

## DEIR APPENDIX G (Amended): COMPLIANCE WITH WRIT OF MANDATE

Following the County's adoption of a General Plan in 1996, the El Dorado Taxpayers for Quality Growth and other organizations filed a lawsuit in the Superior Court for the County of Sacramento challenging the validity of the General Plan and the adequacy of the environmental impact report (EIR) prepared in connection with the general plan (*El Dorado County Taxpayers for Quality Growth v. El Dorado County Board of Supervisors* (Case No. 96CS01290)). In February of 1999, the Court issued a decision in the case. The Court rejected the claims directed at the General Plan, but ruled that the EIR and related Findings of Fact and Statement of Overriding Considerations (findings) were inadequate under CEQA on a number of grounds.

Accordingly, in July of 1999, the Court issued a writ of mandate (Writ) compelling the County to set aside its resolutions certifying the EIR and adopting the findings and General Plan. The Writ set forth the actions that would be required for the County to comply with CEQA in any supplemental environmental analysis of the General Plan. The Writ also recognized that some development should be allowed to proceed while the County takes the necessary steps to comply with CEQA prior to adopting a new General Plan. The Writ set forth the limitations on development approvals during this interim period, which are summarized in the description of the "Equal-Weight Alternative #1: No Project (Writ Constrained)" in Chapter 3 of this Draft EIR.

In response to the Writ, the County determined that a new General Plan and EIR process should be undertaken. A number of General Plan alternatives were developed, four of which have been analyzed in this Draft EIR in an equal level of detail. The new Draft EIR is substantially different than the prior EIR. It is based on the most recent available information, contains new and more expansive impact analyses, and includes a number of new mitigation measures and alternatives designed to reduce the impacts of future development in the County. The EIR also responds to the specific deficiencies identified the Court's decision and Writ. This appendix sets forth each of those deficiencies and explains how they have been addressed in the Draft EIR. Several factors should be kept in mind in reviewing the general plan adoption process for compliance with the Writ. First, the petitioners' claims that the substance of the adopted General Plan did not comply with the requirements of the Planning and Zoning Law were rejected. This caused Judge Bond to comment in her February, 1999, decision that one possible outcome of the process would be the readoption of the original General Plan in its original form after compliance with CEQA, although this outcome is not dictated by the ruling. However, because the Court was reviewing the County's action of adopting the General Plan in 1996, each of the directions in the Writ relates to a specific action taken in the course of adopting that

General Plan. Should the Board of Supervisors ultimately act in a manner different than what was done in 1996, either by adopting a completely different General Plan or by not taking certain of the actions that formed the basis of the complaint in 1996, the degree to which specific direction provided in the Writ remains relevant or the manner in which compliance must be achieved, will need to be determined at the time of final action.

Second, the Court found different types of deficiencies to be present in the environmental process undertaken in connection with the adoption of the General Plan. Some related to the form and content of the EIR. Those can be addressed in the new environmental documents. Others, however, relate to actions taken based on certain factual findings, and the sufficiency, or insufficiency, of the evidence to support those findings. In reviewing these items, the Court looks at the record as a whole. That record will not be complete until after all public hearings have occurred and final action on a new General Plan has been taken. Therefore ultimate compliance with the Writ will depend upon the final actions taken by the Board of Supervisors and the presence or absence of substantial evidence in the administrative record to support those actions. Although the requirements for compliance with the Writ can be outlined, a determination of whether compliance has been achieved in certain areas can only occur after final action is taken.

This appendix sets forth each of the deficiencies noted in the Writ and the manner in which each of them have been addressed in the Draft EIR, or how they can be addressed in the processing of the project.

### **Changes in Land Use Maps**

In the 1996 EIR, a number changes were made to the project following the issuance of the draft EIR, including eliminating a restriction on assigning the Low Density Residential (LDR) designation to lands separated from Community Regions or Rural Centers by the Rural Residential designation (RR); changing the designation on certain large parcels from RR to LDR or Tourist Recreational; the removal of the Agricultural District overlay designation from certain lands; expanding the boundaries of certain Rural Centers and Community Regions; and eliminating a Planned Community area. The Court concluded that the County's finding that these changes would not result in significant new environmental impacts was not supported by substantial evidence. The County prepared an analysis of those changes to determine whether they were substantial enough to require additional environmental analysis. Based upon the analysis, a finding was made that the changes would not result in significant new environmental impacts and, therefore, further environmental analysis was not undertaken.

