



Community Development/Resource Agency

PLANNING SERVICES DIVISION

Michael J. Johnson, AICP
Agency Director

E. J. Ivaldi, Deputy Director

MEMORANDUM

TO: Honorable Board of Supervisors
FROM: Michael J. Johnson, AICP Agency Director
By: Melanie Jackson, Associate Planner
DATE: November 3, 2015
SUBJECT: Appeal - Pantell/Stafford Minor Boundary Line Adjustment

ACTION REQUESTED

- 1. Conduct a Public Hearing to consider a third-party Appeal filed by Michael Garabedian on behalf of Friends of the North Fork, and
2. Deny the third-party appeal filed by Michael Garabedian on behalf of Friends of the North Fork, and
3. Affirm the Planning Commission's decision to approve the Pantell/Stafford Minor Boundary Line Adjustment, and
4. Affirm the Planning Commission's decision to find the Pantell / Stafford MBLA exempt from the California Environmental Quality Act (CEQA), (Section 18.36.070 of the Placer County Environmental Review Ordinance - Class 5 - Minor Alterations in Land Use Limitations; Section 15305 of the CEQA Guidelines).

PROJECT DESCRIPTION

The project being appealed is a Minor Boundary Line Adjustment (MBLA) to adjust a portion of the shared property line between the Stafford property (Assessor's Parcel Number 071-090-072-000), which consists of 9.8 acres, and the Pantell property (Assessor's Parcel Numbers 071-090-003-000 and 071-090-004-000, combined), which consists of 69.1 acres. The MBLA would result in a change in acreage on the Stafford property from 9.8 acres to 7.8 acres, and a change in the acreage on the Pantell properties from 69.1 acres to 71.09 acres.

The applicants state that the purpose of the MBLA is to transfer the 1.99 acres of the Stafford property that currently serves as the access point to the Pantell residence. This access has been used in this manner by the consecutive owners of what is now the Pantell property since the residence was built prior to 1985. In addition, the 1.99-acre section of property to be transferred is configured in such a manner that it is essentially unusable for another purpose other than an access road, as it is narrow and the majority of it is encumbered by a 100-foot setback from the centerline of the Bear River (see Attachment 4).

BACKGROUND

The Parcel Review Committee (PRC) received an application for the Pantell/Stafford MBLA on December 30, 2014. The application was distributed to all necessary departments, including the Engineering and Surveying Division and the Environmental Health Department. Upon completion of

its review, County staff determined that the MBLA was consistent with the Placer County General Plan, the Colfax Community Plan, and the Placer County Zoning Ordinance. In addition, it was determined that the legal descriptions for the resulting parcels were correct and were subsequently approved by the County Surveyor.

Parcel Review Committee Hearing (April 16, 2015)

The MBLA was scheduled as a Consent Item at the April 16, 2015 Parcel Review Committee hearing (which is standard protocol for MBLA's). At the hearing, Michael Garabedian, on behalf of Friends of the North Fork, requested that the item be continued to the May 21, 2015 Parcel Review Committee hearing as a Timed Item in order to give the public an opportunity to comment on the MBLA request.

Parcel Review Committee Hearing (May 21, 2015)

The MBLA was considered by the Parcel Review Committee as a Timed Item on May 21, 2015. The Parcel Review Committee Chairman heard testimony from the applicant and the appellant. There was no other public comment. The Chairman closed the public hearing and took action to approve the MBLA, finding that the MBLA was Categorically Exempt from the CEQA Guidelines, and that the MBLA was consistent with the Placer County General Plan, the Colfax Community Plan, and Placer County Code. The Parcel Review Committee's decision to approve the MBLA was subsequently appealed by Michael Garabedian, on behalf of Friends of North Fork.

Planning Commission Hearing (August 27, 2015)

The appeal of the Parcel Review Committee's approval of the Pantell/Stafford MBLA was considered by the Planning Commission on August 27, 2015. The Planning Commission heard testimony from the applicant and appellant. There was no other public comment. The Planning Commission closed the public hearing and took unanimous action to deny the third-party appeal, approve the MBLA, finding that the MBLA was Categorically Exempt from the CEQA Guidelines, and that the MBLA was consistent with the Placer County General Plan, the Colfax Community Plan, and Placer County Code (7-0-1-0 with Commissioner Johnson absent). The Planning Commission's approval of the MBLA was subsequently appealed by Michael Garabedian, on behalf of Friends of North Fork.

LETTER OF APPEAL

On September 4, 2015, an appeal (Attachment 2) was filed by Michael Garabedian, on behalf of Friends of the North Fork, of the Planning Commission's approval of the Pantell/Stafford MBLA. Supplemental materials were received by the appellant on September 8, and October 19, 2015 (Attachment 3).

In the appeal materials submitted by the appellant, the appellant gives three primary reasons for the appeal:

1. CEQA Categorical Exemption Class 5, Guidelines Section 15305 (Minor alterations in land use limitations), does not apply to the MBLA because the MBLA does not meet the exemption requirements that the property must have an average slope less than 20 percent and would not result in a change in land use or density.
2. The MBLA is not Categorically Exempt from CEQA because there is a reasonable possibility that the MBLA would have a significant effect on the environment due to unusual circumstances and, because of this, the exceptions provided in the CEQA Guidelines would prevent the application of Categorical Exemption 15305.
3. The MBLA should be heard by the Parcel Review Committee a second time and that a Mitigated Negative Declaration should be prepared.

RESPONSE TO APPEAL

Staff has addressed each issue separately, below.

1. CEQA Categorical Exemption Class 5, Guidelines Section 15305 (Minor alterations in land use limitations), does not apply to the MBLA because the MBLA does not meet the exemption requirements that the property must have an average slope less than 20 percent and would not result in a change in land use or density.

Section 15305 of the CEQA Guidelines (Class 5, Minor alterations in Land Use Limitations) specifically exempts from environmental review MBLAs in "areas with an average slope of less than 20 percent, which do not result in changes in land use or density, including but not limited to: a.) Minor lot line adjustments... not resulting in the creation of any new parcel". The appellant states that the project is not exempt from environmental review because the average slope of the property is greater than 20 percent and because the MBLA would result in a change in the land use or density of the property. The appellant did not include a calculation of the average slope of the property in the appeal materials.

Average Slope of Less than 20 Percent

Staff calculated the average slope of the 69.1-acre Pantell property by using the Placer County Geographic Information Systems to determine the highest and lowest elevations on the subject property. Staff then averaged these elevations to determine the slope (rise/run) of the property. This calculation concluded the average slope across the property is 18.9 percent, which is consistent with the requirements of CEQA Exemption 15305.

Changes in Land Use or Density

The appellant states in the appeal materials that the MBLA would result in changes to land use or density because it would create access to the property where none currently exists. In addition, the appellant states that the MBLA would result in the creation of a new parcel.

The Pantell property (APN 071-090-003-000 and 071-090-004-000) is presently accessed from Dog Bar Road and this access has existed for a minimum of 30 years. As such, an access would not be created by the MBLA and would not result in changes to the use of the property. In addition, by their very nature, minor boundary line adjustments cannot result in the creation of new parcels and the subject MBLA is no exception. Therefore, the MBLA is consistent with the requirements of CEQA Exemption 15305.

2. The MBLA is not Categorical Exempt from CEQA because there is a reasonable possibility that the MBLA would have a significant effect on the environment due to unusual circumstances and, because of this, the exceptions provided in the CEQA Guidelines would prevent the application of Categorical Exemption 15305.

The appellant states that a Categorical Exemption from CEQA does not apply to the MBLA because of CEQA Guidelines Section 15300.2(c), which states that "an exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." The appellant includes a list of 27 unusual circumstances in the September 8, 2015 appeal materials.

Staff reviewed this list and determined that no unusual circumstances would result from the MBLA. This is because the effect of the MBLA would be an adjustment to the shared property line of the Pantell and Stafford parcels so that the Pantell's existing access would be contained within their parcel boundaries. This would not result in any physical changes to either property and would not create any new development rights. Therefore, a CEQA Categorical Exemption does apply to the MBLA.

3. The MBLA should be heard by the Parcel Review Committee a second time and that a Mitigated Negative Declaration should be prepared.

Staff properly conducted a review of the MBLA and prepared a staff report for the April 16, 2015 Parcel Review Committee hearing; a second review of the MBLA by the Parcel Review Chairman is unnecessary. Further, because the MBLA is exempt from CEQA (per Section 15305 of the CEQA Guidelines), the preparation of a Mitigated Negative Declaration is not required.

