

December 22, 2008

County of Lake
Community Development Department
255 North Forbes Street
Lakeport, California 95453
ATTN: Richard Coel, Director

Re: Cristallago DEIR Climate Change Analysis

Dear Mr. Coel:

California Oak Foundation (COF) writes to advise Lake County that the Cristallago DEIR is remiss in failing to meaningfully analyze or mitigate carbon dioxide (CO₂) biological emissions associated with the conversion of oak woodlands to non-forest use. With this omission, Cristallago disregards the California Environmental Quality Act (CEQA), the opinions of the California Attorney General and Court decisions by not making a good faith effort to analyze or mitigate project oak woodlands CO₂ emissions.

DEIR: *“In the absence of any other adopted thresholds, this assessment assumes that the project would be considered to generate a substantial increase in GHG emissions if it is not consistent with any strategies from the 2006 CAT Report ... With implementation of the development standards included as part of the proposed project, project impacts related to air quality would be **less than significant**. Additionally, cumulative impacts related to air quality would be **less than significant**.”* (at IV.D-12, 34)

Comment: The DEIR climate change declarations are contrary to science, fact and law. Moreover, the primary purpose of Assembly Bill 32 (2006) is to reduce carbon dioxide emissions 80 percent below 1990 levels by 2050. That means every ton of CO₂ emitted back into the atmosphere by Cristallago’s oak woodlands conversion, plus the loss of future increases in tree carbon sequestration, represents a measurable potential adverse environmental effect.

Carbon

Carbon storage occurs in forests and soils primarily through the natural process of photosynthesis. Atmospheric CO₂ is taken up through leaves and becomes carbon in the woody biomass of trees and is emitted back into the atmosphere when a tree dies. Approximately half of vegetation mass is sequestered carbon. In terms of its global warming impact, one unit of CO₂ released from dead oak biomass has the same ecological effect as one unit of CO₂ released from a car tailpipe.

A state standard (recognized nationally and internationally) to measure oak woodland CO₂ biological emissions exists under the 2007 California Air Resources Board’s Forest Protocol. This Protocol provides the analytic tools and specific methodology for measuring CEQA forest carbon baselines-impacts. Notably, COF has the Forest Protocol-accredited professional capability to calculate for any oak woodlands conversion both the amount of carbon dioxide currently sequestered and the CO₂ biological emissions if those woodlands are impacted.

CEQA

CEQA requires that the Lead Agency evaluate potential environmental effects based to the fullest extent possible on scientific and factual data. In the absence of defined thresholds, significance conclusions must be based on substantial evidence, which includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts (CEQA Guidelines §15064).

CEQA oak woodlands carbon emissions review isn't contingent on specific CO2 guidelines or regulations issued by the Office of Planning and Research, California Climate Action Team (CAT), Air Resources Board or any other agency; CEQA review requires analysis and proportional mitigation for **any** "significant effects on the environment [including] a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including...air" (CEQA Guidelines §15382). Based on science, fact, expert opinion (attached) and defined AB 32 GHG thresholds, Cristallago's removal of thousands of oaks on 95 acres is indisputably a potentially significant carbon biological emissions effect.

Dual oak woodland CO2 emission impacts must be considered for CEQA review: Direct CO2 emission impacts from tree disposal and the cumulative effects due to the loss of future increases in tree carbon sequestration.

CEQA CO2 questions to be answered include: (1) how much potential CO2 sequestration over the next 100 years will be lost due to impacts to live native trees three (3) inches dbh or greater; (2) how much sequestered CO2 will be released if the live trees, standing dead trees or woody debris are burned or otherwise disposed; (3) how will oak woodland CO2 emission impacts be proportionally mitigated?

Law

On August 6, 2008 the Riverside County Superior Court invalidated an environmental impact report (EIR) for the 1,766-acre Palmwood project in the Coachella Valley. The Court cited the EIR's failure to analyze the project's greenhouse gas (GHG) emissions and other climate change impacts. Specifically, respondent City of Desert Hot Springs contended that a climate change analysis was not required given the absence of any formal regulatory guidance, framework, or the necessary analytic tools or methodology. Rejecting this argument, the Court held that the City should have at least made a "meaningful attempt" to analyze the Project's climate change impacts. By failing to do so, the City did not proceed as required by law. The Court further held that the City should have considered the cumulative impact of GHGs:

"Respondent may well be correct about the absence of regulatory guidance ... and that if respondent had made a meaningful attempt to analyze the project's effects upon greenhouse gases or global warming that it would have concluded that such an analysis was entirely speculative. But respondent failed to make such a meaningful attempt and therefore did not proceed as required by law." [Center for Biological Diversity, et al. v. City of Desert Hot Springs, et al. (Riverside County Superior Court - Case No. RIC 464585) (August 6, 2008)]

This case settles that, at minimum, lead agencies must make a "meaningful attempt" and "use its best efforts to find out and disclose all that it reasonably can" regarding a proposed action's climate change impacts. The Cristallago DEIR has not met these climate change legal standards for oak woodlands carbon biological emissions.

Summary

Cristallago doesn't meaningfully analyze direct and cumulative CO2 emissions for the conversion of 95 acres of oak woodlands to non-forest use, despite a standardized means of measuring those carbon biological emission effects. Simply stating that the "project's contribution to cumulative GHG emissions is considered **cumulatively considerable and significant and unavoidable**," doesn't relieve the project from the CEQA responsibility to thoroughly analyze and mitigate for potentially significant CO2 effects from oak woodlands conversion.

Neither the proposed on-site oak woodlands conservation nor tree planting mitigation do anything to mitigate project woodland carbon biological emissions. The 47 percent of retained on-site oak woodlands can never mitigate for carbon emissions resulting from the 53 percent of woodlands permanently destroyed and planting oaks is of negligible CO2 mitigation value under the 2020/2050 reduction time frames established by AB 32. Planted oaks don't begin to register appreciable CO2 storage for at least 20 years, longer for Cristallago's very slow-growing blue oak (CAT). Therefore, the carbon sequestration capacity of existing oak woodlands exponentially exceeds the ability of planted mitigation oaks to make any CO2 difference for AB 32 purposes or over the Protocol's 100-year planning horizon.

To provide proportional oak woodlands mitigation for Cristallago's significant carbon biological emission impacts, COF urges that the project adopt the following mitigation measure:

Condition of Approval to the Project's Tentative Subdivision Tract Map that Provides:

"The applicant shall preserve off-site, in perpetuity by grant of conservation easement in a form acceptable to the Director of Planning to a qualified recipient approved by the Director of Planning, at least 95 contiguous acres of oak woodland located within Lake County, which 95 contiguous acres shall be equivalent in ecological function and quality to the woodland on the project site."

Until these California Environmental Quality Act requirements are met, the California Oak Foundation objects to approval of the project and adoption of the DEIR.

Sincerely,



Janet S. Cobb, President
California Oak Foundation

attachments (3)