fighting authorities.

#### **Conclusion:**

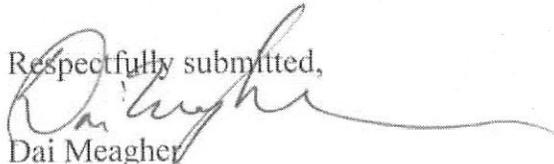
In summary, the DEIR is deficient in the General Concepts established by CEQA §15002, especially (but not exclusively) in these areas:

Fails to inform the public and decision makers about potentially significant environmental effects of the project. (i.e. Contains essential omissions.)

Fails to identify ways environmental impacts can be avoided (by inappropriately labeling impacts as minor.)

The foregoing reasons clearly suggest that further consideration of the proposed project be delayed until (1) a revised draft EIR is prepared and re-circulated to fully comply with CEQA and the CEQA Guidelines, and (2) the project is redesigned in a manner consistent with the Nevada County General Plan.

Respectfully submitted,

  
Dai Meagher

34-14

34-15