RECOMMENDATION

As detailed in this report, staff could find no merit in any of the appeal issues raised by the appellant. It is staff's recommendation that the Board of Supervisors take the following actions:

1. Deny the third-party appeal filed by Michael Garabedian on behalf of Friends of the North Fork.
2. Affirm the Planning Commission's decision to approve the Pantell/Stafford MBLA based on the following findings:
 - A. The MBLA is consistent with the goals and policies of the Placer County General Plan.
 - B. The MBLA is consistent with the goals and policies of the Colfax Community Plan.
 - C. The MBLA is consistent with the requirements of the applicable Placer County Code.
3. Affirm the Planning Commission's decision to find the Pantell / Stafford MBLA exempt from CEQA. (Section 18.36.070 of the Placer County Environmental Review Ordinance – Class 5 - Minor Alterations in Land Use Limitations; Section 15305 of the CEQA Guidelines) based on the following finding:
 - A. The project is Categorical Exempt from environmental review pursuant to the provisions of Section 15305 of the CEQA Guidelines and Section 18.36.070 of the Placer County Environmental Review Ordinance (Class 5, Minor Alterations in Land Use Limitations).

Attachment 1: Vicinity Map

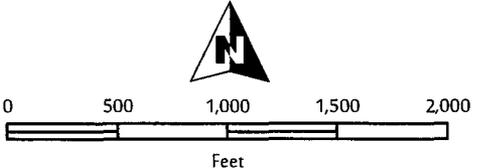
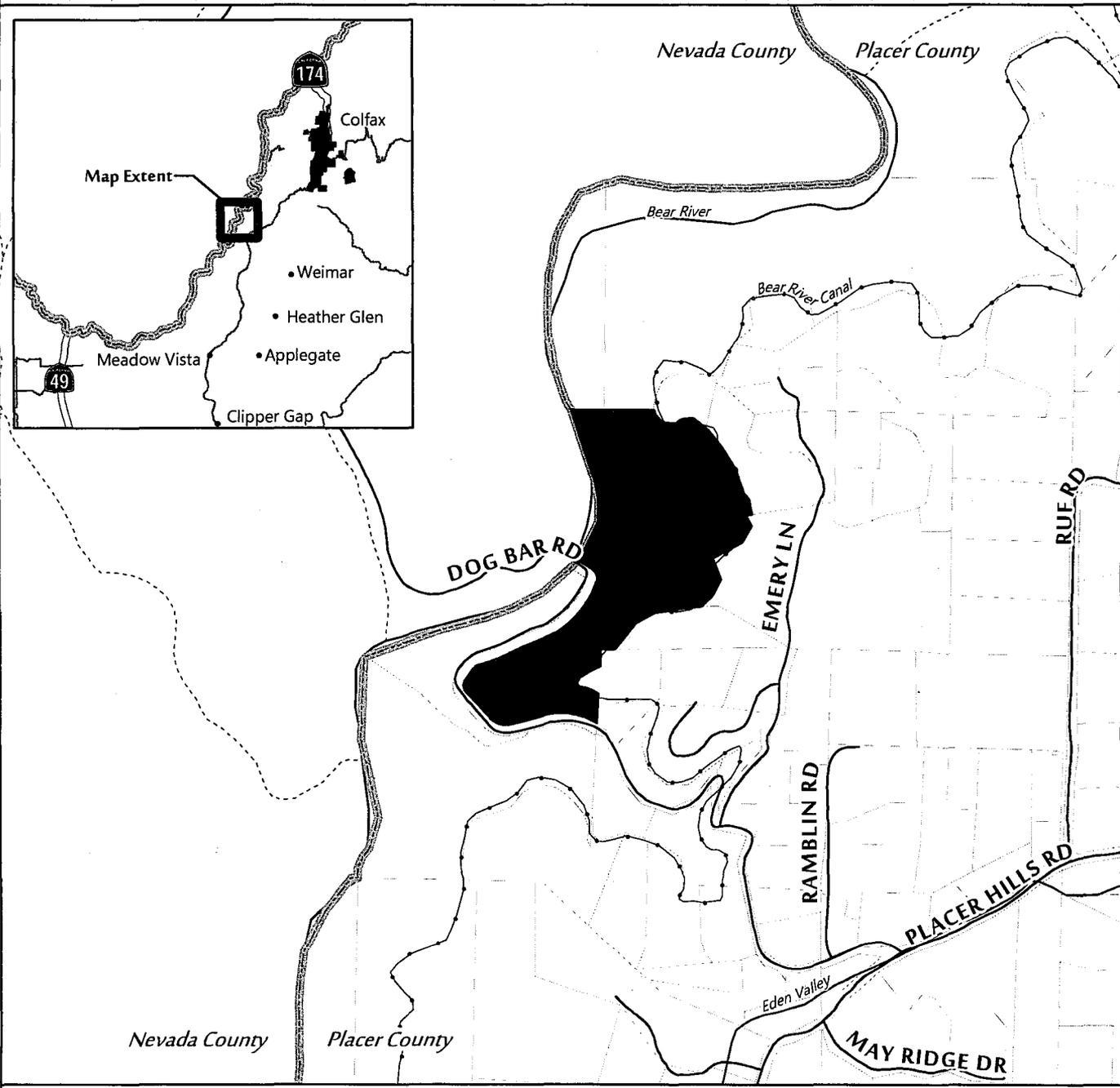
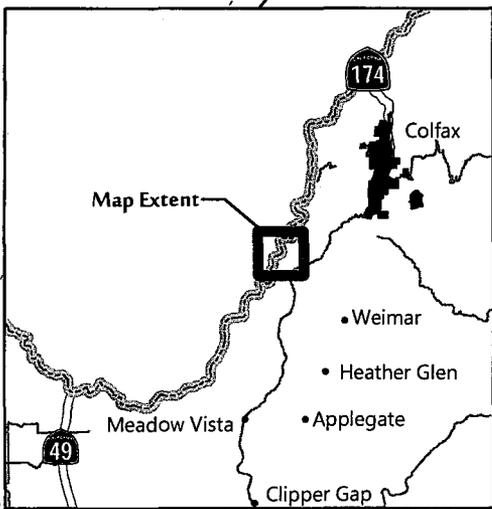
Attachment 2: Appeal - dated September 4, 2015

Attachment 3: Appeal Supplemental Information dated September 8, and October 19, 2015

Attachment 4: Legal Descriptions and Plat

cc: Karin Schwab, County Counsel
Michael Johnson, CDRA Director
E.J. Ivaldi, Deputy Director
Applicant(s)
Appellant

APNs 071-090-003-000 & 071-090-072-000



LEGEND

- APNs 071-090-003-000 & 071-090-072-000
- Parcels
- Roads

DATA DISCLAIMER:

The features on this map were prepared for geographic purposes only and are not intended to illustrate legal boundaries or supercede local ordinances. Official information concerning the features depicted on this map should be obtained from recorded documents and local governing agencies

Path: L:\REQUESTS\PLN_KHecker\VicinityMap_150820\ARCMAP\Vicinity_150820.mxd



PLACER COUNTY PLANNING DEPARTMENT

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3091 County Center Dr
Auburn, CA 95603
530-886-3000/FAX 530-886-3080
Web page: www.placer.ca.gov/planning

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E-Mail : planning@placer.ca.gov

Reserved for Date Stamp

RECEIVED
SEP 04 2015
CDRA

PLANNING APPEALS

The specific regulations regarding appeal procedures may be found in the Placer County Code, Chapters 16 (Subdivision), 17 (Planning and Zoning), and 18 (Environmental Review Ordinance).

(9/7/15 - HOLIDAY)

OFFICE USE ONLY

Last Day to Appeal 9/8/15 (5 pm)
Letter
Oral Testimony
Zoning
Maps: 7-full size and 1 reduced for Planning Commission items

Appeal Fee \$ 546-
Date Appeal Filed 9/4/15
Receipt # PLN14-00238
Received by BJB
Geographic Area

TO BE COMPLETED BY THE APPLICANT

1. Project name Stafford Pentell Minor Boundary Line Adjustment

2. Appellant(s) Friends of the North Fork

Address 6755 Wells Ave. Leominster MA 01650
City State Zip Code

3. Assessor's Parcel Number(s):

- 4. Application being appealed (check all those that apply):
Administrative Approval (AA-)
Use Permit (CUP/MUP-)
Parcel Map (P-)
General Plan Amendment (GPA-)
Specific Plan (SPA-)
Planning Director Interpretation (date)
Minor Boundary Line Adj. (MBR-PLN06238)
Tentative Map (SUB-)
Variance (VAA-)
Design Review (DSA-)
Rezoning (REA-)
Rafting Permit (RPA-)
Env. Review (EIAQ-)
Other:

5. Whose decision is being appealed: Planning Commission (sec reverse)

6. Appeal to be heard by: Board of Supervisors (sec reverse)

7. Reason for appeal (attach additional sheet if necessary and be specific): See attached document

(If you are appealing a project condition only, please state the condition number)

Note: Applicants may be required to submit additional project plans/maps.

