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Plumas County Planning Commission
555 Main Street
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July 17, 2013

Via email

RE: Plumas County General Plan, FEIR and FEIR responses

Dear Commissioners:

Thank you for the opportunity to comment on the General Plan Update (GPU) and its Final Environmental Impact Report (FEIR). As Planning Commissioners you have had the difficult job of directing this multi-year project to craft a General Plan which will guide Plumas County for the next 20 years. HSRA congratulates you on your perseverance and vision. Balancing the many factors involved in the GPU process is a complex task. HSRA believes the goals articulated in the planning process and supported by the Commission are excellent. Many HSRA supporters participated in the process. In our comments regarding the GPU, the Draft EIR (DEIR), and the FEIR, it is our intention to help you decide whether or not the documents as written actually satisfy your goals and objectives. As stated in the GPU your initial goals are that the GPU be legally defensible, easily read and easily interpreted by the public. In summary, further goals include protecting the existing communities, and natural resources of the County while promoting economic development in harmony with surroundings.

Despite its good intentions, the GPU is not, as currently written, a legally defensible document. The goals and objectives of the GPU are well articulated and clear; however, many of the policy statements are inconsistent, confusing and lack implementation measures. Essential information such as population density and building intensity standards are missing. These defects affect the legal defensibility of the GPU in terms of general plan law and its adequacy as a project description for the FEIR. Additionally, the growth inducing and cumulative impact analysis of the FEIR is inadequate because the authors of the FEIR incorrectly assume growth in Plumas County over the next 20 years will occur within Planning Areas. The growth analysis cited to support the assumption is flawed; and, the Plan does not contain enforceable standards directing growth into Planning Areas.

The inadequacies and inconsistencies of the GPU frustrate the ability of the public, governmental agencies and decisionmakers to assess the adequacy of the FEIR. For example, without population density and building intensity standards for all land use designations, it is impossible to consider the development potential proposed by the GPU.

The omission is particularly relevant in land use designations which make up the Open Space Element and are supposed to protect open space as part of the required Open Space Action Plan. For example, in some zoning districts within the Resort designation, motel units could completely cover the total parcel. The lack of building intensity standards makes the GPU both inadequate and inconsistent with the goals of the Open Space Element. The inadequacies and inconsistencies render the environmental analysis of the FEIR meaningless and thus both the GPU and FEIR are legally indefensible.

Because of the narrow definition of “development” used by the GPU, many of the policy statements which purport to regulate construction throughout the County would only regulate construction within new subdivision and condominium projects, and on parcels within lands designated for commercial, multi-family or industrial use. The implementation of the GPU is, therefore, inconsistent with the goals and objectives.

The FEIR, itself, is flawed because its project description is incomplete; its growth analysis relies on the faulty assumption that market preference will direct growth to Planning Areas; and, its mitigation measures are unenforceable as explained more fully below and in our comment letter regarding the DEIR.

Most importantly, because essential, mandatory information was (and still is) lacking in the GPU, the DEIR was (and the FEIR still is) fundamentally and basically inadequate, and conclusory in nature, making public comment on the DEIR in effect meaningless. The inclusion of the Land Use designations on the Land Use Maps in the FEIR represents significant new information requiring the County to recirculate the DEIR to assure meaningful public participation in the CEQA review process. Yet, recirculation without further corrections as discussed within our comments will lead to the same result. The inclusion of building intensity standards for all land uses, for example, will be an addition of significant new information. Without building intensity standards, which quantify the amount of building coverage allowed for each parcel of land in each land use designation as required, it is impossible to determine the extent of development allowed by the GPU and the potential environmental impacts of the development. Until the GPU is complete and internally consistent, the environmental analysis is futile.

Relying on zoning and building code standards to define density and intensity standards and the extent of land uses allowed in general plan land use designations does not satisfy the requirements of general plan law and frustrates the reader’s ability to assess the potential environmental impacts of the GPU. Relying on the zoning code to satisfy general plan requirements turns planning law on its head. It would lead to situation where the general plan could be amended through zoning code amendments circumventing general plan law which limits the number of general plan amendments allowed per year. The general plan must serve as a yardstick. A reader must be able to take an individual parcel and check it against the plan and then know how the property can be used. The GPU as written fails these fundamental requirements.

