



COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, Agency Director

PLANNING
SERVICES DIVISION

Paul Thompson, Deputy Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael Johnson, Agency Director

DATE: September 11, 2012

SUBJECT: **Modification of the Placer Vineyards Specific Plan Mitigation Monitoring and Reporting Program and Corresponding Text Revisions to the Certified Environmental Impact Report**

ACTION REQUESTED

1. Adopt an Addendum to the 2007 Certified Environmental Impact Report for the Placer Vineyards Specific Plan to incorporate revisions to the mitigation obligations as they relate to open space, agricultural land, and biological resources.
2. Adopt a Resolution Adopting the Revised Mitigation Monitoring and Reporting Program for the Placer Vineyards Specific Plan to make the mitigation for impacts of the project to open space, agricultural land, and biological resources compatible with the proposed Placer County Conservation Plan.

PROPOSAL

The Placer Vineyards Specific Plan (PVSP) proponents seek modifications to the 2007 PVSP Mitigation Monitoring and Reporting Program (MMRP) to incorporate revisions to approved mitigation obligations with respect to disturbance of the natural resources within the Specific Plan area and corresponding text revisions in the EIR. The intent of the proposed revised mitigation strategy is to make the mitigation for impacts of the PVSP project to open space, agricultural land and biological resources compatible with the proposed Placer County Conservation Plan (PCCP). The mitigation strategy proposes a regional approach to conservation of agricultural land, wetlands and habitat that will complement efforts to avoid and/or minimize impacts on the project site for key components of the aquatic system, rare habitat and individual species. By tying the mitigation to those proposed within the PCCP, the goal is to contribute towards a regionally important expanse of contiguous private and public land that will continue to support agricultural use, meet species needs in the long term, and aid recovery objectives outlined in the proposed PCCP.

Placer County Code, Chapter 18, Article 18.28, Section 18.28.090.B. authorizes modifications of an approved MMRP through review and approval by the "approving authority." The approving authority in this case is the Board of Supervisors who originally approved the PVSP in 2007.

BACKGROUND

The Placer Vineyards Specific Plan and twenty-one separate, but identical, Development Agreements (DAs) (one for each of the Participating Developers) were approved on July 16, 2007. As approved, the PVSP provides direction for the development of 5,230 acres in western Placer County with a mix of residential, commercial, retail, office, mixed-use and public facilities. Build-out is assumed to occur over a 20 to 30-year period.

Following approval of the PVSP project, lawsuits were filed by the County of Sutter, the Sierra Club and several individuals (Petitioners) challenging the adequacy of the environmental document and the approvals. On June 30, 2009, the County settled with Sutter County, and Sutter County dismissed its case. On October 23, 2009, the Court issued a decision upholding the County's EIR and entitlements in full. The remaining petitioners appealed. On August 7, 2012 the Board of Supervisors authorized the execution of a settlement agreement with the remaining Petitioners.

PROJECT ANALYSIS

The proposed amendments to the Placer Vineyards Specific Plan Mitigation Monitoring and Reporting Program (MMRP) and corresponding text of the EIR are the result of discussions between the remaining Petitioners (the Sierra Club, Sierra Foothills Audubon Society, Rob Collins, and Michael Williams) and the PVSP project proponents to address the concerns brought forth by those Petitioners relating to impacts from development on natural and biological resources in the Plan area. The proposed MMRP amendments are intended to be compatible with the proposed PCCP with the potential to contribute towards a regionally important expanse of contiguous private and public land that will continue to support agricultural use, meet species needs in the long term and aid recovery objectives outlined in the proposed PCCP.

The proposed Mitigation Strategy (Attachment 1, Exhibit A) is expressed in a narrative format, and includes the components listed in the bullets below this paragraph. The narrative is intended to replace the corresponding text found in the Revised Draft EIR (pages 4.4-90 through 4.4-130) related to open space, agricultural land and biological resources and provides a legislative history in general terms identifying the specific objectives and policy outcomes that the County intends to accomplish through these proposed mitigation measures. A copy of the complete text of the mitigation strategy can be found in Attachment 1 to this staff report (Addendum, Exhibit A). Although not described in the pages of the Revised Draft EIR being replaced, the new mitigation strategy also replaces Mitigation Measure 4.4-59 (see Revised Draft EIR, p. 4.4-174) and two closely related mitigation measures from Chapter 4.1 of the Revised Draft EIR: Mitigation Measures 4.1-3 and 4.1-14 (see Revised Draft EIR, pp. 4.1-51 and 4.1-64). In addition, the new strategy also replaces Mitigation Measure 4.4-1(k), which was added to the mitigation measures set forth in the Revised Draft EIR immediately prior to project approval and was described in a July 13, 2007, Memorandum to the Board of Supervisors from the Office of the County Counsel on the subject of "Resolution Certifying the Final Environmental Impact Report – Addendum to Statement of Findings and to Mitigation Monitoring and Reporting Program."