This Draft EIR supercedes the 1996 EIR and contains an entirely new equal weight analysis of four alternatives, including the 1996 General Plan Alternative. The impacts of the 1996 General Plan Alternative and its land use map, which contains the map changes discussed in the Court's decision, have been fully analyzed in this Draft EIR. This analysis

is being circulated for public review and comment. In addition, the land use maps for the Roadway Constrained Six-Lane “Plus” and Environmentally Constrained Alternatives were designed to reduce the size of Rural Centers and Community Regions and reduce densities in the separator areas. The Draft EIR analyzes the impacts of these alternatives and compares them against the impacts of the 1996 General Plan Alternative. The differences between the land use maps for each of the alternatives and the environmental effects of those differences are addressed in this analysis. Since one of the alternatives provided by the Court to cure this deficiency was to “review the environmental impacts of the changes pursuant to CEQA,” this approach is intended to comply with the Writ.

### **Change in Oak Woodland Canopy Coverage Policies**

The Court determined the County failed to adequately analyze the impacts of a change in proposed oak canopy coverage policies that occurred between the draft and final versions of the 1996 EIR. The draft EIR had proposed as mitigation a policy that would require “retention” of a certain percentage of existing canopy cover, and this proposed policy was incorporated into an annotated project description. By the time the Final EIR was issued, the policy had been changed to require “retention or replacement.” (Policy 7.4.4.4 of the 1996 General Plan). The Court concluded that the impacts of this change were potentially significant and that the County had not presented substantial evidence that the change would not have significant adverse environmental impacts. Therefore, the Court directed that the County: (1) readopt the original canopy retention policy; (2) make a finding based on substantial evidence that the change in policy would not result in a new significant environmental impact or a substantial increase in the severity of a previously disclosed impact; or (3) review the environmental impacts of the change pursuant to CEQA.

The “retention and replacement” requirement of Policy 7.4.4.4 is part of the project description for the No Project and 1996 General Plan Alternative and the impacts of the policy are fully analyzed in the Biological Resources section (Section 5.12) of this Draft EIR (see Impact 5.12-1). The analysis notes that while replacement through replanting can be an important conservation tool as part of a larger conservation strategy, there is little evidence to date that replanting has been effective in mitigating oak loss. The EIR concludes that the loss and fragmentation of oak habitat would be a significant impact under the 1996 General Plan Alternative. Accordingly, the EIR proposes revising Policy 7.4.4.4 to require canopy retention rather than replacement (with replacement at a 1:1 ratio also required for the canopy that is not retained), or alternatively requiring payment of a fee that will allow for the acquisition and preservation of in-tact oak habitat at 2:1 ratio based on the total woodland acreage on-site (Mitigation Measure 5.12-1(f)), complying with the third option provided by the Court.

In addition, both the Roadway and Environmentally Constrained Alternatives contain policies that would reduce impacts on oak habitat, and mitigation measures are proposed for all alternatives to further reduce oak habitat impacts. These measures include policies

requiring the County to develop an Oak Tree Protection Ordinance and an Integrated Natural Resources Management Plan (INRMP), and requiring discretionary projects to prepare a biological resources study and an important habitat mitigation program (see Mitigation Measures 5.12-1(d), (e) and (g)). The analysis concludes that with the proposed mitigation measures, impacts related to the loss and fragmentation of wildlife habitat and the removal, degradation and fragmentation of sensitive habitats would remain significant for all of the equal weight alternatives, but would be greatest for the 1996 General Plan Alternative.

### **Changes In Acceptable Levels of Traffic Congestion**

The Court found that the County had failed to adequately analyze the impacts associated with a policy added to the 1996 General Plan after circulation of the Draft EIR that allowed levels of service (“LOS”) on some roadways to decline to LOS F. For this Draft EIR, an entirely new traffic analysis was conducted. New modeling was performed based on the LOS standards and projected growth for each alternative. All of the equal weight alternatives included the policy from the 1996 General Plan identifying the roadway segments for which LOS F is acceptable, and these standards were incorporated into the traffic model. The impact analysis fully analyzes the impacts of growth on traffic for these and other roadway segments in the County, identifying segments that would experience a decline to an LOS of D or lower, as well as segments that would not meet the specific LOS standards proposed for each alternative. The Court’s direction with respect to this deficiency was that “in any reanalysis or supplemental analysis prepared by the County in response to this writ and the related judgment, the County must ‘perform a full environmental review of the traffic impacts of the General Plan in compliance with the provisions of CEQA.’”

