Appendix A COMMONLY USED TERMS

Many terms are used to define "open space" resources in Placer County. This appendix will provide definitions to the most commonly used terms. To the extent possible, these terms are based upon language from the Placer County General Plan and state and federal statutes.

Acquisition - For purposes of this document, a public land acquisition can be defined as a dedication (voluntary or mandatory), a donation, a fee title acquisition or the purchase of a conservation easement.

California Environmental Quality Act - The California Environmental Quality Act (Public Resources Code, Div. 13, §21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs., Tit. 14, §15000 et seq.). CEQA requires public agencies in California to analyze significant adverse environmental impacts of projects and requires that the impacts be mitigated to the extent feasible. CEQA also provides a procedure by which this is to occur.

Clean Water Act Section 404 - This section of federal law provides regulation for the discharge of dredged or fill material into "waters of the United States" including streams, rivers, lakes, ponds, permanent wetlands, intermittent drainages, and seasonal wetlands. The U.S. Army Corps of Engineers (USACOE) is the federal agency vested with the authority to issue permits that are required by this federal statute.

Conservation Bank - A conservation bank is privately or publicly owned land managed for its existing natural resource values. The resource benefits derived from this management regime are sold as "credits" to project proponents who seek mitigation opportunities to compensate for resource impacts elsewhere. Credits may be generated to meet any number of resource conservation needs, including compensation for impacts to wetlands, threatened or endangered species, environmentally sensitive habitat areas, and less sensitive resources. Conservation banking legally links the owner of the bank and resource agencies, such as the Department of Fish and Game or the U.S. Fish and Wildlife Service.

Conservation Easement - A voluntary agreement that allows a landowner to limit the type or amount of development on their property while retaining private ownership of the land. A conservation easement ensures that a particular open space feature or characteristic is conserved in perpetuity or for a specified duration of time. The easement is signed by the landowner, and the easement holder, which must enforce the terms of the easement in perpetuity. After the easement is signed, it is recorded with the County Recorder and applies to all future owners of the land. A conservation easement can be purchased by the easement holder, or donated by the landowner. To qualify for a tax deduction, the easement holder must be a government agency or a qualifying conservation or historic preservation organization.

The landowner and prospective easement holder can tailor the easement terms to protect the land's conservation values, and meet the financial and personal needs of the landowner. Thus each easement is a unique document. Generally, limitations are made on the number and location of structures and the types of land use activities that can take place. The easement may

apply to just a portion of the entire property, leaving the option of development open for the remaining part, as long as the development wouldn't harm the natural or historic resources of the property.

People sell or donate conservation easements because they want to protect their property from unwanted development but they also wish to retain ownership of their land. By signing a conservation easement, a landowner can assure that the property will be protected forever, regardless of who owns the land in the future. A conservation easement may also provide significant financial advantage to the landowner. In most cases, the restrictions on future development specified in an easement reduce the fair market value of the land, resulting in reduced estate taxes, and, potentially, property taxes. The Internal Revenue Service allows a deduction if the easement is perpetual and donated "exclusively for conservation purposes." The amount of the tax deduction is determined by the value of the conservation easement.

The landowner continues to own the property after executing an easement. Therefore, the owner can sell, give or lease the property, as before. However, all future owners assume ownership of the property subject to the conditions of the easement. The landowner retains full rights to control and manage his/her property within the limits of the easement, and continues to bear all costs and liabilities related to ownership and maintenance of the property. The easement holder monitors the property to ensure compliance with the easement's terms, but it has no other management responsibilities and exercises no direct control over other activities on the land.

The public does not have access to property protected by an easement unless specifically allowed by the original landowner. Most easement donors do not want, and therefore do not allow, public access to their property.

Endangered Species Act – State and Federal laws that regulate specified sensitive species to insure that populations of these species can be maintained and recovered over time.

Federal - The Federal Endangered Species Act is a statute initially passed by Congress in 1973 in an attempt to counteract the alarming rate of species extinction. The Act provides a means of conserving plants and animal species that are currently in danger of extinction (endangered species) and those that are likely to become endangered within the foreseeable future (threatened species). It also protects the habitat needed for their survival. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service are responsible for ensuring that government and citizen actions do not further harm species that are listed as endangered or threatened, as well as for developing and implementing a plan for recovering the species to a stable population.

State - The California Endangered Species Act (CESA) (Fish & Game Code §§2050, et. seq.) generally parallels the main provisions of the Federal Endangered Species Act and is administered by the California Department of Fish and Game (DFG). Under CESA the term "endangered species" is defined as a species of plant, fish, or wildlife which is "in serious danger of becoming extinct throughout all, or a significant portion of its range" and is limited to species or subspecies native to California.

CESA establishes a petitioning process for the listing of threatened or endangered species. The California Fish and Game Commission is required to adopt regulations for this process and establish criteria for determining whether a species is endangered or threatened. CESA prohibits the "taking" of listed species except as otherwise provided in State law. Unlike its Federal counterpart, CESA applies the take prohibitions to species petitioned for listing (state candidates). §86 of the Fish and Game Code defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

Fee Simple/Fee Title – In modern estates, the terms "fee" and "fee simple" are substantially synonymous. The term "fee" is of old English derivation. "Fee simple absolute" is an estate in real property by which the owner has the greatest power over the title which it is possible to have, being an absolute estate. In modern use, it expressly established the title of real property in the owner, without limitation or end. He/she may dispose of it by sale, or trade or will, as he/she chooses.