Land Use Maps must show the proposed land uses for the entire planning area (GC 65302). The Maps must be consistent with the text (GC 65300.5). The corrected Land Use Maps in the FEIR still do not differentiate the Timber Production Zone and General Forest Designations. The corrected maps allow the reader to compare some existing land use designations with proposed land use designations. We have discovered at least two examples where existing designations are changed in the proposed designations of the GPU.[1] A parcel currently designated Agriculture and Grazing is proposed to become Single-Family Residential; and a parcel designated Rural Residential is proposed to become Single-Family Residential. Both are distant from Planning Areas. The GPU would allow subdivision of these parcels to a maximum of 7 dwelling units per acre. The GPU and FEIR do not discuss changes in land use designation between the existing GP and the proposed GPU. The FEIR does not discuss how locating single-family residences in areas distant from Planning Areas is consistent with the goals and policies of the GPU; how services will be extended to these areas; how water delivery and wastewater will be handled where wells and septic systems cannot be accommodated on parcels as small as 1/7th of an acre. The FEIR must discuss the environmental consequences of the proposed change in use of these parcels. The GPU and FEIR must inform the public, decisionmakers and governmental agencies about the all the land use designations changes being proposed in the GPU; and, discuss the potential environmental impacts of changing the land use designation. The omission of this information renders the GPU and FEIR inadequate and legally indefensible.

Some of the problems of the GPU can be illustrated by imagining the difficulties someone owning a parcel of land designated Mining Resource might have in determining what s/he can do and build on the parcel. Land designated Mining Resource are allowed one residential unit per 10 acre parcel, even though, according to the GPU, residential uses are considered incompatible with mining operations. Can mining activities occur on a parcel with a residential building? If not, how does the designation protect the resource? If so, how is the conflict resolved? Can accessory structures be built on the parcel? The GPU contains no provisions for accessory structures or uses. If accessory buildings are permitted, to what extent can they cover the parcel? The GPU does not specify this building intensity standard. The Mining Resource Lands designation is used to satisfy the requirement for an Open Space Element and Action Plan, but the GPU does not contain any information allowing a user to determine how much of the parcel designated Mining Resource must remain open. Similar deficiencies of information are found in all of the GPU land use designations. The omissions make the GPU inadequate, legally indefensible, and render the environmental analysis defective. Relying on Zoning Code standards to articulate general plan policies is inappropriate and illegal.

Alternatively, imagine the consequences on Open Space lands when a speculator buys land distant from a Planning Area designated Agriculture and Grazing because it is relatively cheap compared to land in a Planning Area. In this instance the speculator can divide the agricultural land into 40 acre parcels. Though s/he may employ clustering to protect the agricultural resource, there is no requirement to do so. Instead the speculator may subdivide a 400 acre parcel into a 10 unit ranchette-style development, a model ever-popular in California. Beyond encouraging the

[1] See attached copies of details from the "Plumas County General Plan Designations, Existing Designations Map" and the Plumas County Planning Areas –Sierra Valley- unclipped map" showing proposed designations.

speculator not to do so, the GPU has not conferred any regulatory authority to the County to prevent the conversion. Further, the GPU identifies Agriculture and Grazing Lands by considering soil type, water availability, length of growing season, and the pattern of large parcel sizes. The definition includes range lands with a suitable carrying capacity as well as irrigable lands. However, the standards that must be met for the reclassification of lands from agricultural uses to other uses are not delineated in the GPU. Based upon the standard in the existing GP nearly all of the land in the Sierra Valley did not qualify to be designated Agriculture; and, the County was willing to amend the designation from agriculture to residential based upon the recommendation of consultants hired by speculators. Without knowing the specific standards that qualify land as agriculture, decisionmakers, the public and governmental agencies cannot assess how well the GPU actually protects farmlands. Lacking these standards the GPU does not articulate an adequate Open Space Action Plan as required by state law or implement the goals and objectives of the GPU to sustain agriculture in the County or meet the needs of ranching and farming families.

HSRA is concerned inconsistencies and inadequacies within the GPU and the environmental analysis will not protect lands designated Agricultural Preserve. The GPU contains two different definitions for Agriculture Preserve. In the Land Use Element:

> Agricultural Preserves: Land designated for agriculture or conservation; all lands that qualify for inclusion in Williamson Act Contracts.