Signature of Appellant(s) Michael J. Pentell, President Friends of the North Fork

RECEIVED

SEP 04 2015

In the matter of STAFFORD/PANTELL Dog Bar Road Bridge
Minor Boundary Line Adjustment (MBLA) approved August 27
2015, by the Placer County Planning Commission, Chair
Kenneth Denio, and members Richard Roccucci, Jeffrey Moss,
Miner Gray III, Larry Sevison, and Wayne Nader, FRIENDS OF
THE NORTH FORK appeals the decision to the Placer County
Board of Supervisors. PLN14-00238

)
) NOTICE OF CDR
) APPEAL
)
)
)

Friends of the North Fork appeals as follows

INTRODUCTION TO DISCLOSURE

This appeal is about disclosure.

It is the duty of Placer County including its Planning Department, Parcel Review Committee and Planning Commission to inform the neighbors of a project about how the permit authority one property owner seeks from the government affects or might affect neighboring property owners. One person's right to do what they want on their property is limited by its impact on a neighbor's property rights.

The community and the public have interests in knowing what's going on as well.

But the Planning Commission Staff Report fails to recognize this when it writes on page 2 paragraph number 2:

County Staff does not prepare staff reports for Minor Boundary Line Adjustments. The PRC considers the application and background material supporting the application. These matters are typically only of concern to the applicants and PRC.

Up through this appeal this also true for environmental disclosure. But PRC and Planning Commission cut off applicant, neighbor and public right to know by using employ a Categorical Exemption from the California Environmental Quality Act.

This appeal is filed because of the procedure used by the County for this project, including the near completel failure to disclose almost everything about this Minor Boundary Line Adjustment (MBLA) project including its facts and its potential environmental impacts.

INTRODUCTION TO 69 ACRES

No property could be more unusual for any purpose including to cancel a CEQA exemption than the Pantell/Levinson property.

The 69-acre ownership is within a riverine corridor that has protections under the Placer County General Plan.

Except for one very short portion, the property's east and south border is a PG&E canal that does not have customary canal safety protections in place that would allow people, wildlife or pets that enter it to survive, or to prevent this from happening in the first place.

This lengthy c. 1913 canal is known to be dangerous. We have learned of one person drowned when they fell into the canal from uphill of the canal.

As a linear "moat" it also isolates the property from animal migration and people including fire fighting and other emergency personnel coming across land to and from the property. The canal is in effect a barrier between the Pantell/Levinson property and the adjoining community.

Out assumption that canal water may be drawn upon at any time for fire control purposes has been questioned.

The canal prevents pets from entering the Pantell/Levinson property which likely contributes to it being a major bird nesting area in the 19.8 acre area.

The canal and very steep slopes below the canal enable the isolation and perhaps near wilderness like conditions on the easterly part of the 49 acre area.

The Plum Tree Spillway from the canal likely supports stream flow and wetlands in that remote area may be for the State Fish and Game Wildlife Conservation Board owed land that is bordered on its south river to canal property line by the Pantell/Levinson property.

It is unknown whether CEQA has been applied to PG&E canal environmental impact disclosure, analysis and mitigation. If it has, mitigation requirements have yet to be applied to it.

The canal itself is perhaps a hundred feet or so uphill from the take line of the proposed Nevada Irrigation District Parker/Centennial Reservoir.

This dam proposal has engendered a boom of real estate offers along the roughly 10 miles of river and creek that is proposed to be inundated by the dam, including the Pantell/Levinson property.

PANTELL/LEVINSON LAND BACKGROUND

No access to Dog Bar Road

The current 69.1 acres of land has no access.

Stafford appeared at the PRC hearing and stated that Pantells had no legal access to Dog Bar and that the purpose of the MBLA is to provide this access.

The Preliminary Title Report filed with the application reads,

LACK OF ANY RECORDED ACCESS ON THE PUBLIC RECORD TO AND FROM SAID LAND. THIS EXCLUSION FROM COVERAGE REMOVES ANY AFFIRMATIVE COVERAGE PROVIDED BY PARAGRAPH 4 ON THE FACE PAGE OF ANY STANDARD OWNERS CTLA POLICY OF TITLE INSURANCE ISSUED OR A.T.L.A. LOAN POLICY OF TITLE INSURANCE ISSUES ON THE HEREIN DISCRIBED LAND.

Placer Title Company Preliminary Report order no. 102-41791, September 26, 2014, Exception 9. This report covered only the last two years for some purposes.

The legal description is of a 69.1 acre parcel

The Legal Description in the Preliminary Report is for the 69.1-acre parcel. Along with the legal description, the both APN 071-100-004 and APN 071-090-003 are referenced in title report Exhibit A. These have 49.3 and 19.8 acres (also referred to as a 17-acre property) respectively.

The Staff Report and presentation to the Planning Commission on the appeal only reference the 19.8-acre parcel. We pointed out this discrepancy to the Commission saying that it needed to be clarified what the Commission was approving. The Commission expressed not interest in clarification and staff did not provide any.

It's possible that the Planning Commission may have acted to create two separate parcels by acting on only the 19.8-acre parcel. If not appealed, or if appealed but the appeal is denied, one more parcel than now exists might be created.

Possible reason there are two APNs for what is only one legal parcel

The Pantells and Levinsons entered into a Real Property Agreement with map on September 27, 1982 that was recorded on October 12, 1982. Vol. 2534 Page 623. It states that the Levinsons and Pantells own the approximately 70 acre parcel, the joint tenant spouses of each family each having an undivided one-half interest.

The agreement separates the 70-acre property into two areas of interest, the 17-acre and the 49 acre areas. The map shows the two areas with their current APNs and that the property has no access to Dog Bar Road. The Agreement largely deals with ownership succession in the families.

The Agreement provides that if either family wants to sell any or all of their interest in the property they must provide the other family with a 30-day non revocable opportunity to purchase the interest for the same price, terms and conditions of the proposed sale. The notice of the proposed sale must include the identity of the proposed buyers.

The spouses of both families appear to have transferred their interests in the property to Family Trusts. The Levinsons, for example, appear to have done so in 1989. Book 3580, Page 023.

Whether there has been a change in the status of these documents is not known.

Efforts to sell and offers to buy the property

A search for 1540 Dog Bar Road on Zillow.com found that the 69-acre parcel was offered for sale at \$950,000. It was apparently on the market from March 2011 to July 2012. Zillow indicates that it is off market now and that the 2014 assessed value is \$29,784.

At that time an individual was known to be expecting to purchase the property in order to log it and divide it into large lot parcels.

Others have offered to buy all or part of the property, such as to get access to the river.

ABSENCE OF PARCEL REVIEW COMMITTEE STAFF REPORT

The Parcel Review Committee's (PRC) absence of interest in having a staff report means that there was no report for landowners and the public at the PRC.

Therefore, when a staff report was prepared to the Planning Commission, it contained significant errors. The Planning Commission chose to accept the staff report without asking for staff's response, one of several examples in this appeal

of the Commission declining to have be an objective hearing body and not resolving issues with accuracy or finality. The PRC's anti-staff report stance multiplies its initial disclosure failures at with each appeal. The PRC and commission announce that appeals may be taken but leaves it to the next body to catch up for their approaches to their responsibilities.

The Commission did seeking planning or counsel response to Friends' project description error notification, disagreement about the 20% slope average and lack of documentation for it and staff's use of the word "any" for exemptions and exceptions, and about our position that exceptions remove the exemption. These are among the issues are brought to Board of Supervisors that have in effect had no review at the Planning Commission.

In effect PRC and Commission actions send a message to applicants and the community that out of the ordinary MBLAs are allowed open season against the public health, safety and welfare, as well as the environment.

PARCEL REVIEW COMMITTEE AND SUBDIVISION MAP ACT SECTION 66412(d)

Earlier this year when Friends raised the issues in this appeal, the Parcel Review Committee Chair referred to Government Code Section 66412(d) to justify its procedures. This section exempts lot line adjustments from the Subdivision map Act but it does remove County discretion to so staff reports and other normal planning procedures to the benefit nearby landowners and the public, it does not exempt them from CEQA, and it does not prevent Planning from exercising common sense.

PLANNING COMMISSION APPEAL HEARING

Friends' request to the Commission was to continue the hearing so Friends could work with staff. on the proposal.

No one at the Planning Commission contested the appeal or appeared at all including not to object to a continuation of the hearing.