General Plan – A general plan is a legal document, required by state law, that serves as a community's "constitution" for land use and development. The plan must be a comprehensive, long-term document, detailing proposals for the "physical development of the county or city, and of any land outside its boundaries which in the planning agency's judgement bears relation to its planning" (Government Code Section 65300 et. seq.).

Habitat – Place where an animal or plant normally lives, often characterized by a dominant plant form or physical characteristic (i.e., the stream habitat, the forest habitat)

Habitat Conservation Plan (HCP) - California Fish and Game Code Section 2800-2840 A plan prepared pursuant to an agreement entered into in accordance with subdivision (a) of Section 2810. The plan identifies and provides for the regional or areawide protection and perpetuation of natural wildlife diversity, while allowing compatible and appropriate development and growth.

Mitigation - The act of eliminating, reducing or minimizing an impact on the environment by incorporating measures into the project proposal which directly or indirectly have an effect on the impact. Mitigation includes four elements that are typically applied successively as follows. An applicant generally does not descend to the succeeding levels until he or she has shown that the preceding methods are infeasible:

- a. Avoiding the impact by not taking a certain action or parts of an action.
- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- c. Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- d. Compensating for the impact by replacing or providing substitute resource or environments.

Mitigation Bank - Habitat restoration (usually associated with wetland habitats), creation, enhancement, and in exceptional circumstances, preservation undertaken expressly for the purpose of compensating for unavoidable habitat losses in advance of development actions, when such compensation cannot be achieved at the development site or would not be as environmentally beneficial. Mitigation banks typically involve the consolidation of small, fragmented mitigation projects into one large contiguous site. Units of restored, created, enhanced or preserved wetlands are expressed as "credits" which may subsequently be withdrawn to offset "debits" incurred at a project development site.

Natural Communities Conservation Plan (NCCP) - An NCCP is prepared pursuant to the Natural Communities Conservation Planning (NCCP) Act of 1991 (California Fish and Game Code Section 2800-2840). The plan identifies and provides for the regional or areawide protection and perpetuation of natural wildlife diversity, while allowing compatible and appropriate development and growth. As opposed to the single species interpretation of the State Endangered Species Act, this act aims at protecting many species using a regional approach to habitat preservation.

Open Space – For purposes of this program, open space is defined in California Government Code Section 65560(b) 1-4.

- 1. Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.
- 2. Open space used for the managed production of resources including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of ground water basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.
- 3. Open space for outdoor recreation including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.
- **4. Open space for public health and safety** including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

Riparian Habitat - Riparian lands are comprised of the vegetative and wildlife areas adjacent to perennial and intermittent streams. Riparian areas are delineated by the existence of plant species normally found near freshwater. Using contemporary definitions provided by DFG, two forms of riparian habitat commonly exist in Placer County, the Valley Foothill Riparian and the Montane Riparian Habitat.

Species – A group of actually or potentially interbreeding populations that are reproductively isolated from all other kinds of organisms.

Wetlands – Wetlands are a habitat type that is unique due to its saturated soil conditions and the plants and animals that have adapted to this condition. A number of agency definitions have been generated to describe what constitutes a wetland. The following are those that are most relevant to this program.

1. California Department of Fish and Game

The California Department of Fish and Game adopted their current wetland definition in 1987 when the Fish and Game Commission accepted the recommendations of the Commission's Wetland Subcommittee. The following is an excerpt from the Fish and Game Code which explains the policy of the Fish and Game Commission as it relates to wetland definitions, mitigation strategies and habitat value assessment methodologies.

Principles of Application

The Fish and Game Commission accepts the wetland definition, mitigation strategies and habitat value assessment methodologies recommended by the Department [of Fish and Game] in its report submitted to the Commission Wetland Subcommittee on June 24, 1987. The Commission expects the Department of Fish and Game to apply the Commission's wetland policy and the Department's proposed implementing procedures with scientific accuracy; sound judgement; and in a manner which assures the protection and enhancement of the state's wetland resources. The Department, in its application of the policy and implementation procedures to specific situations, should strive to maximize the long-term interests of the fish and wildlife resources involved and to make recommendations that are both timely and appropriate to this end. The Department may depart from the letter of the policy only when such departure will better serve the long-term interests of wetland resource protection.

Scope of Policy

The Commission has found the policy and implementation procedures to be nonregulatory in nature. Their intended application is in those circumstances where the Department's role is advisory, as in, but not limited to, the application of the California Environmental Quality Act, National Environmental Protection Act, California Coastal Act, Clean Water Act, and other applicable state and federal laws and regulations.

Definition

The Commission concurs with the Department's recommendation to use the U.S. Fish and Wildlife Service's (USFWS) definition as the basis for wetland identification. When all three wetland indicators (i.e., hydric soils, wetland vegetation, and hydrology) are present, the presumption of wetland existence shall be conclusive. Where less than three indicators are present, policy application shall be supported by the demonstrable use of wetland areas by wetland associated fish or wildlife resources, related biological activity, and wetland habitat values.

The USFWS wetland identification system should be applied by professionals trained in its methodology. The accuracy of existing wetland inventory mapping should not necessarily be assumed. The Commission supports the Department's current practice of on-site inspections of projects which would impact wetlands and strongly encourages the Department to conduct on-site inspections of such projects and particularly whenever requested to do so by project proponents or concerned public agencies.

2. U.S. Fish and Wildlife Service Definition

Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes (i.e., plants adapted to survival in the extreme conditions of a wetland environment); (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year.

3. U.S. Army Corps of Engineers/Environmental Protection Agency Definition

Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

4. Natural Resource Conservation Service

Wetlands are defined as areas that have a predominance of hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, except lands in Alaska identified as having a high potential for agricultural development and a predominance of permafrost soils.