In the Agriculture and Forestry Element:

> Agricultural Preserves: Lands that qualify for inclusion under a Williamson Act contract or lands under a Williamson Act contract.

How should the reader interpret this discrepancy? It would seem that lands identified on the Land Use Maps in the Land Use Element may not qualify for the designation under the terms of the Agriculture and Forestry Element. Those lands, therefore, which do not qualify for a Williamson Act contract, but are designated Agricultural Preserve are vulnerable to amendment of their land use designation. Thus, the Land Use Maps do not constitute an accurate picture of the extent and location of lands designated Agricultural Preserve. The reader of the GPU cannot determine the true extent and location of lands designated Agricultural Preserve. Because lands designated Agricultural Preserve are used to satisfy the requirements for the Open Space Element the inadequacy and inconsistency render the required Open Space Action Plan inadequate in turn rendering the Plan legally indefensible.

You are being asked to recommend certification of the FEIR and adoption of the GPU to the Board of Supervisors. We believe that recommendation is premature in that the GPU is lacking required information, and the FEIR is fundamentally flawed. We urge you to recommend the Board of Supervisors remand the project to the Planning Department and consultants for correction and recirculation.

Specific Responses to FEIR:

18-5 HSRA Response

The County concedes that the identification of land use designations outside of Planning Areas were omitted in the Land Use Maps included in the GPU and DEIR circulated for review through the State Clearinghouse. The DEIR (p.3-2) reports of the 482,910 acres of privately owned land in Plumas County 161, 290 acres are within Planning Areas. This means that 321,620 acres or 67% of the land under Plumas County jurisdiction is outside of a Planning Area. Therefore, the GPU and DEIR did not identify to the public or governmental agencies the land use designation of 67% of the land subject to the Plan. Without this information the reader of the GPU could not relate the text of the GPU to the landscape. Consistency between the text and the maps is an important requirement of general plan law. The omission deprived the public and governmental agencies an opportunity to review and respond to critical information. Instead, the maps biased review by leading the reader into believing private property outside of Planning Areas was not part of the Plan.

Not only are lands outside of Planning Areas part of the Plan, but much of the land could be developed without discretionary review. Much of the land outside of Planning Areas without land use designations identified in the DEIR, are shown in the FEIR to be designated some variation of residential, commercial or resort. The GPU should quantify the potential acreage available for development inside and outside of Planning Areas. Furthermore, proposed designations sometimes amend existing designations. These issues should be discussed in the FEIR so that decisionmakers, the public and governmental agencies understand how much development is potentially allowed outside of Planning Areas; and, what the growth-inducing and cumulative impacts of the GPU are.

The response states building intensity standards have been defined for a variety of open space uses and are incorporated into Table 1.3 beginning on page 42. This is incorrect. Of the 14 Land Use Designation listed in Table 1.3 only two designations, Single Family and Multiple Family Residential, include building intensity standards. Therefore, the authors of the GPU and DEIR, the public and governmental agencies commenting on the DEIR, and decision-makers are deprived of required information essential to determining potentially significant environmental impacts.

The authors of the FEIR state HSRA's assumption the County intends to defer designation of Open Space lands is based on the literal text of policies COS-7.1.1 and COS-7.1.2 read in isolation. That is incorrect. Our assumption was based on comparing the text of the GPU with the mandatory Land Use Maps of the GPU which lacked information about the designation of 67% of the land outside of Planning Areas, much of which, we now see in the corrected maps, is designated Open Space. Based on the new information provided in the new maps, we request recirculation of the DEIR so that the public and governmental agencies may have the time to reassess the consequences of those policies.

The authors of the FEIR suggest we were incorrect in assuming the County intends to apply new criteria to determine what lands are eligible for the Open Space designation. Our assumption was based on comparing the text of the GPU with the mandatory Land Use Maps of the GPU

which lacked information about the designation of 67% of the land outside of Planning Areas, much of which, we now see in the corrected maps, is designated Open Space. Based on the new information provided in the new maps, we request recirculation of the DEIR so that the public and governmental agencies may have the time to reassess those policies.

Further, state law requires the GPU contain an Open Space Action Plan. It is unclear how the County satisfies this requirement in general especially with the omission of critical information such as the location of lands designated Timber Production Zone, and General Forest, population density and building intensity standards for all land use designations, and the extent of land uses allowable within the various land use designations.