The reasonable expectation for an appeal hearing is that the staff and appellant present followed by the applicant's response with Commission member questions to both sides.

However, staff presented, Friends presented and no one appeared for the project.

Jeff Levinson, identified as trustee for the Levinson Family Trust e-mailed Planning requesting that the July 23, 2015 appeal hearing date be changed to August 27th. But he did not address the Commission at the hearing .

No Commissioners indicated that they had questions for the applicant.

During my presentation most of the Commission members indicated they did not support the appeal. This in effect ended the hearing. Since the plurality of the Commission indicated they opposed the appeal if applicants were there they had no reason to speak. However, applicants for have nothing to provide usually offer to answer any questions.

A reason for this appeal is to appeal the absence of an objective appeal hearing process, the absence of any hearing method announced and followed, A Commission hearing is an unknown quantity.¹

**ENVIRONMENTAL DISCLOSURE
THE PROJECT DOES NOT MEET THE REQUIREMENTS
FOR A CATEGORICAL EXEMPTION. CEQA Guidelines Sec. 15305**

This MBLA does not qualify for the 15305 exemption.

CEQA statutory exemptions enacted by the legislature are automatic. CEQA categorical exemptions are not.

Categorical exemptions are adopted by the Secretary of the Resources Agency upon a finding that a category of projects does not have a significant effect on the environment. PRC 21084(a). Exemptions are amplified by examples of the activities subject to the exemptions.

The Staff Report claims that Categorical Exemption 15305 applies to the Stafford/Pantell MBLA. These are the Guidelines Sections claimed to apply to this MBLA from 14 California Code of Regulations (CCR), Division 6, Chapter 3:

§ 15300. Categorical Exemptions.

Section 21084 of the Public Resources Code requires these guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

¹ At Friends' first appeal to the Planning Commission, Dreisbach, it was announced at the beginning of the item that it would be continued. The two appellants were allowed to speak, but members of the public who were there to talk were prohibited from speaking.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

§ 15305. Minor Alterations in Land Use Limitations.

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

- (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;
- (b) Issuance of minor encroachment permits.
- (c) Reversion to acreage in accordance with the Subdivision Map Act.

Stafford/Pantell is claimed to be a minor lot line adjustment. Assuming that this is so, it has higher slopes than 20% and would change both land use and density.

a) 20% slopes average

The Staff Report states that the average slope is less than 20% based on County GIS data, but does not define the property or the data, nor does it provide the data. Friends made a recent Public Records Act Request for documents and did not receive documents of this kind.

The 1.99 acre area proposed for transfer using the MBLA is almost entirely highly steep slopes, perhaps 60% or more (not measured by Friends at this time, though I worked more than two summers surveying forest dirt roads including running levels, and regularly took slope readings for vegetation research. It is 1.99 acres of the Stafford property that is the subject of the lot line adjustment, so it is indisputable that the project has over 20% average slopes.

The Staff Report does not identify the slopes on the 1.99 acres by itself. The report takes a different approach and reports that the 20% average is for "the Pantell property" (page 4, Item 4), and therefore the steep Stafford property to be transferred is not included in the average figure. Even if the proposed 1.99 acres was added to the average calculation, the USGS 7.5 minute Quadrangle Map shows elevation changes over short distances that are steeper than 20%.

The property is entirely below and borders on the PG&E canal, and slopes from the canal to river look to be well in excess of 20% from Dogbar Road to the NID and State Fish and Game properties (not measured by Friends). The

canal is at about 1900 feet elevation which is not far above the take line of the proposed Parker/Centennial reservoir.

b) Change in land use or density.

There is no known use of the property at this time.

(1) Development

The MBLA would enable development of two or more building sites on the current Pantell property. The MBLA would enable replacement of and access to the dilapidated, uninhabitable former home site.

There is a building site at a high point at the end of the road past the former home site building site. This promontory may be the one nearly due west on the other side of the canal of the 2019-foot elevation point that is just east of the center of Section 17. However, it may more likely be the fairly flat area a little north of this point.

One or more other building sites may exist on the property.

A building site could be developed as secondary building, and a change in secondary home zoning might allow other structures as small as 240 square feet which could go any number of places on the property.

The MBLA-enabled access could result in an application to divide the property.

New home sites, secondary homes and land division are not possible now on the property because there is no access or to the property, no use of the property, and it has structures that appear to be in violation of the County Code.

The density of traffic to and from the property would go from zero now to a significant increase. Any increase at the property access at the end of the bridge is problematic due to the 90 degree turn onto the one lane bridge and use of that bridge going to Grass Valley. Similarly, there would be an increase of traffic on Dog Bar Road from the bridge to Eden Valley including at the one-lane bridge canal crossing. Congestion at the bridge for traffic, emergency vehicle access, and river use parking would increase.

(2) Logging

Access to the property could enable logging that can't happen now because there is no access. There are many very large diameter ponderosa pines with a number of logs near the canal that look like old growth though may in effect be watered by the canal. The land is very steep and logging could impact the river. Loaded logging trucks and service vehicles entering Dog Bar Road

would create greater congestion than passenger vehicles.

(3) The development of the property could impact the heavy recreation use of the river by decreasing its use.

The MBLA has intractable problems on slopes over 20% for the length of the property that is on the river and will undoubtedly increase uses and density.

**THE PROJECT IS SUBJECT TO AN EXCEPTION TO THE MINOR
ALTERATIONS CATEGORICAL EXEMPTION BECAUSE OF
UNUSUAL SIGNIFICANT POTENTIAL ENVIRONMENTAL
IMPACTS. CEQA Guidelines Sec. 15300.2**

The MBLA does not qualify for a CEQA exemption because of the exceptions to exemptions in the Guidelines.

Categorical exemptions are not absolute, so a project otherwise eligible for a categorical exemption must be denied an exemption under the Guidelines.

a) There are three specific exceptions to categorical exemptions:

15300.2(d). Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

15300.2(e). Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

15300.2(f). Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Friends has not reviewed for these specific exemptions.

b: General exceptions:

15300.2(a). Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

15300.2(b). Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

15300.2(c). Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

We focus here on unusual circumstances and location environmental significance, starting with the three Class 5 examples in 15305:

- (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;
- (b) Issuance of minor encroachment permits.
- (c) Reversion to acreage in accordance with the Subdivision Map Act.

Examples demonstrate the nature of the categorical exemption.

Regarding (a), the MBLA is not at all as minor as side yard and setback variances that have to do with placement of structures on an existing parcel. Regarding not creating "any new parcel," the MBLA creates two new parcels with new configurations. The example does not describe an increase only in the number of parcels. Instead it addresses any new parcel. Any means without specification:

"Full Definition of ANY

1 one or some indiscriminately of whatever kind:

a : one or another taken at random <ask any man you meet>

b : every —used to indicate one selected without restriction <any child would know that

2 one, some, or all indiscriminately of whatever quantity:

a : one or more —used to indicate an undetermined number or amount <have you any money

b : all —used to indicate a maximum or whole <needs any help he can get

c : a or some without reference to quantity or extent <grateful for any favor at all

3

a : unmeasured or unlimited in amount, number, or extent <any quantity you desire

b : appreciably large or extended <could not endure it any length of time"

From: Merriam-Webster online dictionary.

The Staff Report significantly but mistakenly refers to the MBLA-adjusted Pantell parcel as going from 19.8 acres to 21.8 acres. However, it is Pantell APN 071-090-003 that would be 21.8 acres, and Pantell 071-090-004 would continue to be 49.9 acres, for a total of about 71 acres.

The second to the last of the two "Exhibit 'B'" maps (page 37) at the end of the Staff Report shows the 49.9 acre parcel as SE 1/4 of NW 1/4 and SE 1/4 of NE 1/4. In contrast, the "Attachment D" map earlier in the report (page 32) does not include the the 49.9 parcel in the darkened area.

The Stafford and Pantell parcels exchanging 1.99 acres would be changed in a manner that irrevocably changes existing circumstances for both parcels, the 49.3 acre Pantell parcel and the area and the environment.

Regarding (b) "minor encroachment permits," this is far more unusual than a minor encroachment. The County Code does seem upon search to identify encroachments on public property that are minor.

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a reasonable possibility that a significant environmental impact will result from those unusual circumstances. North Coast Rivers Alliance v. Westlands Water District (2014) 227 CA4th 832, 869. A reasonable possibility of a significant impact on the environment may be found only if the proposed project will have an impact on the physical environment. Id. 872.

The 1.99 acre transfer parcel and the northern boundary of the 49.3 acre parcel are in the centerline of the Bear River. This makes the MBLA both unusual and with a significant negative environmental impacts for a number of reasons.