### **Range of Alternatives**

The 1996 EIR included an analysis of three alternatives in addition to the General Plan ultimately adopted: the “General Plan Alternative,” the “Low Growth Alternative,” and the “No Project Alternative.” The Court concluded that all of the alternatives appeared to provide the same basic pattern of development, and that the EIR contained insufficient explanation in support of its finding that these alternatives offered substantial environmental advantages over the adopted General Plan. The Court directed that the County either explain how the alternative included in the EIR for the 1996 General Plan offered significant environmental advantages over the General Plan, or consider at least one new alternative that does so. The Draft EIR follows the second direction.

The new EIR takes a different approach to alternatives analysis than was used in the EIR on the 1996 General Plan. The Draft EIR does not designate a preferred alternative. Rather, the No Project Alternative and three different project alternatives are analyzed at an equal level of detail. One of the alternatives, the 1996 General Plan Alternative, is based on

the General Plan analyzed in the 1996 EIR and adopted by the County. The other two equal-weight project alternatives – the Roadway Constrained Six-Lane “Plus” and the Environmentally Constrained Alternatives – are entirely new and were specifically designed to provide substantial environmental benefits over the 1996 General Plan Alternative. The Roadway Constrained Six-Lane “Plus” Alternative was designed to minimize expansions in existing roadway capacity, and thus imposes substantial limits on further subdivision of existing parcels. The Environmentally Constrained Alternative focuses on preservation of the County’s agricultural lands, biological and other natural resources, and overall rural character, both through policies and changes to the land use map and designations that concentrate growth in areas of existing development. Under the each of the alternatives, the distribution of development and the overall level of development would be substantially different, particularly at buildout. While the No Project Alternative would be environmentally superior overall to the other equal weight alternatives, the Roadway Constrained Six-Lane “Plus” and Environmentally Constrained Alternatives would have significant environmental advantages, and would be superior even to the No Project Alternative in certain impact areas (e.g., land use, agriculture, biological resources and cultural resources for Environmentally Constrained Alternative).

The EIR also considered eight alternatives in addition to the equal weight alternatives. Two of these alternatives, the Roadway Constrained Six-Lane Alternative (Alternative #6) and the Modified Development Agreements Alternative (Alternative #8), sought to substantially reduce future development in the County beyond the levels proposed in the No Project Alternative, but were found to be legally infeasible due to their effect on development rights.

The other six alternatives were analyzed at a level of detail sufficient to enable comparison with the equal weight alternatives (see Chapter 6). Of the comparative alternatives, two – Compact Development (Alternative #12) and Modified El Dorado Hills Development South of U.S. 50 (Alternative #9) -- would be environmentally superior to all of the equal weight and other alternatives, including the No Project Alternative. The Transit Emphasis Alternative (Alternative #11) would also result in a number of environmental benefits. Other comparative alternatives such as the Roadway Constrained Eight-Lane (Alternative #7) and New White Rock Road Connection (Alternative #10) focus specifically on reducing traffic impacts near the western County line. The equal weight and comparative alternatives analyzed in the EIR provide a reasonable range of alternatives, including several alternatives that would avoid or substantially lessen the impacts of the 1996 General Plan Alternative.

### **No Project Alternative**

The no project alternative analyzed in the 1996 EIR assumed future development would proceed consistent with the 24 Area Plans then in existence, which allowed for more development than the proposed project. The Court concluded that the analysis in the 1996 EIR was misleading, because failed to draw a direct comparison of the proposed project with existing conditions, particularly with respect to changes from existing population levels.

The Court ruled that the EIR was required to clearly disclose the population impacts of the project in relation to current County population, in addition to growth expected under current plans.

The analysis in the new EIR compares the population growth and related impacts for each alternative both to existing conditions and to future conditions assuming development continues under the current regulatory situation. Existing conditions are described in detail in the existing setting section at the start of each section and form the environmental baseline for the impact analysis. Projected future conditions, which assume that development continues to be governed by the Writ, are represented by the No Project Alternative (Writ Constrained). Population, housing units, and jobs projected for each project alternative are directly compared both to existing baseline and to the projected No Project levels (Table 3-2). The analysis shows substantial increases in population and development under all of the alternatives compared to existing conditions, resulting in an increase of between 53,000 and 81,000 persons by 2025, and between 74,000 and 197,000 persons at full buildout, depending on the alternative. The impacts of this growth are analyzed for each alternative against existing baseline conditions.