We request the County recirculate the DEIR so that the public and governmental agencies have an opportunity to assess the environmental impacts of the project in light of complete information. We recommend before recirculation the County include building intensity standards in Table 3.1 and update policies and implementation measures to clarify how and where they will be implemented.

18-6 HSRA Response

The GPU/project description does not disclose information with reasonable clarity or consistency. Land Use Designations in the GPU/project description are listed in at least four places: Table 1-2, Table 1-3, Table 1-4, and LU 1.2.1. Each list is different with some overlap. Of the twenty one different Land Use Designations included in these four lists only two designations (Single and Multi-Family Residential) have building intensity standards. Population density standards, as well, are missing. Nowhere in the GPU is there a definition of "*overlay*" or an explanation about how an overlay functions. Nor is this lack corrected.

We disagree that overlays are exempt from the requirement to have population density and building intensity standards, but rely upon the *base* designation standards. Overlays are usually employed to modify the standards of the base designation. For example, a Lake Overlay on a parcel designated Multi-Family residential should probably constrain the development to the non-lake section of the parcel. This happens when the density and intensity standards for the Lake designation are zero, not a building density standard of 21.8 units/acre with an unknown building intensity and population density standard.

Please note the density standard reported in LU 1.2.1 is neither the required population density nor building intensity standard required in General Plans. Population density could be determined by multiplying building density by an accepted average number of people/unit, but the GPU does not contain that information or make that calculation.

The response 18-6 does not address our concerns in paragraph two of this section, our criticism of Table1-4. The GPU/project description consistently requires a reader to have knowledge that should be provided within the document itself. The fundamental lack of information, definition and confusion in nomenclature found in the GPU/project description of the DEIR reduced our ability to meaningfully comment on the document. We respectively request these defects be corrected and the DEIR be recirculated.

18-7 HSRA Response

In response to our inability to determine the location and designation of parcels of property zoned for timberland production, the authors of the FEIR assert all land uses and their locations are identified on the General Plan Designations-Proposed Maps found on the Plumas County Website. This is not true. Lands designated Timber Production Zone and General Forest are not distinguishable as required.

Further, the authors rely on LU-1.2.1, Table 1-3 and Table 1-4 to articulate location and designation of land uses. See response 18-6 HSRA about the problems with this data.

Regarding the DEIR Growth Analysis and the problems with Tables 3-6, 3-6, 3-7, 3-8, and 3-9, please see our comments labeled 18-24.

18-8 HSRA Response

The authors note HSRA's lack of understanding of the factual basis for the planning approach embodied in the GPU. Our understanding was based on comparing the text of the GPU with the mandatory Land Use Maps of the GPU. The maps, however, lacked information about the designation of 67% of the land under County jurisdiction, much of which, we now see in the corrected maps of the FEIR is designated Open Space. Without identification of land use designations, population density and building intensity standards for all the lands within the jurisdiction of the County, the reader of the GPU and DEIR cannot effectively understand the amount or location of development the GPU will allow. Most importantly, the reader cannot determine how the requirements for Open Space are satisfied. Based on the new information provided in the new maps along with additional recommended corrections detailed in these comments and responses, we request recirculation of the DEIR so that the public and governmental agencies may have the time to reassess those policies in a meaningful way

The authors of the FEIR go on to explain that the GPU and DEIR assume future growth will be focused within County Planning Areas based on historic development patterns and the wishes of the community. We do not take issue with the fact that growth focused on Planning Areas is the wish of the community.

We do not believe, however, the assumption that historical development patterns are a reliable predictor of future development patterns or that the proposed policies will effectively restrict the bulk of development to Planning Areas. The authors concede the analysis depends on predicting consumer preferences. But the data used does not measure consumer preference. The analysis makes the conclusory determination that the bulk of future development will occur within Planning Areas because over the past 10 years the bulk of building permits and subdivision map approvals have occurred within Planning Areas. The analysis does not take into account the number of permits or map applications outside of Planning Areas which were denied or never formally proposed. For example, the Shoffner project, which would have resulted in the addition of 75 new parcels outside of a Planning Area, among others. The growth analysis of the DEIR does not include data which show developer and consumer choice to develop outside of Planning Areas; therefore, the conclusion that the market-driven development will result in development being

focused within Planning Areas is erroneous. Please see section 3(c) of HSRA letter dated January 7, 2013 for a more detailed explanation of the flaws in the growth analysis of the DEIR.

