

INRMP/IBC PROGRESS REPORT (February 17, 2010)

The General Plan (“GP”) EIR identified the loss and fragmentation of wildlife habitat as a significant impact (Impact 5.12-1), and proposed six mitigation measures to reduce the severity of the impact. The adopted GP included as mitigation measures Policy 7.4.2.8 (INRMP) and Policy 7.4.2.9 (Important Biological Corridor, or “IBC”).

The County has awarded a contract to Sierra Ecosystems Associates, Inc. (“SEA”) for Phase 1 of the INRMP/IBC development process. Phase 1 includes the following tasks:

1. i. SEA is to facilitate discussions concerning important terms, namely: “Important Habitat”, “Large Expanses” and “Native Vegetation”. Several alternative definitions have been presented by SEA to two advisory committees (PAWTAC and ISAC) for discussion. This paper responds to those definitions.

iii. SEA must develop a list of indicator species to be utilized in identification of potential core habitat areas (i.e. INRMP), corridors and linkages (i.e. IBC). Subsequent progress reports will clarify the purpose of this task

iv. SEA is to evaluate the need for north-south wildlife movement corridors and linkages, including identification of species with north-south migration patterns, to identify existing locations along Highway 50 that allow safe passage for terrestrial mammals and to analyze the barrier effect of Highway 50. Subsequent progress reports will address the use of indicator or individual focal species to determine the utility of existing IBCs, other potential north-south crossings, and the barrier effect of Highway 50.

2. Assist the county in identifying alternative approaches for the INRMP.

I.

General Plan Treatment of “Important Habitat”

The INRMP was proposed as a mitigation measure in the 1996 GP alternative to develop, “a countywide inventory of important habitats and an overall strategy for protecting those habitats so the County can ensure that its most sensitive and threatened biological resources are adequately protected in conjunction with continued development under the General Plan.” This measure was adopted in GP Policy 7.4.2.8, which identifies 5 “important habitat”:

“The INRMP shall inventory and map the following important habitats in El Dorado County:

1. Habitats that support **special-status species**;
2. **Aquatic** environments including streams, rivers, and lakes;
3. **Wetland and riparian** habitat;

4. Important habitat for **migratory deer herds**; and
5. **Large expanses of native vegetation.**

The Final GP EIR describes how these 5 important habitats were selected: : “State and federal statutory requirements protecting biological resources were considered when developing the list of important habitat listed on page 5.12-56...” (INRMP 7.4.2.8 (A))

The first three categories of ”important habitats” (Special Status Species, Aquatic, Wetland/Riparian) are analyzed extensively in the GP DEIR and are protected by a myriad of federal, state and local regulations along with other GP Policies: Special Status Species (GP Policy 7.4.1.6, GP Measure CO-U); Aquatic (GP Policies 7.3.1.1-3, 7.3.2.1-.5); Wetlands (7.3.3.1,3).

While mule deer are not a Special Status Species, they are of local concern and specific areas of important habitat for migratory deer herds, the fourth category, is mapped at DEIR Exhibit 5.12-7.

Large Expanses of Native Vegetation

“Large expanses of native vegetation” is the last category identified as “important habitat” in Policy 7.4.2.8 (A). Oak woodlands were analyzed in the DEIR as a native vegetation type targeted for protection. GP Policies 7.4.2.8, 7.4.4.4 and 7.4.5.1 were developed to protect oaks at the landscape (7.4.2.8 or INRMP), Grove (7.4.4.4) and tree (7.4.5.1-2) level or “scale”: “Mitigation Measure (INRMP) will provide protection for large contiguous patches of oak woodlands and other native habitat. Mitigation Measure (7.4.4.4) will provide protection for smaller stands or groves of tree with at least 10% tree cover. To protect individual oak trees and give oak woodlands greater protection, the County shall develop and implement an Oak Tree Preservation Ordinance...(Policy 7.4.4.4) is specifically intended to protect and mitigate impacts on woodland habitat that does not meet the definition of important habitat under Mitigation Measure 5.12-1(d) (INRMP) (GP DEIR 5.12-60). In other words, the INRMP protects landscape level oak woodlands in areas not planned for fragmentation to offset increased habitat loss and fragmentation where planned for high intensity projects. This GP goal for the INRMP is stated at Policy 7.4.2.8 (B), “The goal of the strategy shall be to conserve and restore contiguous blocks of important habitat to offset the effects of increased habitat loss and fragmentation elsewhere in the county.”