### **Rejection of Mitigation Measures**

Prior to the approval of the 1996 General Plan, the County made findings that certain mitigation measures identified in the 1996 EIR or proposed by commenters were infeasible due to inconsistencies with project goals and objectives. The Court found that the County failed to adequately support a number of those findings with evidence and analysis. The issue of findings will be addressed at the time of project approval. If at that time the County declines to adopt mitigation measures that would avoid or substantially lessen a significant environmental impact of the project, it will be required to make findings based on substantial evidence in the record that the mitigation measures are infeasible based on specific economic, legal, social, technological, or other considerations, or are within the responsibility and jurisdiction of another public agency. The County's compliance with the direction contained in the Writ can only be assessed following its final action based on evidence contained in the entire record which is not yet complete.

The following discussion summarizes the mitigation measures that were the subject of the Court's ruling and the manner in which they are addressed in this Draft EIR.

### **Fifth Ecological Preserve**

The 1996 EIR identified impacts to special status plant species found in the Pine Hill formation as potentially significant. The 1996 General Plan included four rare plant preserve units in the Pine Hill area. A fifth preserve unit located in the Cameron Park area was identified as mitigation in the 1996 EIR, but was not adopted as part of the 1996 General Plan. However, in 1998 the General Plan was amended to

include all five preserve sites, and the Cameron Park unit was subsequently added to the Pine Hill Preserve. All of the proposed General Plan alternatives include the fifth preserve in the Ecological Preserve (-EP) overlay and contain policies to protect rare plant species within the -EP overlay (see Policies 7.4.1.1 to 7.4.1.6 (No Project/1996 General Plan Alternatives); Policies CO-5a to CO-5e (Environmentally Constrained and Roadway Constrained Six-Lane "Plus" Alternatives). Because this measure has already been incorporated into the proposed alternatives and has in fact been implemented, it is not proposed as mitigation this Draft EIR.

### **Scenic Corridor Combining Zone**

Policy 2.6.1.1 in the 1996 General Plan called for the adoption of a Scenic Corridor (-SC) Combining Zone District that would apply to identified scenic corridors, with the exception of lands in Community Regions and Rural Centers. The 1996 EIR identified a mitigation measure for visual impacts that would have eliminated this exception, but the measure was not adopted. This Draft EIR identifies mitigation that would revise Policies 2.6.1.1 and 2.6.1.6 in the No Project and 1996 General Plan Alternatives, to eliminate the exception for Community Regions and Rural Centers (Mitigation Measure 5.3-1(b)). A different policy scheme for protecting visual resources is provided in the Environmentally Constrained Six-Lane "Plus" and Roadway Constrained alternatives and is analyzed accordingly in the Draft EIR.

### **Contiguous Blocks of Habitat**

A commenter on the 1996 EIR proposed a mitigation measure that called for using plan amendments and zoning ordinances to retain contiguous blocks of significant plant and wildlife habitat, and to protect these areas through consultation with various state and federal resources agencies during the land use planning process. Measures that would accomplish this goal have been proposed as mitigation or incorporated into project alternatives.

For example, a Important Biological Corridor (-IBC) land use overlay designation is included in the Environmentally Constrained Alternative and is proposed as mitigation for the other alternatives (Policy CO-6d, Implementation Measure CO-K; Mitigation Measure 5.12-3). The -IBC overlay would impose additional habitat protection requirements on properties within the corridor, including increased minimum parcel sizes and standards for maintenance of contiguous areas of plant communities.

Mitigation Measure 5.12-1 proposes a number of measures to reduce the loss and fragmentation of wildlife habitat, including a policy requiring the creation of an integrated natural resources management plan ("INRMP") that calls for a number of measures to acquire, protect and restore important habitat areas. The INRMP

would include a Habitat Inventory which maps important habitats in the County, including large expanses of native vegetation. The INRMP would also include a strategy for acquiring land “to conserve and restore contiguous blocks of important habitat to offset the effects of increased habitat loss and fragmentation elsewhere in the County.” These and other policies proposed as mitigation or included in the Environmentally Constrained and Roadway Constrained Six-Lane “Plus” Alternatives would reduce habitat fragmentation and protect contiguous blocks of habitat.