The County cannot rely only on the Exemption Verification form where applicant Pantell checked the box after Item 4 "No" thus indicating that there are no wetlands of riparian areas on the property. PRC should have at minimum have determined the application is incomplete because of this. Pantell or a representative of that property did not address the PRC either time that item was on the PRC agenda.

It is possible if not likely that the building location at the end of the road past the former home would be visible from the river and state public fishing access lands This requires assessment. Clearing the mandatory 100 foot defensible space for a house where might almost certainly make the structure visible from the river and river canyon. Other than the old homesite, there are no structures between the river and the PG&E canal.

I have walked the river trail on the Nevada County side of the river from Dog Bar Bridge up to the river bend beyond the Pantell Property. There are no houses visible on the Placer Side of the river. At one location there are two houses together in a flat on the Nevada County side, Nevada County APN 27-140-04-000. The rest of the river frontage up to the river bend past Pantell property is owned by Nevada Irrigation District or California Fish and Game.

There is recreation access to the river on the Nevada County side that is heavily used, presumably from Nevada and Placer Counties.

Gold panners make use of the most of the river up to the river bottom that is filled with large gravel, perhaps from PG&E canal breakage.

PROJECT'S UNUSUAL AND SIGNIFICANT NEGATIVE ENVIRONMENTAL IMPACTS:

This access opened up by this MBLA would create or allow the following impacts that cannot happen without County approval of this MBLA. Contrary to statements of Planning Commissioners, this MBLA is the last train leaving the station for a number of changes in use and density and are unusual with significant negative environmental impacts.

1. Property boundary of c. 800 foot 1.99-acre transfer parcel and northern boundary of the 49.3 acre parcel are from the center line of the river to the on shore area that includes riparian vegetation and wetland.
2. Half mile potential riparian area on north center-of-river boundary of 69 acre parcel including of creeks and that flow to the river.
3. Riparian area at north intersection of the corners of the NW ¼ and NE ¼ at the river and river bend. A drainage enters the river here which drainage goes east-southeast to a sharp bend in the PG&E canal which drainage and river entry area is a riparian
4. These three areas (1, 2, and 3) and adjacent areas are likely areas to find and should be checked for cultural resources.
5. The areas in 2,3, and 4 are know for current squatter activity.
6. There are fish and wildlife impacts such as affecting wildlife access to water and fish
7. Property boundary of c. 800 foot 1.99-acre transfer parcel and northern boundary of 49 acre area from the center line of the river to onshore appears to include riparian.
8. There is heavy recreation use of the Nevada County side of the river above Dog Bar Road.
9. This same area is used by gold panners.
10. The river is kayacked past the property. Rafting is assumed.
11. The 19.8-acre parcel is known as a significant bird breeding area including the small Mimulus.
12. Existing homestead is a nuisance fire hazard and abandoned deteriorating overgrown building to the canyon. County Code violation.
13. The abandoned homestead is in a dilapidated state and is a fire hazard to the property and adjacent area.
14. Development of building site at end of road past abandoned homestead on separate third 49.3-acre parcel not included in Planning commission approval.
15. The impact of opening the access on fire prevention is a potential factor.

16. A number of other locations on the property could be opened for secondary home and other development on the development on the 71 acres
17. Development by further minor or subdivision on the 71 acres is dependent on approval of the MBLA>
18. The PG&E canal is a wildlife barrier. Development of the homestead site and a site for a secondary home would displace wildlife habitat that would not be able to cross the canal: wildlife crossings may be needed.
19. Isolation between the canal and the river including major areas of very steep slopes isolates the area and has created unique ecological, near-wilderness area.
20. People including children and pets would be in danger fro the canal unless entry is limited by fencing or other means.
21. The northern land boundary of the 49 acre area borders on the north on California Fish And Game owned property. Ecological including wildlife corridor, food web, breeding and other relationships between the F&G property and 69 acre property may exist.
22. The 69-acre property jay be an important wildlife corridor
23. River and canyon visibility of one or more home sites at the end of the property road and of river level locations needs to be assessed for visual and recreation impacts.
24. The recreation area on the other side of river and the trail that goes upriver from Dog Bar Bridge require recreation and visual impact assessment.
25. MBLA and impact inconsistency the General and Community Plans for these 25 points needs to be assessed and if inconsistent is impermissible.

APPEAL REMEDIES

COMMISSION DISCRETIONARY AND LEGALLY REQUIRED CORRECTIONS

Referral of the MBLA back to the Parcel Review Committee

The item should be put on a new PRC agenda. PRC staff reports should be required based on input from Planning,, Environmental Services, Public Works/

Engineering and Surveying including about road encroachment conditions at the bridge gate

County planning and policy for properties subject to squatting and squatting activity require review.

Correction and clarification

The view was expressed at the Planning Commission that future projects would come before the County. This is not true for secondary homes. One, Dadurka that went up on Eagle Ridge and now had a lot split proposed to create a separate lot for the secondary home which in turn might seek a secondary home, etc.

Clarification that PRC MBLAs including those on consent calendar need staff reports appropriate to the project

The Commission and the public not know what was approved,

County and fire prevention authority inspection and enforcement for properties with code violation or nuisance structures; outcome of Friends complaint

Legally required

Notification needs go to all 69 acre parcel neighbors. per county, Permit Streamlining Act, and all with financial and other interest in the properties.

Preparation of an initial study followed by the appropriate circulated CEQA document.

Friends will submit explanatory material pursuant to County Code 17.60.110(C) (1) within the 30-day deadline to do so.

Respectfully submitted,

Michael Garabedian

Michael Garabedian, President
Friends of the North Fork (American River)
IRS IRC 501(c)(3) organization
Tax ID/EIN 68-0623079
6755 Wells Avenue
Loomis, California 95650
916-719-7296

Rec'd 9-8-15
SH

In the matter of STAFFORD/PANTELL Dog Bar Road Bridge)
Minor Boundary Line Adjustment (MBLA) approved August 27) NOTICE
2015, by the Placer County Planning Commission, Chair) OF
Kenneth Denio, and members Richard Roccucci, Jeffrey Moss,) APPEAL
Miner Gray III, Larry Sevison, and Wayne Nader, FRIENDS OF)
THE NORTH FORK appeals the decision to the Placer County) 9/7/15
Board of Supervisors. PLN14-00238)

This replaces our September 4, 2015, appeal document.

Friends of the North Fork (Friends) appeals as follows:

INTRODUCTION TO DISCLOSURE

This appeal is about disclosure.

It is the duty of Placer County (County) including its Planning Department (Planning), Parcel Review Committee (PRC) and Planning Commission (Commission) to inform the neighbors of a project about how the permit authority one property owner seeks from the government affects or might affect neighboring property owners. One person's right to do what they want on their property is limited by its impact on a neighbor's property rights.

The community and the public have interests in knowing what's going on as well. But the Planning Commission Staff Report fails to recognize this when it writes on page 2 paragraph number 2:

County Staff does not prepare staff reports for Minor Boundary Line Adjustments. The PRC considers the application and background material supporting the application. These matters are typically only of concern to the applicants and PRC.

This failure is also true for environmental disclosure. The PRC and Planning Commission cut off applicant, neighbor and public right to know by using a Categorical Exemption from the California Environmental Quality Act (CEQA).

This appeal is filed because of the procedure used up to now by the County for this project. This includes the near complete failure to disclose almost everything about this Minor Boundary Line Adjustment (MBLA) project including its facts and its potential environmental impacts.

This appeal opposes County procedure and actions. Without disclosure there's not enough information to take a position on the MBLA project itself.

INTRODUCTION TO 69 ACRES

No property could be more unusual for any purpose including to cancel a CEQA exemption than the Pantell/Levinson property.

The 69-acre ownership is within a riverine corridor that has protections under the Placer County General Plan.

Except for one very short portion, the property's east and south border is the Pacific Gas and Electric Company (PG&E) Bear River Canal that does not have customary canal safety protections in place that would allow people, wildlife or pets that enter it to survive, or to prevent this from happening in the first place.

The canal with water from Rollins Dam reservoir had its origins in Gold Rush ditches that were improved over time. South Yuba Water Company bought the canal in 1880 and merged into PG&E in 1905. PG&E ran the canal for power and water supply until 1957 when it came to be used only for power. PG&E owns and is solely responsible for maintaining it.¹

The lengthy canal is known to be dangerous. We have learned that one person drowned when they fell into the canal from uphill of the canal.

As a linear "moat" it also isolates the property from animal migration and people including fire fighting and other emergency personnel coming across land to and from the property. The canal is in effect a barrier between the Pantell/Levinson property and the adjoining community.

Our assumption that canal water may be drawn upon at any time for fire control purposes has been questioned.