The County's assumption conflicts with the outcome of a scientifically conducted national survey. According to the survey done for the Urban Land Institute, dated March 2013, "… those who describe their communities as rural overwhelmingly prefer to live away from shops, restaurants, and offices (72%)."[2] Rural sprawl is a widely acknowledged problem throughout the Sierra Nevada which has been driven by land speculation; and, can be expected to continue if not unchecked by regulatory control.

The authors of the FEIR state HSRA would have had a better understanding of the primary goals and objectives and policy direction that drove the preparation of the GPU if HSRA had participated in earlier sessions of the update process. Supporters of HSRA did participate. We believe we do have an understanding of the primary goals, objectives and policy direction of the proposed Plan. We do not think that the Plan as written accomplishes the goals, objectives and policy direction of the Plan. Further, a General Plan must be a stand-alone document of "reasonable clarity". It must be consistent. It must "designate…the proposed general distribution and general location and extent" of land uses." "A reader consulting the general plan must be able to determine with relative ease, the amount of land available for development, the land-use designation of that land, any restriction on development of the land, and the maximum amount of new development that can occur under the plan." The GPU/project description even as corrected in the FEIR still fails the test of adequacy in terms of general plan law and as a project description under CEQA law. The General Plan is proposed to guide the County for the next 20 years. It will be used by many people who did not participate in the drafting process. To be adequate, the Plan must be able to articulate its intention clearly to people uninvolved in the drafting process.

The authors argue that the number of parcels created and building permits issued outside of Planning Areas is indicative of consumer preference and they see no evidentiary basis to assume consumer preference will change. As explained above this data is not a measure of consumer preference. It does not contain a survey of where consumers wish to live. To the extent more development occurred in Planning Areas than outside of Planning Areas during the past 10 years, the data measures the success of the existing general plan and activist efforts to enforce the existing general plan, the objective of which was to direct development into Planning Areas. And, the data measures the success of activist efforts to block development in Open Space lands due to the inadequacy of the existing General Plan's Open Space Element. Removing regulatory controls mandated in the existing GP and relying on market-driven preferences will result in more development outside of Planning Areas. Because the DEIR does not consider failed or unattempted development proposals in assessing consumer preferences, the DEIR's conclusions about consumer preferences are flawed. There is no evidentiary basis offered to conclude consumers prefer to live in Planning Areas or that they will in the future.

The authors assert we are incorrect in believing LU-1.1.1 will allow an unlimited number of new planned communities in undisclosed locations and suggests we erred by looking at Policy LU-

[2] 2013 ULI/BRS National Survey, http://www.uli.org/wp-content/uploads/ULI-Documents/America-in-2013-Final-Report.pdf page 20.

1.1.1 in a vacuum. We disagree. Our ability to understand the Plan was curtailed by the lack of information available especially in the Land Use Maps as described above. The corrected Maps still lack essential information, namely the location of lands designated General Forest and Timber Production Zone. Population density and building intensity standards are still missing. Without that information the public and governmental agencies cannot ascertain the potential consequences of the Plan.

The authors emphasize that LU-1.1.1 must be considered alongside LU-1.1.4, but only restate a section of LU-1.1.4. Both policies are restated below, in full:

> **LU *1.1.1 Future Development***
> The County shall require future residential, commercial and industrial development to be located adjacent to or within existing Planning Areas; areas identified on Plumas County's General Plan Land Use Maps as Towns, Communities, Rural Areas or Master Planned Communities (insert reference to maps here*)(sic)* in order to maintain Plumas County's rural character with compact and walkable communities. Future development may also be approved within areas for which Community Plans or Specific Plans have been prepared. Small, isolated housing tracts in outlying areas shall be discouraged as they disrupt surrounding rural and productive agricultural lands, forests, and ranches and are difficult and costly to provide with services. Land division may be allowed outside of Planning Areas only when the resulting development complies with all applicable General Plan Policies and County Codes.
>
> **LU *1.1.4 Land Divisions***
> The County shall ensure that zoning and subdivision regulations protect agricultural and ranching lands, open space, and natural resources which Land Use Element include: grazing, forests, and wildlife habitat lands, by not allowing land divisions that convert the primary land use to residential to be developed in areas which are not specifically designated as residential in the General Plan, for which appropriate long-term planning has not been completed as outlined within the General Plan. The County shall require the following findings for land divisions outside of Planning areas:
> - The resulting development will have structural fire protection; Land division does not result in any conflict with zoning and density standards, and
> - Any clustering of parcels does not convert the primary land use to residential and is part of an overall integrated plan for resource protection.