### **Prohibition on Piping, Culverting or Lining of Streams**

A commenter on the 1996 EIR proposed a mitigation measure that would prohibit the piping, culverting or lining of streams. The mitigation measures identified in this Draft EIR would provide a comparable level of protection by requiring that disturbance or fragmentation of important habitat—which includes aquatic environments such as streams, rivers and lakes, and wetland and riparian habitat—be avoided except where avoidance is not possible (see Mitigation Measures 5.12-1(d) and (e)). In addition, where avoidance is not possible mitigation would be required at a level sufficient to fund preservation and/or restoration at a 2:1 ratio, with additional onsite mitigation at a 1:1 ratio required for larger projects. Measure 5.12-4(b) would require buffers and special setbacks for the protection of riparian areas, with exceptions allowed only where necessary for the repair or construction of bridges, roads and recreational structures or to avoid a regulatory taking problem, and then only where mitigation and BMPs are incorporated into the project. The measure would also require integration of rivers, streams, lakes, ponds and wetlands into new development in such a way that disturbance is avoided or minimized. A complete prohibition on culverting, lining or piping of streams is not feasible because there may be instances where such activities cannot be avoided. The proposed measures, however, would prohibit culverting, lining piping except where avoidance is infeasible, and compensatory mitigation would be required in those cases.

### **Street Width Standards**

A commenter on the 1996 EIR proposed a mitigation measure calling for a revision of street width standards to allow or require narrower streets in the County. This Draft EIR identifies the construction of new streets that are inconsistent with character of the surrounding area as a significant impact for the alternatives that would allow substantial new subdivision (Environmentally Constrained and 1996 General Plan Alternatives). Mitigation Measure 5.3-2 would create a new policy requiring that new streets and improvements to existing rural roads necessitated by new development be designed to minimize visual impacts, preserve rural character, and ensure neighborhood quality to the maximum extent possible consistent with the

needs of emergency access, on street parking, and vehicular and pedestrian safety. This policy would be implemented through a revision of the existing road width standards in the County Design and Improvement Standards Manual to allow for narrower streets and roadways.

### Lower Densities for Certain Land Use Designations

The Court found that the County failed to adequately support its finding that reducing the maximum densities of certain land use designations in the 1996 Alternative was infeasible. This DEIR analyzes various alternatives and mitigation measures that would result in reduced densities, both at a general county-wide level and in specific areas where a density reduction could lessen particular environmental impacts.

Two of the equal weight alternatives considered in the DEIR are based on a reduced density of development – the No Project Alternative and the Roadway Constrained Six-Lane “Plus” Alternative. Except for existing commitments, new subdivisions would be prohibited under the No Project Alternative and capped at four new parcels for each existing parcel under the Roadway Constrained Alternative. These restrictions would have the effect of significantly reducing residential densities for parcels that are not included in existing commitments: the projections of new housing units on these parcels at 2025 and buildout respectively are as follows:

<b>New Units: Remaining Capacity</b>	No Project	Roadway Constrained Six-Lane “Plus”	Environmentally Constrained	1996 General Plan
2025	6,869	11,274	17,725	17,926
Buildout	14,955	27,087	40,513	64,127

The analysis of the No Project Alternative reflects the impacts that would occur with the greatest possible reduction in residential density. The Roadway Constrained Alternative reduces densities between 33 to 37 percent compared with the Environmentally Constrained Alternative, and 37 to 42 percent compared to the 1996 General Plan Alternative, depending on the timeframe. The alternatives thus present impact scenarios for a range of County-wide residential density options.

The Environmentally Constrained and Roadway Constrained Six-Lane “Plus” Alternatives additionally contain alternative Land Use Maps which place a more lands in lower density designations than in the 1996 General Plan Alternative, including a new Agricultural Lands designation in the Environmentally Constrained Alternative that contains a 20-acre per dwelling unit minimum parcel size. Reconfiguring the boundaries of higher density land use designations to reduce their area was determined to be a more effective method of avoiding environmental impacts through density reduction than simply reducing the maximum allowable

densities for the 1996 General Plan map. The County was able to focus density reductions in areas where those reductions would have the most environmental benefit based on identified constraints, and to direct higher density development toward existing developed areas and areas with the greatest infill opportunities. This approach resulted in a reduction in total residentially-designated area from 127,551 acres in the 1996 General Plan Alternative to 74,404 acres in the Environmentally Constrained Alternative, with a greater than 50 percent reduction in the combined area of medium- and high-density residential designations. For some of the more rural market areas in the County, these differences are even more pronounced. These differences are discussed in more detail in the DEIR on pages 3-23 to 3-32, and are illustrated by Tables 3-4 and 3-5.