The canal prevents pets from entering the Pantell/Levinson property which likely contributes to it being a major bird nesting area in the 19.8 acre area.

The canal and very steep slopes below the canal enable the isolation and perhaps near wilderness like conditions on the easterly part of the 49 acre area.

The Plum Tree Spillway from the canal likely supports stream flow and wetlands in that remote area may be for the State Fish and Game Wildlife Conservation Board owned land that is bordered on its south river to canal property line by the Pantell/Levinson property.

¹ Bear River Canal has 150-plus year history, Colfax Record, May 11, 2011.

It is unknown whether CEQA has been applied to PG&E canal environmental impact disclosure, analysis and mitigation. If it has, mitigation requirements have yet to be applied to it.

The canal itself is perhaps a hundred feet or so uphill from the take line of the proposed Nevada Irrigation District (NID) Parker/Centennial Reservoir.

This dam proposal has engendered a boom of real estate offers along the roughly 10 miles of river and creek that is proposed to be inundated by the dam, including the Pantell/Levinson property.

PANTELL/LEVINSON LAND BACKGROUND

No access to Dog Bar Road

The current 69.1 acres of land has no access.

Stafford appeared at the PRC hearing and stated that Pantells had no legal access to Dog Bar and that the purpose of the MBLA is to provide this access.

The Preliminary Title Report filed with the application reads,

LACK OF ANY RECORDED ACCESS ON THE PUBLIC RECORD TO AND FROM SAID LAND. THIS EXCLUSION FROM COVERAGE REMOVES ANY AFFIRMATIVE COVERAGE PROVIDED BY PARAGRAPH 4 ON THE FACE PAGE OF ANY STANDARD OWNERS CTLA POLICY OF TITLE INSURANCE ISSUED OR A.T.L.A. LOAN POLICY OF TITLE INSURANCE ISSUES ON THE HEREIN DESCRIBED LAND.

Placer Title Company Preliminary Report order no. 102-41791, September 26, 2014, Exception 9. This report covered only the last two years for some purposes.

The legal description is of a 69.1 acre parcel

The Legal Description in the Preliminary Report is for the 69.1-acre parcel. Along with the legal description, the both APN 071-100-004 and APN 071-090-003 are referenced in title report Exhibit A. These have 49.3 and 19.8 acres (also referred to as a 17-acre property) respectively.

The Staff Report and presentation to the Planning Commission on the appeal only referenced the 19.8-acre parcel. We pointed out this discrepancy to the

Commission saying that it needed to be clarified what the Commission was approving. The Commission expressed no interest in clarification and staff did not provide any.

It's possible that the Planning Commission may have acted to create two separate parcels by acting on only the 19.8-acre parcel. If not appealed, or if appealed but the appeal is denied, one more parcel than now exists might be created.

Possible reason there are two APNs for what is only one legal parcel

The Pantells and Levinsons entered into a Real Property Agreement with map on September 27, 1982 that was recorded it on October 12, 1982. Vol. 2534 Page 623. It states that the Levinsons and Pantells own the approximately 70 acre parcel, the joint tenant spouses of each family each having an undivided one-half interest.

The agreement separates the 70-acre property two areas of interest, the 17-acre and the 49 acre areas. The map shows the two areas with their current APNs and that the property has no access to Dog Bar Road. The Agreement largely deals with ownership succession in the families.

The Agreement provides that if either family wants to sell any or all of their interest in the property they must provide the other family with a 30-day non revocable opportunity to purchase the interest for the same price, terms and conditions of the proposed sale. The notice of the proposed sale must include the identity of the proposed buyers.

The spouses of both families appear to have transferred their interests in the property to Family Trusts. The Levinsons, for example, appear to have done so in 1989. Book 3580, Page 023.

Whether there has been a change in the status of these documents is not known.

Efforts to sell and offers to buy the property

A search for 1540 Dog Bar Road on Zillow.com found that the 69-acre parcel was offered for sale at \$950,000. It was apparently on the market from March 2011 to July 2012. At that time an individual was known to be expecting to purchase the property in order to log it and divide it into large lot parcels.

Others have offered to buy all of part of the property, such as to get access to the river.

Zillow indicates that it is off market now and that the 2014 assessed value is \$29,784.

ABSENCE OF PARCEL REVIEW COMMITTEE STAFF REPORT

The Parcel Review Committee's (PRC) absence of interest in having a staff report means that there was no report for landowners and the public at the PRC.

Therefore, when a staff report was prepared to the Planning Commission, it contained significant errors. The Planning Commission chose to accept the staff report without asking for staff's response, one of several examples in this appeal of the Commission declining to have be an objective hearing body and not resolving issues with accuracy or finality. Each appeal here magnifies the initial disclosure failures of the PRC's anti-staff report stance. The PRC commission announce that appeals may be taken without completing their responsibilities.

The Commission did not seek planning or counsel response to Friends' project description error notification, disagreement about the 20% slope average and lack of documentation for it and staff's use of the word "any" for exemptions and exceptions, and about our position that exceptions remove the exemption. These are among the issues brought to Board of Supervisors that have in effect had no review at the Planning Commission.

In effect PRC and Commission actions send a message to applicants and the community that out of the ordinary MBLAs are allowed open season against the public health, safety and welfare, as well as the environment.²

PARCEL REVIEW COMMITTEE AND SUBDIVISION MAP ACT SECTION 66412(d)

Earlier this year when Friends raised the issues in this appeal, the Parcel Review Committee Chair referred to Government Code Section 66412(d) to justify its procedures. This section exempts lot line adjustments from the Subdivision Map Act, but it does not remove County ability to prepare staff reports and other normal planning procedures that inform and benefit nearby landowners and the public, it does not exempt the project from CEQA, and it does not prevent Planning from exercising common sense.

² PRC meetings absent PRC counsel may foster other problems. At the April 16, 2015 PRC meeting on the Orr and Beecham variance (PLN15-00099) the gentleman stated that he went onto a neighbor's property to create defensible space for the variance property. He claimed, apparently mistakenly, that someone from the county said he could do this (without the adjoining owner's permission). I said that this is not permissible as far as I now, and the PRC Chair then said it was not.

PLANNING COMMISSION APPEAL HEARING

Friends' request to the Commission was to continue the hearing so Friends could work with staff on the proposal.

No one at the Planning Commission contested the appeal or appeared at all including not to object to a continuation of the hearing.

The reasonable expectation for an appeal hearing is that the staff and appellant present followed by the applicant's response with Commission member questions to both sides.

However, staff presented, Friends presented and no one appeared for the project.

Jeff Levinson, identified as trustee for the Levinson Family Trust e-mailed Planning requesting that the July 23, 2015 appeal hearing date be changed to August 27th. But he did not address the Commission at the hearing .

No Commissioners indicated that they had questions for the applicant.

During my presentation most of the Commission members indicated they did not support the appeal. This in effect ended the hearing. Since the plurality of the Commission indicated they opposed the appeal if applicants were there they had no reason to speak. However, applicants who have nothing to provide usually offer to answer any questions.

A reason for this appeal is to appeal the absence of an objective appeal hearing process, the absence of any hearing method announced and followed. A Commission hearing is an unknown quantity.³

ENVIRONMENTAL DISCLOSURE, ANALYSIS AND MITIGATION THE PROJECT DOES NOT MEET THE REQUIREMENTS FOR A CATEGORICAL EXEMPTION. CEQA Guidelines Sec. 15305

This MBLA does not qualify for the 15305 exemption.

CEQA statutory exemptions enacted by the legislature are automatic. CEQA categorical exemptions are not.

³ At Friends' first appeal to the Planning Commission, Dreisbach, it was announced at the beginning of the item that it would be continued. The two appellants were allowed to speak, but members of the public there to talk were wrongly prohibited from speaking.

Categorical exemptions are adopted by the Secretary of the Resources Agency upon a finding that a category of projects does not have a significant effect on the environment. PRC 21084(a). Exemptions are amplified by examples of the activities subject to the exemptions.

The Staff Report claims that Categorical Exemption 15305 applies to the Stafford/Pantell MBLA. These are the Guidelines Sections claimed to apply to this MBLA from 14 California Code of Regulations (CCR), Division 6, Chapter 3:

§ 15300. Categorical Exemptions.

Section 21084 of the Public Resources Code requires these guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

§ 15305. Minor Alterations in Land Use Limitations.

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

- (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;
- (b) Issuance of minor encroachment permits.
- (c) Reversion to acreage in accordance with the Subdivision Map Act.

Stafford/Pantell is claimed to be a minor lot line adjustment. Assuming this is so, it has higher slopes than 20% and would change land use and density.

a) 20% slopes average

The Staff Report states that the average slope is less than 20% based on County GIS data, but does not define the property or the data, nor does it provide the data. Friends made a recent Public Records Act Request for documents and did not receive documents of this kind.