- Open Space, Agricultural Land and Biological Resource Mitigation Strategy
- Land Cover Mitigation
- Wetland Mitigation
- Site Specific Avoidance and Minimization
- Mitigation Measures

The mitigation obligations set forth in this Mitigation Strategy are intended, to the greatest extent possible, to be consistent with the mitigation strategies set forth in the proposed PCCP to the extent applicable to the PVSP land use plan and natural resources found on site. This regional approach to conservation of agricultural land, wetlands and habitat complements efforts to avoid and/or minimize impacts on site for key components of the aquatic system, rare habitat, and individual species.

The proposed Mitigation Strategy reflects the approach to mitigate for open space, agricultural land and biological resources contained in the Draft PCCP submitted to the Placer County Board of Supervisors on January 25, 2011 and released on February 1, 2011. This mitigation approach was developed by the County with the participation and support of the Sierra Club, the Sierra Foothills Audubon Society and the Placer Vineyards Development Group, among other members of the PCCP Biological Working Group. A provision in the proposed revised mitigation measures authorizes the Placer Vineyards Development Group to participate in the PCCP to mitigate affected resources, thus

allowing the Development Group to implement any changes to the PCCP mitigation strategies post February 2011.

Overview of the Proposed Open Space, Agricultural Land and Biological Resource Mitigation Strategy

The proposed modifications increase the overall mitigation for Open Space, Agricultural Land and Biological Resources by 35% (increasing mitigation from 1.00 to 1.35 acres of mitigation for each acre of development) while shifting the focus to conservation of ecosystems that provide habitat for multiple species. For example, the proposed measures focus on maintaining the ecological value of vernal pool grasslands as habitat, not just on preserving individual vernal pools. No net loss of wetlands is assured through application of the mitigation ratios proposed for the PCCP.

The grassland vernal pool land type is mitigated by any grassland without regard to wetted area density. Actual wetted area is accounted for by the separate requirement for wetland mitigation. The required wetland mitigation can only be carried out if in fact much of the grassland acquired to mitigate land conversion does in fact have a high density of preserved and restored vernal pool resources. Application of the two measures – land area and wetland area – will jointly provide for conservation of wetland dependent natural communities.

Mitigation to minimize impacts to natural and semi-natural communities falls into three categories.

1. **Mitigation Ratios for Land Cover.** Off-site mitigation is accomplished mainly by requiring conservation or restoration of 1.35 acres of land in the Reserve Acquisition Area of the draft PCCP for each acre of development. Impacts to annual grassland, vernal pool grassland and pasture land cover shall be mitigated on existing or restorable grassland. All other land cover impacts may be met on natural or semi-natural land within the Reserve Acquisition Area of the draft PCCP, specifically including agricultural land. Vernal pool grassland may be mitigated on any grassland without regard for wetland density. Actual wetland density is accounted for by the wetland mitigation requirement discussed below. In practice, the wetland requirement below can only be met if the mitigation land has substantially higher wetland density than the area impacted.

2. **Mitigation Ratios for Wetland Area.** Because of their particular regulatory status and their biological importance, wetlands are accounted for separately through mitigation ratios requiring preservation and restoration or creation of a set amount of wetland area calculated as a proportion of wetland “take.” These ratios are consistent with the February 2011 draft PCCP and are reflected in Table 2 of Attachment 1. Generally speaking, they require preservation of 1.0 acre of wetland and restoration of an additional 1.25 acres of wetland for every acre of wetland take. It is intended that all of the wetland area mitigation, along with all associated upland, will be counted towards mitigation required for land cover “take.” Likewise, all wetland acres contained within land cover mitigation shall be counted towards wetland area mitigation. In other words, it is fully intended that the land cover and wetland area mitigation will overlap. Both mitigation ratios must be met, but they can be met with the same land.

3. **Site Specific Avoidance and Minimization.** Protection of existing resources on site is accomplished through specific avoidance, restoration, and enhancement measures incorporated into the Specific Plan. The Specific Plan design incorporates measures for preserving and enhancing critical aquatic resources on site. The Specific Plan Area incorporates a 709-acre open space area which restores historic habitat linkages and habitat quality through the Plan Area. Specific areas that exhibit habitat degradation through historic land use were identified and will be enhanced under the Specific Plan. Large contiguous areas that exhibited habitat integrity have been preserved with adequate buffers to protect aquatic function. The Specific Plan incorporates minimization and low impact development strategies to minimize long-term habitat degradation within avoided open space areas. In addition, implementation of mitigation measures 4.1-3, 4.1-14, 4.4-1 through 4.4-30 and 4.4-59 as modified will avoid and minimize on- and off-site impacts to individual species.