In addition, many of the proposed policies and mitigation measures would result in reductions of residential density on an area-specific or parcel-by-parcel basis, depending on the specific environmental constraints in an area or the potential impacts of a particular development project. For example, proposed restrictions on development of slopes to minimize erosion and other impacts will reduce the effective density of some parcels. (See, e.g., Mitigation Measure 5.9-4(b).) Level of Service and concurrency policies will have the effect of reducing development density to a level that is compatible with the availability of roadway infrastructure. Several mitigation measures specifically provide for targeted reductions in allowable density as part of an overall mitigation strategy. (See, e.g., Mitigation Measure 5.4-1(b) (growth control mechanism to reduce traffic impacts may include changes in allowed development intensities); Mitigation Measure 5.12-3(b) (lands within –IBC Overlay subject to increased minimum parcel size)). This approach is tailored more specifically to the particular impacts at issue and was determined to be more desirable and effective at mitigating those impacts than an across-the-board density reduction not tied to any particular impact, which could have the effect of being under-protective in some areas of the County and over-protective in others.

### **Oak Woodland Canopy Coverage Standards**

The 1996 EIR included mitigation requiring canopy coverage standards, but those standards would have allowed either retention or “replacement” of coverage, and the County declined to adopt an earlier version of the measure that would have required retention. As discussed above, the canopy coverage mitigation measure included in this EIR would not allow replacement to substitute for retention; it requires replacement in addition to retention (Mitigation Measure 5.12-1(f)). The only alternative to retention would be the provision of compensatory mitigation in the form of a fee sufficient to fund acquisition and preservation of oak habitat at 2:1 ratio based on the total on-site woodland acreage. In addition, other mitigation measures proposed in this Draft EIR would require the County to develop an Oak Tree Protection Ordinance and an INRMP, and would require discretionary projects to

prepare a biological resources study and an important habitat mitigation program, all of which would reduce impacts to oak habitat (see Mitigation Measures 5.12-1(d), (e) and (g)).

### **Minimum Parcel Size in Migratory Deer Habitat**

The 1996 EIR proposed a 40-acre minimum parcel size in critical summer and winter migratory deer habitat. In the current Draft EIR, the combination of existing development restrictions in areas identified as critical deer herd habitat, implementation of an integrated natural resources management plan required under Measure 5.12-3(a), and the Important Biological Corridor (-IBC) overlay required under Measure 5.12-3(b), would provide a comparable level of protection to important migratory deer habitat. As discussed in section 5.12, while protection of larger parcels of undeveloped habitat increase opportunities for wildlife movement, deer can successfully migrate through smaller parcels depending on the nature of the particular site, the type of structures built (e.g., perimeter fences, roadways) and the degree of development or other barriers to movement in the surrounding area. Parcel sizes of 10 acres or greater in many instances are sufficient to allow for deer migration and movement by other wildlife species.

The large majority of critical deer herd habitat is on land designated as Natural Resource, which already limits development to 40ac/DU or 160 ac/DU. In areas where critical deer herd habitat is not on land designated as Natural Resource, the integrated natural resources management plan and the -IBC overlay would allow for minimum parcel sizes to be increased on a site-specific basis as necessary to protect deer migration habitat and other important habitat areas. It would also permit the application of more stringent lot coverage standards and restrictions on fences and other hindrances to wildlife movement. These requirements would protect deer migration corridors to the maximum extent feasible.

### **Minimum Parcel Size Within or Adjacent to Mineral Resource Lands**

The 1996 EIR identified a mitigation measure that would expand the minimum parcel size for lands within or adjacent to the Mineral Resource (-MR) overlay designation from 10 acres to 20 acres to mitigate potentially significant impacts to mineral resource utilization. Mitigations identified in the new EIR would revise the applicable policies in each alternative to increase the minimum parcel size for lands within or adjacent to -MR lands from 10 to 20 acres unless an applicant can demonstrate that there are no economically significant mineral deposits on or adjacent to the project site and that the proposed project will have no adverse effect on existing or potential mining operations (Mitigation Measure 5.9-7(c)).