When we looked at LU-1.1.1, we saw an inconsistent statement as explained in Comment 18-8, which both prohibits and merely discourages development outside of Planning Areas; a reference to Community and Specific Plans which have been prepared, but we could not find any information in the GPU about what these Plans are; and, a reference to Land Use Maps which were and still are incomplete. State law requires General Plans to have internal consistency and clarity. This policy lacks both. It does not serve as a yardstick, either alone or in conjunction with LU-1.1.4

When we looked at LU-1.1.4, we could not determine the consequences or meaning of the policy because the Land Use Maps did not indicate any areas outside of Planning Areas which were specifically designated as residential for which long-term planning had been completed. Again, we request the DEIR be recirculated with updated information so that the public and governmental agencies can review the policies of the Plan in light of complete information.

Even with complete mapping information, we are still concerned by the fact the authors of the FEIR rely upon the provisions LU-1.1.4 requiring structural fire protection as a key criteria limiting development to Planning Areas. The authors assert that this single requirement will greatly limit the number of subdivisions that could occur in remote areas without providing any explanation, mechanism or evidence. In fact all new construction in California located in any Fire Hazard Severity Zone is required by the State to have structural fire protection[3]. As the CalFire Fire Hazard Maps show, just about all of Plumas County is in a Fire Hazard Zone, except most notably, the Sierra Valley. Therefore, this policy seems to provide economic incentive to increasing development within Sierra Valley and decreasing development within Planning Areas.

18-9 HSRA Response

Our comment, 18-9 concerns the inconsistency expressed in LU 1.4.1. We recommend the policy be restated to clarify the intent.

18-10 HSRA Response

The authors suggest we have an incorrect perspective of the policy language as it pertains to the unique landscape and ownership patterns that make up Plumas County. Any incorrect perspective we might have is due to omission of critical information in the Land Use Maps made available during the comment period for the DEIR. How could we relate the policy language to the landscape when 67% of the landscape under the County's jurisdiction was left unidentified? Again, we request the DEIR be recirculated with updated information so that the public and governmental agencies can review the policies of the Plan in light of complete information.

The authors assert Policies COS-7.1.2, 7.1.1, 7.2.6, 7.6.1, 7.6.2, 7.2.2 and Goal 8.2 constrain development. These policies lack any articulated, enforceable implementation measures and therefore fail as CEQA mitigation.

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3 On September 20, 2005, the California Building Standards Commission approved the Office of the State Fire Marshal's emergency regulations amending the California Code of Regulations (CCR), Title 24, Part 2, known as the 2007 California Building Code (CBC).

"701A.3.2 New Buildings Located in Any Fire Hazard Severity Zone. New buildings located in any Fire Hazard Severity Zone within State Responsibility Areas, any Local Agency Very-High Fire Hazard Severity Zone, or any Wildland-Urban Interface Fire Area designated by the enforcing agency for which an application for a building permit is submitted on or after January 1, 2008, shall comply with all sections of this chapter. New buildings located in any Fire Hazard Severity Zone shall comply with one of the following:

1. State Responsibility Areas.
New buildings located in any Fire Hazard Severity Zone within State Responsibility Areas, for which an application for a building permit is submitted on or after January 1, 2008, shall comply with all sections of this chapter.
2. Local Agency Very-High Fire Hazard Severity Zone.
New buildings located in any Local Agency Very High Fire Hazard Severity Zone for which an application for a building permit is submitted on or after July 1, 2008, shall comply with all sections of this chapter.
3. Wildland-Urban Interface Fire Area designated by the enforcing agency.
New buildings located in any Wildland-Urban Interface Fire Area designated by the enforcing agency for which an application for a building permit is submitted on or after January 1, 2008, shall comply with all sections of this chapter.

18-11 HSRA Response

The FEIR authors' response to our comment confirms that the GPU is essentially a wish based on faulty assumptions and will be driven by consumer/developer preference. A wish is not an adequate general plan. Consumer preference is not a mitigation measure. Flawed assumptions do not lead to adequate analysis.