The 1.99 acre area proposed for transfer using the MBLA is almost entirely highly steep slopes, perhaps 60% or more (not measured by Friends at this

time, though I worked more than two summers surveying forest dirt roads including running levels, and regularly took slope readings for vegetation research. It is 1.99 acres of the Stafford property that is the subject of the lot line adjustment, so it is indisputable that the project has over 20% average slopes.

The Staff Report does not identify the slopes on the 1.99 acres by itself. The report takes a different approach and reports that the 20% average is for "the Pantell property" (page 4, Item 4), and therefore the steep Stafford property to be transferred is not included in the average figure. Even if the proposed 1.99 acres was added to the average calculation, the USGS 7.5 minute Quadrangle Map shows elevation changes over short distances that are steeper than 20%.

The property is entirely below and borders on the PG&E canal, and slopes from the canal to river look to be well in excess of 20% from Dogbar Road to the NID and State Fish and Game properties (not measured by Friends). The canal is at about 1900 feet elevation which is not far above the take line of the proposed Parker/Centennial reservoir.

b) Change in land use or density.

There is no known use of the property at this time.

(1) Development

The MBLA would enable development of two or more building sites on the current Pantell property. The MBLA would enable replacement of and access to the dilapidated, uninhabitable former home site.

There is a building site at a high point at the end of the road past the former home site building site. This promontory may be the one nearly due west on the other side of the canal of the 2019-foot elevation point that is just east of the center of Section 17. However, it may more likely be the fairly flat area a little north of this point.

One or more other building sites may exist on the property.

A building site could be developed as secondary building, and a change in secondary home zoning might allow other structures as small as 240 square feet which could go any number of places on the property.

The MBLA-enabled access could result in an application to divide the property.

New home sites, secondary homes and land division are not possible now on the property because there is no access or to the property, no use of the property, and it has structures that appear to be in violation of the County Code.

The density of traffic to and from the property would go from zero now to a significant increase. Any increase at the property access at the end of the bridge is problematic due to the 90 degree turn onto the one lane bridge and use of that bridge going to Grass Valley. Similarly, there would be an increase of traffic on Dog Bar Road from the bridge to Eden Valley including at the one-lane bridge canal crossing. Congestion at the bridge for traffic, emergency vehicle access, and river use parking would increase.

(2) Logging

Access to the property could enable logging that can't happen now because there is no access. There are many very large diameter ponderosa pines with a number of logs near the canal that look like old growth though may in effect be watered by the canal. The land is very steep and logging could impact the river. Loaded logging trucks and service vehicles entering Dog Bar Road would create greater congestion than passenger vehicles.

(3) The development of the property could impact the heavy recreation use of the river by decreasing its use.

The MBLA has intractable problems on slopes over 20% for the length of the property that is on the river and will undoubtedly increase uses and density.

THE PROJECT IS SUBJECT TO AN EXCEPTION TO THE MINOR ALTERATIONS CATEGORICAL EXEMPTION BECAUSE OF UNUSUAL SIGNIFICANT POTENTIAL ENVIRONMENTAL IMPACTS. CEQA Guidelines Sec. 15300.2

The MBLA does not qualify for a CEQA exemption because of the exceptions to exemptions in the Guidelines.

Categorical exemptions are not absolute, so a project otherwise eligible for a categorical exemption must be denied an exemption under the Guidelines.

a) There are three specific exceptions to categorical exemptions:

15300.2(d). Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

15300.2(e). Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

15300.2(f). Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Friends has not reviewed for these specific exemptions.

b: General exceptions:

15300.2(a). Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

15300.2(b). Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

15300.2(c). Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

We focus here on unusual circumstances and location environmental significance, starting with the three Class 5 examples:

15305 (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;

15305(b) Issuance of minor encroachment permits.

15305(c) Reversion to acreage in accordance with the Subdivision Map Act.

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2 one, some, or all indiscriminately of whatever quantity: a : one or more —used to indicate an undetermined number or amount <have you any money, b : all —used to indicate a maximum or whole <needs any help he can get, c : a or some without reference to quantity or extent <grateful for any favor at all;

3, a : unmeasured or unlimited in amount, number, or extent <any quantity you desire, b : appreciably large or extended <could not endure it any length of time."

Miriam-Webster online dictionary.

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It is possible if not likely that the building location at the end of the road past the former home would be visible from the river and state public fishing access lands. This requires assessment. Clearing the mandatory 100 foot defensible space for a house there might almost certainly make the structure visible from the river and river canyon. Other than the old homesite, there are no structures between the river and the PG&E canal.

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There is recreation access to the river on the Nevada County side that is heavily used, presumably from Nevada and Placer Counties.

Gold panners make use of most of the river up to the river bottom that is filled with large gravel, perhaps from PG&E canal breakage.

These and additional unusual impacts are numbered in the following section.

PROJECT'S UNUSUAL AND SIGNIFICANT NEGATIVE ENVIRONMENTAL IMPACTS:

This access opened up by this MBLA would create or allow the following impacts that cannot happen without County approval of this MBLA. Planning Commissioners insisted that proposals for future development would come before them. Instead, this MBLA is the last train leaving the station for a number of changes in use and density and that are unusual with significant negative environmental impacts.

1. Property boundary of c. 800 foot 1.99-acre transfer parcel and northern boundary of the 49.3 acre parcel are from the center line of the river to the on shore area that includes riparian vegetation and wetland.
2. Half mile potential riparian area on north center-of-river boundary of 69 acre parcel including of creeks and that flow to the river.
3. Riparian area at north intersection of the corners of the NW ¼ and NE ¼ at the river and river bend. A drainage enters the river here which drainage goes east-southeast to a sharp bend in the PG&E canal which drainage and river entry area is riparian.
4. These three areas (1, 2, and 3) and adjacent areas are likely areas to find and should be checked for cultural resources.
5. The areas in 2,3, and 4 are know for current squatter activity.
6. There are fish and wildlife impacts such as affecting wildlife access to water and fish
7. Property boundary of c. 800 foot 1.99-acre transfer parcel and northern boundary of 49 acre area from the center line of the river to onshore appears to include riparian.
8. There is heavy recreation use of the Nevada County side of the river above Dog Bar Road.

9. This same area is used by gold panners.
10. The river is run by kayackers past the property. Rafting is assumed.
11. The 19.8-acre parcel is known as a significant bird breeding area including the small Mimulus.
12. Existing homestead is a nuisance fire hazard and abandoned deteriorating overgrown building to the canyon. County Code violation.
13. The abandoned homestead is in a dilapidated state and is a fire hazard to the property and adjacent area.
14. Development of building site at end of road past abandoned homestead on separate third 49.3-acre parcel not included in Planning commission approval.
15. The impact of opening the access on fire prevention is a potential factor.
16. A number of other locations on the property could be opened for secondary home and other development on the development on the 71 acres
17. Development by further minor or subdivision on the 71 acres is dependent on approval of the MBLA.
18. The PG&E canal is a wildlife barrier. Development of the homestead site and a site for a secondary home would displace wildlife habitat that would not be able to cross the canal: wildlife crossings may be needed.
19. Isolation between the canal and the river including major areas of very steep slopes isolates the area and has created unique ecological, near-wilderness area.
20. People including children and pets would be in danger from the canal unless entry is limited by fencing or other means.
21. The northern land boundary of the 49 acre area borders on the north on California Fish and Wildlife owned property. Ecological including wildlife corridor, food web, breeding and other relationships between the F&W property and 69-acre property may exist.
22. The 69-acre property may be an important wildlife corridor
23. River and canyon visibility of one or more home sites at the end of the property road and of river level locations needs to be assessed for visual and recreation impacts.

24. The recreation area on the other side of river and the trail that goes upriver from Dog Bar Bridge require recreation and visual impact assessment.

25. Available quantification of the danger of the PG&E canal to people, horses, pets and wildlife needs to be acquired, such as counts of animals removed from the canal. Means to prevent this need to be reviewed and considered for MBLA mitigation.

26. Major canal improvements are known to have been constructed by former workers on the transcontinental railroad that was built from 1863-1869. This and the very steep access into them from the canal suggest that the property between the canal and river may now have special ecological areas that have been largely undisturbed for 145 years.

27. Where these 26 impact matters and other points throughout this appeal document are inconsistent with the Placer County the General Plan and the Community Plan these impacts are for this reason subject to CEQA disclosure, analysis and mitigation.

APPEAL REMEDIES
**COMMISSION DISCRETIONARY AND LEGALLY
REQUIRED CORRECIONS**

Referral of the MBLA back to the Parcel Review Committee

The item should be put on a new PRC agenda.