### **Minimum Parcel Size Adjacent to Grazing Land**

The 1996 EIR included mitigation establishing a minimum parcel size of 20 acres for lands adjacent to grazing lands to mitigate potential incompatibility impacts. This Draft EIR concludes that a 20-acre parcel size is not always necessary to avoid conflicts with adjacent grazing lands, nor is it always sufficient. Mitigation Measure 5.2-1(d) would require that agriculturally incompatible uses adjacent to agricultural zoned lands within an Agricultural District (or Agricultural Lands designation for the Environmentally Constrained Alternative) provide a minimum setback of 200 feet or greater if necessary based on site-specific conditions. Mitigation Measure 5.2-1(e) would prohibit the creation of new parcels adjacent to designated agricultural lands unless the size of the parcel is large enough to allow for an adequate setback from the surrounding agricultural parcels for any incompatible uses. Mitigation Measure 5.2-1(f) would require residential uses adjoining agricultural lands to install agricultural fencing to reduce the potential for livestock harassment. Together, these measures would be more effective than a blanket 20-acre minimum parcel size in avoiding potential land use conflicts with grazing activities.

### **Parks/Open Space Standard for Planned Communities**

The 1996 EIR included mitigation measures that modified Policy 2.1.4.5., relating to Planned Communities, to raise the public facilities/parks/open space target for specific plans within Planned Communities from 20 percent of the specific plan area to 30 percent. This was relevant at the time as there were three proposed developments under consideration within the Planned Community base land use designation. Since 1996, however, all areas shown in the Planned Community base land use designation have been re-designated into other land use designations, primarily Adopted Plan. Accordingly, none of the currently proposed equal-weight alternatives designate land under the Planned Communities base designation. However, all of the alternatives contain policies calling for a Planned Development combining zone district, which would require future Planned Developments to include 30 percent of the total site as commonly owned or publicly dedicated open space or recreation area. Accordingly, the policy proposed in the 1996 EIR is no longer needed.

### **Reliance on Avalanche Design Requirements**

The 1996 EIR found that avalanche hazard was a significant impact and proposed as mitigation that new structures located in areas susceptible to avalanche be designed to withstand such an avalanche. The Court observed that the measure seemed dubious and found that there was no substantial evidence in the EIR indicating that it was feasible. This Draft EIR does not rely on building standards to mitigate potential avalanche hazards. Rather it proposes mitigation that would prohibit development on lands for which potential avalanche or other hazards related to mass instability have been identified, unless the

hazards can be avoided or adequate mitigation provided (Mitigation Measure 5.9-2(b)). All new development of habitable structures would be subject to review for potential hazards and a geotechnical study would be required where potential hazards are identified (Mitigation Measures 5.9-2(a) and (b)). These measures would ensure that no new habitable structures are built on parcels subject to avalanche hazard unless the project can be sited or designed to avoid the hazard.

### **Analysis of Water Supply Impacts**

The Court concluded that the analysis of water supply impacts in the 1996 EIR was inadequate. Specifically, the Court found that County had failed to address the impacts of developing future water supplies on Caples, Aloha and Silver Lakes, which would provide the source of water for Project 184.

This Draft EIR contains a new water supply analysis which includes the most recent information available regarding water supply planning in the County. The El Dorado County Water Agency is in the process of preparing a countywide Water Resources Development and Management Plan. Based on information developed to date by the Agency, the water supply analysis in this Draft EIR includes the projected water demand for each of the equal weight alternatives, the projected shortfalls for each alternative assuming existing supplies, and an estimate of the future additional supplies that would be available from Project 184 and a number of other contemplated water supply projects. The potential impacts of these projects, including impacts on lake levels, are analyzed in this Draft EIR to the extent possible at this stage in the planning process (see Tables 5.5-9 through 5.5-12). The analysis concludes, for example, that end of June lake levels in Caples Lake would be lower than “full pool” in 40 to 70 percent of the years modeled, depending on which operating scenario assumptions are used. Lake level reductions could adversely affect fishery and macroinvertebrate habitat in the source lakes as well as the quality or quantity of recreational opportunities on those lakes such as fishing and boating. These and other impacts of Project 184 have been analyzed in a March 2003 Draft Environmental Impact Statement prepared by the Federal Energy Regulatory Commission, which includes proposed mitigation measures to maintain minimum lake levels. Because it is unknown what mitigation measures for Project 184 and the other potential water supply projects will ultimately be adopted, and such measures are not within the control of the County, the EIR concludes that the identified impacts of those projects would be significant and unavoidable.