18-12 HSRA Response

The FEIR authors' do not respond to the issue raised. We agree the GPU is not required to include an update of the Housing Element. However, the GPU specifically refers to the Housing Element, and the Housing Element is an integral part of the County's General Plan and must be consistent with it. Information referenced in the General Plan is inaccessible to the reader in conflict with state law requirements.

18-14 HSRA Response

The FEIR author's response is off point. If a general plan is internally inconsistent or inadequate, then a finding of consistency with an external document is *void ab initio* (*Neighborhood Action Group v. County of Calveras (1984) 156 Cal.App. 3d 1176, 1184 based on 58 Opps. Cal.Atty. Gen. 21, 24 (1975)).*

18-15 HSRA Response

Though General Plan law may not require implementation measures except in specific areas (Noise Element, Open Space Element and Housing Element), CEQA requires that mitigation measures be enforceable. To the extent the County intends to use General Plan policies as mitigation measures to satisfy CEQA requirements, the mitigation measures/policies must be enforceable. Therefore, the policies must be translated into implementation measures which the County can enforce through its police power. For any policy or implementation measure that the County relies upon as a mitigation measure, it must articulate an enforceable standard. As stated in CEQA Guidelines 15126.4:

> Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

Though the statute allows the mitigation measure to be incorporated into a plan or policy, the measure must still be fully enforceable. General plan policies must be implemented through an appropriate authority to be enforceable. We are not asking the County to articulate an ordinance per se, but indicate how each particular policy will be implemented by an update to the zoning code, subdivision code, or other appropriate regulatory vehicle. Specific standards must be included to adequately inform decisionmakers, the public and governmental agencies how environmental impacts will be mitigated.

Furthermore, despite the fact that statute requires a discussion of implementation only in specific elements, each planning agency has a duty to implement the entire general plan (GC 65103 and GC 65400). Without information about how the County intends to implement

the Plan, decisionmakers, the public and government agencies reviewing the Plan cannot accurately determine the potential for environmental impacts.

18-16 HSRA Response

See 18-15 HSRA response. The authors do not respond to our concerns about the inconsistency between COS 7.4.4 and the allowance of subdivision of mining resource lands into 10 acre subdivisions.

18-17 HSRA Response

In comment 18-17 we should have made it clear that though Policy W-9.1.2 has an implementation measure, the implementation measure does not act as an effective mitigation measure for CEQA purposes because it only requires the County to develop a plan. Development of plans is not an adequate mitigation measure under CEQA. Development of a plan and implementation of the plan through, for example, zoning code regulations is an adequate mitigation measure.

The authors of the FEIR assert we are incorrect in stating that Policy W-9.1.2 only applies to development within Planning Areas. This statement illustrates the problem with the definition of "development" in the GPU. The definition of development is:

> "The term "development" in the General Plan means lot creation, condominium projects, or utilization of commercial, multi-family residential or industrial parcels."

Policy W-9.1.2 states:

> "The County shall require new development projects to adequately protect groundwater recharge areas."

When the definition of development is substituted for the word development, the result is:

> The County shall require new lot creation, condominium projects, [and] utilization of commercial, multi-family residential [and] industrial parcels projects to adequately protect groundwater recharge areas.

Using the GPU's unique definition of development, construction projects which take place on lands designated Resort and Recreation, Agricultural and Grazing, Agricultural Preserve, Mining Resource, Timber Production Zone, General Forest, Lake, Open Space-Significant Wetlands, Scenic Area, and Historic Area will not have to protect groundwater recharge areas.

The authors assert Policies W-9.1.1, W-9.1.2, AG/FOR-8.6.1, COS-7.1.3 and COS-7.1.4 are feasible mitigation measures to protect groundwater supplies and recharge. However, these policies lack enforceable implementation measures. They merely require the County to support efforts by others to make a plan.

We note, however, in response to Comment I16-16, the County has decided to modify Policy W-9.1.2. This is a good first step; however, in order to function as a mitigation measure, the Policy must have an enforceable implementation measure.

18-18 HSRA Response

Please see our comments, 18-15 HSRA, regarding the relationship between implementation and mitigation measures; and, 18-17 HSRA regarding the definition of development used in the General Plan when applied to policies which use the word development.