Large expanses of contiguous native vegetation would be conserved in the areas not fragmented or planned for high intensity projects. The DEIR analyzed high intensity projects as: High-density residential, medium-density residential, low-density residential (i.e., lot sizes ranging from 5 to 10 acres), multifamily residential, industrial, commercial, research and development, public facilities, and the adopted plan. These are areas where mass grading of large blocks of undeveloped land would be expected and the landscape would become increasingly urbanized and fragmented (5.12-35). Large expanses of contiguous native vegetation would be conserved in the Rural Regions which are planned to “Maintain open character...preserves Natural Resources” (Objective 2.1.3); “Medium intensity projects are areas that wildlife may be expected

to continue using the area (i.e. RR); “Low Intensity in general are areas expected to continue to function largely as undisturbed habitat”; EIR 5.12-34-35 (i.e., NR/OS).

Consistent with GP Policy 7.4.2.8 (A) and (B) to protect oak woodlands at the landscape scale, the OWMP mapped as PCAs approximately 60,000 acres of large contiguous blocks of oak woodlands in less disturbed areas to offset the effects of increased habitat loss and fragmentation elsewhere in the county. The INRMP serves as an off-site mitigation plan that allows a high intensity project to mitigate impacts to oak woodlands by paying a fee that may be used to acquire PCA easements.

Large expanses of native vegetation may be identified using the same criteria used during the OWMP process.

Effect of Being Labeled “Important Habitat”

The first three important habitats (Special Status Species, Aquatic, Wetlands/Riparian) are subject to a myriad of federal, state and local constraints as well as specific GP Policies. The GP does not require the INRMP process create an additional layer of regulations or protection for these habitats.

Mule deer are not a threatened species but certain elements of habitat for migratory deer are protected by a range of GP Policies and the habitat has been mapped.

Large expanses of oak woodlands in areas not planned for high intensity projects were identified as PCAs in the OWMP. The BOS directed the following Legend be included on the OWMP map to explain the effect of identification of a block of land as a PCA:

“This map displays initial woodland habitat where willing landowners could be approached to negotiate General Plan Policy 7.4.4.4 mitigation and other types of oak woodland conservation land acquisition. Identification of oak woodland habitat as priority (green), or not identified as priority (brown) on this map, does not trigger or mandate Policy 7.4.1.6 or Measure CO-U requirements for Policy 7.4.4.4 Option A or Option B unless the oak woodland habitat is within (but not adjacent to) any lands that are already identified as containing threatened, rare or endangered species.”

Expansion of List of Important Habitats at Option of BOS

The list of “important habitat” in Policy 7.4.2.8 (A) may be expanded by the BOS: “State and federal statutory requirements protecting biological resources were considered when developing the list of important habitat listed on page 5.12-56 (INRMP 7.4.2.8 (A)) The “County has the option of expanding the definition of important habitats beyond these listed on Policy 7.4.2.8 (A)””. EIR 4.12-497.

Summary of GP Treatment of Important Habitat and Large Expanses of Native Vegetation

The above review of the GP treatment of the term “Important Habitat and “Large Expanses of Native Vegetation” indicates:

1. Important habitats are listed in Policy 7.4.2.8 (A) (1-5) and the County has the “option of expanding the definition of important habitats beyond those listed on Policy 7.4.2.8 (A)”.
2. Important habitat for Special Status Species may be defined pursuant to Policy 7.4.1.6.
3. The INRMP goal for conservation of large expanses of native vegetation is expressed at Policy 7.4.2.8 (B), “conserve and restore contiguous blocks of important habitat to offset the effects of increased habitat loss and fragmentation elsewhere.” EDC has the option of expanding important habitat to include other large expanses of native vegetation in the manner the OWMP treated landscape scale protection of oak woodlands.

II.

SEA Treatment of “Important Habitat”

Alternative Plans and mitigation measures were considered during the GP process. The INRMP was introduced as a mitigation measure for the 1996 Alternative and was adopted as GP Policy 7.4.2.8.

Rather than defining “important habitat” from GP Policy 7.4.2.8 (A) (1-5), SEA used a definition of important habitat from the DEIR for a mitigation measure from the Roadway Constrained alternative:

Important habitat is defined as habitats that support important flora and fauna, including deer winter, summer, and fawning ranges and migration routes; stream, river, and lakeshore habitat; fish spawning areas; seeps, springs, and wetlands; oak woodlands; large expanses of native vegetation; and other unique plant, fish, and wildlife habitats (DEIR 5.12-45).

PAWTAC: Accepted the definition as recommended by SEA with the following additional language at the end. “Degree or extent of importance will vary depending on proximity or connectivity to other areas of same or similar habitat that support (the) same flora and fauna. Higher density of such habitats will have greater conservation value than those isolated from same or similar habitats.”

Use of this definition to define important habitat for the INRMP is incorrect for the following reasons:

1. Materials provided by SEA suggest a definition of “important habitat” might be found in the GP EIR (5.12-45). This citation misstates the source. The EIR is actually citing language found in the Roadway Constrained Alternative (April 2003, Page 259) and the Environmentally Constrained Alternative (April 2003, Page 261). Both of these alternatives were rejected by the County in favor of the adopted General Plan.