## **Significance of Wastewater Collection and Treatment Impacts**

The Court found that the 1996 EIR failed to adequately support its conclusion that the impacts of increased growth on wastewater treatment capacity were less than significant. The Court ruled that the EIR should have analyzed the realistic expansion potential and current performance of existing facilities, including issues relating to known violations of waste discharge requirements by the Deer Creek Wastewater Treatment Plant.

Section 5.5.2 of this Draft EIR contains a new wastewater analysis which forecasts future wastewater flows under each equal weight alternative and compares it to existing treatment capacity. The analysis indicates that by 2025, wastewater flows would equal or exceed the existing treatment capacity for the County's two wastewater treatment plants (WWTPs) for all four equal weight Alternatives (Table 5.5-14). The analysis describes the improvements likely to be needed for each WWTP to meet 2025 demand, and concludes that while there is a strong likelihood that EID will obtain the necessary funding to construct these improvements, the impacts from such construction are potentially significant. The potential water quality impacts from discharges from the WWTPs is also analyzed in Section 5.5.3. The history of waste discharge violations at the Deer Creek plant is discussed. Studies conducted by the Central Valley Regional Water Quality Control Board and EID have concluded that the plant is not adversely affecting any beneficial uses of Deer Creek and various amendments to the discharge requirements to reflect this have been either approved or are awaiting approval by the state. The analysis concludes that although future water quality impacts associated with expansion are likely to be eliminated through the NPDES permitting process, and mitigation may be available for other physical impacts related to facility expansion, the implementation of these measures is within the jurisdiction of EID and thus cannot be assured by the County. Therefore, the impacts are considered significant and unavoidable. Thus, the Draft EIR complies with the Court's direction to either find, based on substantial evidence, that the adoption of the General Plan "will not result in any environmental impacts on Caples, Silver or Aloha Lakes, or, in the alternative, perform a full environmental review of such impacts pursuant to CEQA." The County selected the latter course of action.

## **Significance of Household Hazardous Waste Impacts**

The Court also found that the 1996 EIR lacked the analysis or data to support its finding that the impacts from increased generation and illegal dumping of household hazardous waste would be mitigated to a less-than-significant level by existing collection and disposal programs.

Section 5.8.1 of this Draft EIR includes an analysis of household hazardous waste generation and illegal disposal based on the best available information. The analysis indicates that the rate of participation in household hazardous waste collection programs now equals or exceeds state-wide averages and has been increasing due to expansion of

collection and other programs in the County in recent years. However, illegal disposal still occurs and cannot be fully eliminated through county programs and regulations. Accordingly, the EIR concludes that this impact is significant and unavoidable

### **Use of “Achievable Density” for Future Population Projections**

The 1996 EIR utilized population projections that were based on assumptions regarding “achievable residential density” rather than on the maximum development potential that was authorized under the proposed General Plan. The Court found that the achievable density assumptions were not supported by empirical data or other substantial evidence in the EIR. The Court held that the County should base its impact analysis on population projections that are based on assumptions supported by substantial evidence.

For this Draft EIR, new population projections were performed for each equal weight alternative. The evidentiary basis for the projections is documented in the technical reports prepared in conjunction with the projections (EPS 2002). As documented in the reports, the population and development projections for 2025 conditions were based on an inventory of all existing parcels in the County, the development potential of those parcels based on the land use density and intensity proposed for each alternative, and an analysis of market demand. In addition, the maximum development potential under each alternative was calculated assuming full buildout of the designated land uses (as restricted by applicable subdivision restrictions for the No Project and Roadway Constrained Six-Lane “Plus” Alternatives), in order to provide a worst-case scenario. The impact analysis in the Draft EIR addresses the impacts of each alternative under both projected 2025 and buildout conditions, and therefore captures the full range of potential outcomes.

### **Statement of Overriding Considerations**

Prior to approving the 1996 General Plan, the County adopted a “Statement of Overriding Considerations” which set forth the County’s policy justifications for adopting that plan notwithstanding its significant environmental impacts. The Court ruled that in light of the other legal infirmities of the 1996 EIR and project approval findings, the Statement of Overriding Considerations would have to be redrafted and was void. The Court also found that one of the specific override findings – that the adopted project would increase County revenues – was unsupported by evidence in the record.

As with the issue of feasibility findings discussed above, the issue of override findings will be addressed if and when the Board makes a decision to adopt one of the project alternatives. At that time, if the Board finds that any significant and unavoidable impacts remain, it will be required to adopt a new statement of overriding considerations that is supported by substantial evidence in the record.