A PRC staff report should be required that is based on input from Planning, Environmental Services, Public Works/ Engineering and Surveying including about road encroachment conditions at the bridge gate

County Community Development Resource Agency and other County Code and policies about properties subject to squatting and squatting activity require review.

Correction and clarification

The view was expressed by Planning Commissioners that future projects would come before the County. This is not true for secondary homes. The Dadurka project secondary home that went up on Eagle Ridge and now has a minor division proposed to create a separate lot for the secondary home. This could in turn lead to a secondary home on a new parcel.

Clarification that PRC MBLAs including those on consent calendar need staff reports appropriate to the project

Regarding the property's legal description, the County, property owners and the public need to know what is approved,

County and fire prevention authority inspection and enforcement for properties with code violation or nuisance structures; outcome of Friends complaint

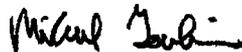
Legally required

Notification needs go to all 69 acre parcel neighbors per county requirements and the state Permit Streamlining Act and to comply with other private and public notification requirements, and all with financial and other interest in the properties require notification.

Preparation of an initial study and the appropriate circulated CEQA document.

Friends will submit explanatory material for this appeal pursuant to County Code 17.60.110(C) (1) within the 30-day deadline to do so.

Respectfully submitted,



Michael Garabedian, President
B.S. Forestry & Conservation 1968⁴
Friends of the North Fork (American River)
IRS IRC 501(c)(3) organization formed 2004
Tax ID/EIN 68-0623079
6755 Wells Avenue
Loomis, California 95650
916-719-7296

⁴ My introductory employment that laid the groundwork for the analysis used in this appeal is several-fold. I had summer employment 1964-1965 as rod and chainman and next as surveying party chief on Modoc National Forest roads; 1967 on the National Continuous Forest Inventory crew on private lands in Mendocino County, and 1968 on an experimental forest study on El Dorado National Forest. Summer 1966 I was at U.C. Berkeley forestry summer camp learning plant sciences and forest management basics. I earned a J.D. in 1972 in an individual four-year curriculum in law and science/environment. In a 9-month 1973-1974 temporary Graduate Legal Assistant position at the North Coast Commission at its beginning I spent half time on coastal permit analysis and half on coastal plan research.

*Recd 10/19/15
JH*

In the matter of STAFFORD/PANTELL MBLA)	Explanatory
appeal to the Placer County Board of Supervisors)	Material:
from the August 27, 2015, decision of the Placer)	Very rough
County Planning Commission by Friends of the)	Initial Mature
<u>North Fork, PLN14-00238</u>)	Tree Count

On October 5, 2015, approximately 50 mature trees on the Pantell/Levinson (P/L) property that are visible from the PG&E Bear River Canal were the subject of making a preliminary and very approximate location record. The purpose was to obtain on the ground a ball park view of the forest resource that could be subject to harvest on the P/L property as a result of the lot line adjustment.

These trees and their locations were tallied without adequate means to record and map them with accuracy, without an accurate map of the canal, without bearings from the canal stations, without measuring tree distance from the canal, and without any aerial photo or Google Earth imagery. This provides a preliminary setting for further work.

The diameter of four Ponderosa Pines accessible from the canal were measured to be 36, 43, 34 and 44 inches diameter breast height. Notes may indicate that another is over 49 inches. Tree heights were not determined.

Going from the down canal/river to up canal/river, the first approximately 40 trees are for the most part tall Ponderosa Pine trees that are often without limbs for much of the height, and the last approximately 10 trees are for the most part Douglas Fir trees with multiple branches around the trunk and above.

In general, the first 40 trees are on somewhat dryer slopes and the last 10 are in a more moist environment that may have less sun exposure.

Much of the area has very steep slopes that were not measured.

This writing has not been subject to field review.

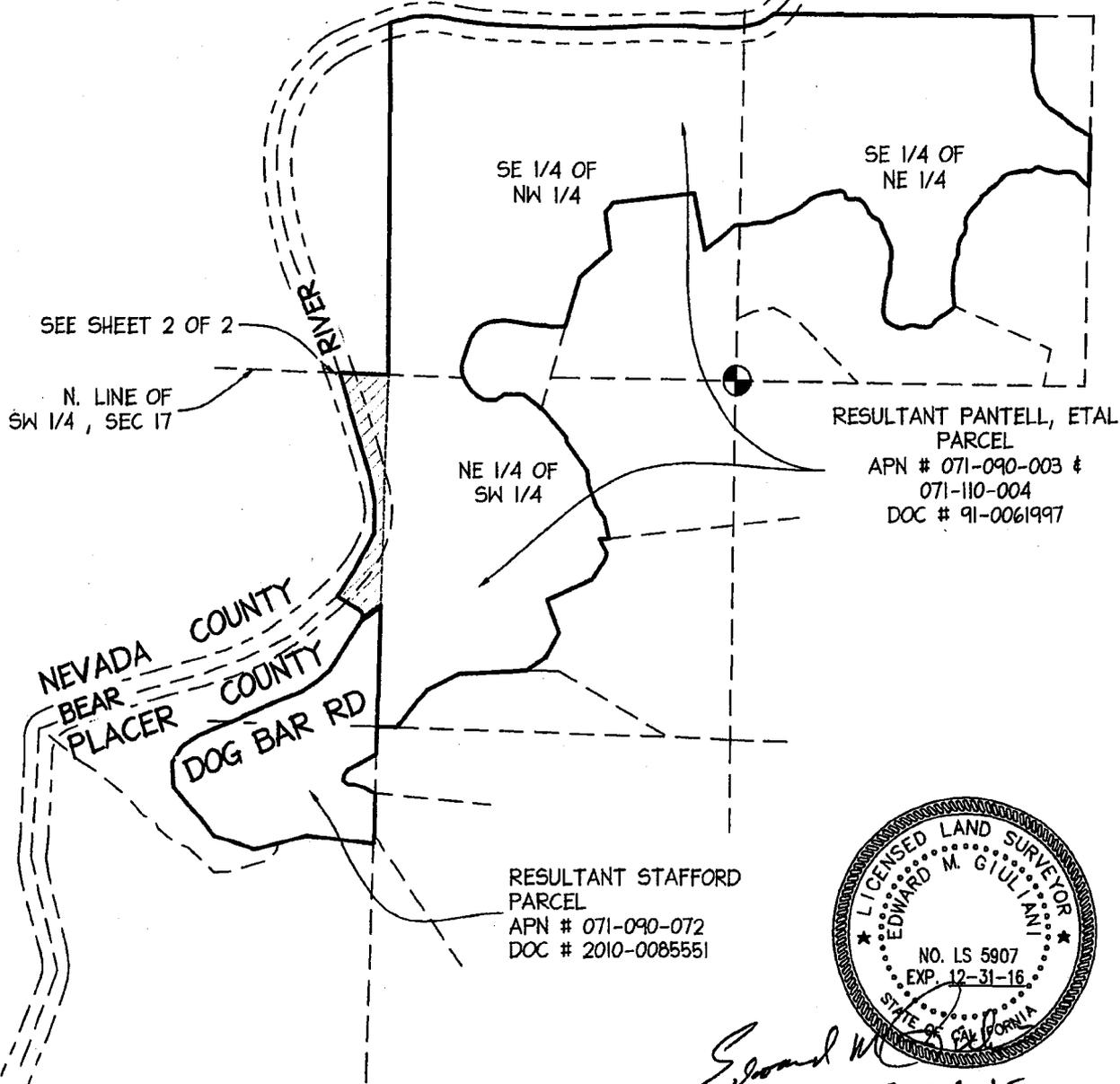
<u>Canal station</u>	<u>Trees</u>
c. 570+00	3
562+50	1 (Douglas Fir) Power line
555+00	2 near a station 2 more up river
550+00	5, three of 43, 34 and 44 inches DBH

542+50	2
	2
540.00	1
	2
537+50	2
535+00	3
530+00	4
	3 (including a 49.3" DBH tree?)
540+00	1
	2
525+00-520+00	5
	2
	4
	1
510+00	
	2
507+50	2

From field notes by Michael Garabedian

Dated: October 18, 2015

EXHIBIT "B"



Edward M. Giuliani
3.26.15

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Auburn • San Jose • Oakdale

SCALE: 1"=600'
DATE: 2-27-2015
DRAWN: EH
CHECKED: EG
DWG NO: 14220MBR
JOB NO: 14220

MBR# PLN14-00238
SHEET 1 OF 2
SW 1/4, NW 1/4, & NE 1/4
SEC 17, T14N, R9E, M.D.M.
PLACER COUNTY, CALIFORNIA