Development of the Specific Plan is a covered activity of the proposed PCCP. Upon adoption of the PCCP, development projects within the Specific Plan may fulfill mitigation requirements by compliance with the terms of the adopted PCCP in lieu of this mitigation strategy.

In order to preserve land for agriculture, compatible agricultural use that supports and enhances wildlife value is encouraged on lands conserved under this measure. Many ongoing agricultural activities are consistent with, and essential to, the protection and enhancement of the natural communities that are supported by this land. Accordingly, ongoing agricultural use will be an integral component of the long term management of preserved lands. The goal of conservation easements on farm lands will be to maintain viable agricultural operations while also meeting the biological objectives of this mitigation measure.

This mitigation strategy shall serve as mitigation for all land conversion impacts, specifically including impacts to vernal pools and other wetlands, vernal pool grasslands, grasslands, foraging habitat for various species, agricultural land, and open space. No additional mitigation shall be required for these impacts. This strategy shall not apply to the Special Planning Area (SPA) where no urban development is proposed.

ENVIRONMENTAL ANALYSIS

Consistent with the requirements of CEQA Guidelines Section 15162, the County must determine whether the proposed changes to the MMRP and corresponding text in the Revised Draft EIR trigger the need for a Subsequent EIR. Under that section, when an EIR has been certified for a project, no Subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

If any of the triggers set forth above occurs, the County would be required to prepare a Subsequent EIR, unless "only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation," in which case a "Supplement to an EIR" would suffice (see CEQA Guidelines, §15163). If there are no grounds for either a Subsequent EIR or a Supplement to an EIR, then the County would be required to prepare an addendum pursuant to CEQA Guidelines Section 15164, explaining why "some changes or additions" to the 2007 Final EIR "are necessary but none of the conditions described in Section 15162 calling for preparation of a Subsequent EIR have occurred."

The proposed revisions to the PVSP MMRP would not alter any of the conclusions of the certified EIR regarding the significance of environmental impacts. Because the proposed revisions would not alter the PVSP boundaries, land use designations or the amount or location of development, including off-site infrastructure, the impacts on the physical environment would be unchanged. Therefore, impacts such as loss of wetlands, and conversion of farmland to developed uses would be the same as those identified in the Certified EIR. In addition, the proposed revisions to mitigation measures are not considerably different from those analyzed in the previous EIR and are, in fact, enhancements to the prior versions. The Placer Vineyards Development Group has agreed to implementation of the same and thus none of the provisions identified in Section 15162 calling for the preparation of a Subsequent EIR have occurred. As a result, staff has determined that an Addendum to the Certified EIR is the appropriate document under CEQA.

RECOMMENDATION

Staff recommends the Board of Supervisors take the following action:

Adopt the Addendum to the Certified EIR for the Placer Vineyards Specific Plan in the form attached as Attachment 1 subject to the following findings:

1. The Board of Supervisors finds that the Addendum has been prepared in compliance with CEQA Guidelines Section 15164 and that there are no grounds to require the preparation of either a Subsequent or a Supplement to the previously certified Placer Vineyards Specific Plan EIR.
2. While the proposed revised mitigation strategy and mitigation measures do not change the ultimate conclusion in the Certified Final EIR as to the project's impacts to open space, agricultural land and biological resources, the proposed strategy is consistent with the strategy proposed for the Placer County Conservation Plan, the mitigation measures enhance the prior imposed mitigation measures and have been agreed to by the Placer Vineyards participating property owners.

Adopt the Resolution Adopting the Revised Mitigation Monitoring and Reporting Program for the Placer Vineyards Specific Plan in the form attached as Attachment 2.

ATTACHMENTS:

- Attachment 1: Addendum to the Certified EIR
 - Exhibit A: Proposed text modifications to the Revised Draft EIR (with attachments)
 - Exhibit B: Proposed modifications to the MMRP in red-line format
- Attachment 2: Resolution Adopting Revised Mitigation Monitoring and Reporting Program

cc: Kent MacDiarmid – Vineyards Development Group, LLC
Karin Schwab – County Counsel's Office
Michael Johnson – CDRA Director
Paul Thompson – Deputy Planning Director