2. The only relevancy to this definition may be historical in that it may have been considered and revised by adopted GP Policy 7.4.2.8 (A) as follows (Policy 7.4.2.8 (A) revisions in red):

Important habitat is defined as: Habitats that support **Special Status Species**; ~~important flora and fauna, including~~ deer winter, summer, and fawning ranges and migration routes; **Aquatic environments including** stream, river, and lakes ~~shore~~; **fish spawning areas**; ~~seeps, springs, and~~ wetlands and riparian habitats; ~~oak woodlands~~; **large expanses of native vegetation**; ~~and other unique plant, fish, and wildlife habitats~~ (DEIR 5.12-45).

If this earlier definition for another alternative was even considered, the GP rejected this language and adopted the following language as Policy 7.4.2.8 (A) (1-15).

“The INRMP shall inventory and map the following important habitats in El Dorado County:

1. Habitats that support **special-status species**;
2. **Aquatic** environments including streams, rivers, and lakes;
3. **Wetland and riparian** habitat;
4. Important habitat for **migratory deer herds**; and
5. **Large expanses of native vegetation.**”

3. This earlier effort at defining important habitat included “oak woodlands” while the adopted General Plan INRMP language is limited to oak woodlands meeting the criteria for “Large expanses of native vegetation”. The General Plan provides protections for “oak woodlands” that do not comprise “large expanses” under Policy 7.4.4.4.: “(Policy 7.4.4.4) is specifically intended to protect and mitigate impacts on **woodland habitat that does not meet the definition of important habitat under Mitigation Measure 5.12-1(d) (INRMP)**” (GP DEIR 5.12-60). In other words, the language proposed by the consultant would *expand the scope* of the INRMP to all oak woodlands where the INRMP protection of oak woodlands is limited to “Large expanses of native vegetation.”

4. The PAWTAC majority further confounds the identification of “Important Habitat” by recommending a definition of “large expanses” to include “...habitat needed for *both narrowly occurring and wide-ranging species*...” [emphasis added]. In other words, by the PAWTAC definition, a “large expanse” can be **either large or small**.

5. The SEA definition of “important habitat” as habitats that support flora and fauna, including deer winter, summer, and fawning ranges and migration routes; stream, river,

and lakeshore habitat; fish spawning areas; seeps, springs, and wetlands; oak woodlands; large expanses of native vegetation; and other unique plant, fish, and wildlife habitats is broad, too broad to be helpful. This definition simply restates the DEIR description of all EDC wildlife habitat, “the complex array of habitats in El Dorado County supports abundant and diverse flora and fauna” (DEIR 5-12-8).

6. The SEA definition of important habitat subsumes the more narrowly defined important habitat defined in GP Policy 7.4.2.8 (A) and attempts to rewrite the INRMP/IBC defined in the GP. The author of this report has suggested an alternate plan to the INRMP would be to require a developer to compensate for the conversion of all natural lands into a high intensity project rather than to compensate for INRMP selected important habitat. This was rejected by PAWTAC in favor of maintaining the GP constraints on INRMP important habitat. The SEA definition would expand the important habitats without the INRMP limitations and expand the GP constraints that apply to this now expanded term.

Conclusions Regarding Definitions of Important Habitat

In the context of the INRMP, “important habitat” is a word of art with legal effect when applied to selected habitat. “Important habitat” was defined by the INRMP to meet the stated goals of the INRMP.

SEA apparently attempts to reconcile Policy 7.4.2.8(A) (1-5) and the proposed definition by arguing the 5 identified INRMP important habitats are just examples of the universe of EDC habitats all of which are important habitat. This completely disregards the plain reading of the GP Policy which defines and limits “important habitat” in the context of the INRMP as well as completely disregarding the FEIR comment explaining how the INRMP important habitat was selected: “State and federal statutory requirements protecting biological resources were considered when developing the list of important habitat listed on page 5.12-56 (INRMP 7.4.2.8 (A)) The “County has the *option* of **expanding the definition** of important habitats beyond these listed on Policy 7.4.2.8 (A)””.

It is expected the end result of the INRMP will be to refine, prioritize and map this list of important habitats and, if appropriate, consider expanding the definition. During this process, large expanses of native vegetation areas in areas not currently or planned for fragmenting high intensity project should be overlaid and considered for inclusion as “important habitat” within the context of the INRMP.

These INRMP important habitats will then be reviewed by the BOS along with other protected lands (Ecological preserves, open space, lands designated Natural Resources, etc.) identified on the INRMP Initial Inventory and Mapping (attached). As part of the INRMP/IBC process, the BOS will then consider the landscape connectivity matrix established by this INRMP map and determine where Important Biological Corridors (IBCs) may be necessary to link these important habitats and protected lands.