Also, our comments were based on comparing the text of the GPU to the incomplete Land Use Maps circulated with the GPU and DEIR. To the extent that our understanding was incorrect, it was caused by the inadequacy of the documents. We request the documents be corrected and recirculated.

18-19 HSRA Response

Please see our comments, 18-8 and 18-9 and 18-8 HSRA and 18-9 HSRA, regarding LU-1.1.4 and the ineffectiveness of requiring structural fire protection to focus growth into communities.

The authors comment about the validity of population and housing build-out assumptions. Please see our response, 18-22, 18-23, 18-24, 18-25.,

18-20 HSRA Response

Please see our response, 18-15 HSRA, regarding the relationship between implementation and mitigation measures.

Please see our discussion, 18-15 and 18-15 HSRA regarding enforceability of implementation measures and mitigation measures. Especially the problem regarding using terms such as encourage, etc.

18-21 HSRA Response

The DEIR acknowledges the County's water bodies are impacted by among other factors, rural residential development. The implementation measures of the GPU which are supposed to serve as CEQA mitigation measures, however, are plagued by the flaws found throughout the GPU.

1. The mitigation measures are often policies without implementation measures.
2. The mitigation measures are often policies or implementation measures which do not require action, but merely encourage or discourage etc.
3. The mitigation measures are often policies which apply only to development as defined by the GPU.

We recommend the County add an implementation measure which would create an ordinance detailing construction setbacks from water resources.

18-22 HSRA Response

Please see our response 18-8 HSRA and 18-15 HSRA.

18-23 HSRA Response

Please see our response 18-8 HSRA. The FEIR adds additional information not previously available in the DEIR. Namely, the updated Land Use Maps showing the potential for additional development outside of Planning Areas. The GPU and DEIR did not identify the land use designation of 67% of the land subject to the Plan to the public or governmental agencies. The omission deprived the public and governmental agencies an opportunity to review and respond to critical information. Instead, the maps along with flawed growth assumptions, biased review by leading the reader into believing areas outside of Planning Areas were not available for development. The updated maps show lands outside of Planning Areas include lands designated for commercial and residential development, as well as lands designated for various open space uses. Population intensity and building intensity standards on all designations are still unavailable; therefore, it is impossible to determine the extent of development allowable within all designations. The location of lands designated Timber Production Zone and General Forest is not differentiated as required making it impossible to determine potential development patterns allowed by the GPU.

We request the DEIR be recirculated with updated information so that the public and governmental agencies can review the policies of the Plan in light of complete information.

18-24 HSRA Response

The authors do not address the discrepancies we questioned in the growth analysis. The GPU and FEIR lack quantification of the number and area of parcels in land use designations outside of Planning Areas.

Substantial new information has been introduced in the FEIR—the Land Use Maps with Land Use designations outside of Planning Areas. We request the DEIR growth analysis be updated, corrected and recirculated so that the public and governmental agencies can review the potential for environmental impacts with the benefit of complete information.

18-25 HSRA Response

The authors did not respond to the issues raised in comment 18-25.

18-28 HSRA Response

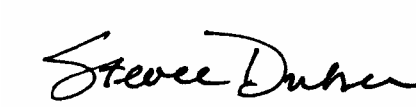
The comment questions the use of the definition of development in the GPU. The response is not germane.

Conclusion

The Planning Commission and public have done an excellent job in articulating goals and objectives for the GPU, but the GPU as written is not a legally defensible document which will implement the goals and objectives you have expressed. The Plan articulates a wish for development to be focused within Planning Areas, but without enforceable implementation measures, the wish will not be a reality. The Plan concedes it depends on market-driven forces to accomplish its goals. Market-driven forces have only led to sprawl in the rest of the Sierra Nevada, California and the nation. Plumas County still has an opportunity to direct growth to benefit the community. We urge you to persevere a little longer to ensure your objectives are translated into an effective document which will guide development in Plumas County for the next 20 years.

Until the GPU and EIR are corrected conclusions about environmental impacts cannot be made and the Statement of Overriding Considerations is premature. We urge you to recommend the Board send the GPU and DEIR back to the Planning Department for correction and recirculation. You've worked too hard to settle for an inadequate and legally indefensible document.

Sincerely,



Stevee Duber

Attachments:

Map detail showing existing designations along A-23
Map detail showing proposed designations along A-23