

Sherri Abbas, AICP  
March 15, 2006  
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## Letter 27 cont'd

By way of background, and as most of the public is aware, the City originally approved development of Clover Valley Lakes in 1997 and 1998, when it zoned the property for development and entered into a development agreement which guaranteed the Clover Valley Partners the right to develop. The development agreement actually authorized construction of up to 974 homes on the project site. The Partners have since incurred more than six million dollars in expenses in reliance upon this approval, planning an environmentally sound development that includes cutting edge land use conservation measures.

While the development agreement gives the applicant the right to develop up to 974 homes, the Partners have voluntarily reduced the size of the project to 558 units. This reduced plan calls for the fewest possible homes for a financially viable project. If this reduced plan is denied, the Clover Valley Partners would still have the legal right to proceed with a higher level of development authorized under the 1998 Development Agreement.

Some people argue that the City should not approve development of Clover Valley Lakes. These people are seven years too late, as the City has already long since approved such development. While we still need to obtain subdivision maps to create individual residential and open space lots, the development agreement is a legally enforceable contract which already commits the City to allow the Clover Valley Partners to develop the property in accordance with its current zoning. For example, the Agreement provides that it "confers on Developer vested development rights to use and develop the Property in accordance with the terms and conditions of the Project Approvals (e.g., the zoning) and this Agreement." It further provides that the City's ordinances and policies "shall not be applied in a manner that will interfere with the full exercise of Developer's rights under the Project Approvals." The Agreement expressly prohibits the City from taking "actions which limit or reduce the density or intensity of the Project as permitted under the Project Approvals, or which change the location of roads, grading, or other improvements included in the Project Approvals."

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The Planning and Zoning Law likewise bars the City from preventing development of the Clover Lakes project. For example, Government Code section 65865.2 provides that, where a city approves a development agreement, any "conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement."

The Clover Valley Partners thus now have a vested right to develop up to 974 residential units in the Clover Valley Lakes project, and the only legal way for the City to stop or further reduce that development would be to compensate the Partners for the value of their vested rights. Those rights are worth at least four years of the operating budget of the entire City of Rocklin. As a result, it is not legally or financially feasible for the City to attempt to now rescind or buy back those development rights, or to adopt an alternative which further reduces the number of units to be developed.

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Nonetheless, the Partners have voluntarily reduced the size of the project by more than 42% to address the concerns of the City and the Project neighbors. Prior to the City's final action on the EIR, we will provide additional information to the City regarding the economic

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feasibility of the reduced project alternatives. But even without such economic considerations, the Partners have the legal right under the development agreement to insist upon no additional reductions in the number of units. The reduced density and no project alternatives are thus not feasible. (See, e.g., Public Resources Code section 21061.1 (defining "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."))

### Comments regarding the scope of the EIR

On a separate point, and just for the record, we note that the Recirculated Draft EIR goes well beyond the requirements of CEQA in the scope of its analysis. The Draft EIR is a second-tier EIR, which tiers off of the 1995 Clover Valley Annexation EIR. As explained in the CEQA Guidelines,

"'Tiering' refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project." (CEQA Guidelines § 15152, subd. (a).)

Generally, a second-tier EIR should not address environmental impacts which were already addressed in the first-tier EIR. Rather, a lead agency

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"should limit the EIR . . . on the later project to effects which: (1) Were not examined as significant effects on the environment in the prior EIR; or (2) Are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means." (§ 15152, subd. (d).)

Where, as here, the first-tier EIR is a program EIR, the lead agency should "[f]ocus an EIR on a subsequent project to permit discussion solely of new effects which had not been considered before." (§ 15168, subd. (d)(3).)

In the present case, the Recirculated Draft EIR does not limit its discussion "solely" to "new effects which had not been considered before," but rather in many instances addresses issues which were already addressed in the 1995 EIR. The City should be commended for producing a document which is more comprehensive than is required under CEQA. Should any third parties challenge the EIR, however, the Clover Valley Partners reserve their right to assert that this EIR is not required to address issues already addressed in the 1995 EIR, and that those portions of the EIR which do not address new effects are thus not subject to legal challenge.

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### Identification of some of the Project's many benefits to the community

The project's benefits to the Rocklin community include the following:

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cont'd

- 366 acres of dedicated open space, plus a five-acre neighborhood park. Currently, the Clover Valley lakes site is private land legally inaccessible to the general public. This development will open up the area and let all residents enjoy its grandeur. Fifty foot setbacks from Clover Valley Creek will allow for public enjoyment of the creek and other opens space areas for the first time.
- Preservation of nearly 21,000 oak trees on-site, and 100% replacement of all trees which are removed.
- More than two miles of hiking and biking trails.
- Major traffic improvements, including construction of Valley View Parkway, a critical component of the City's traffic master plan and General Plan Circulation Element, which is needed to help alleviate projected congestion in the northern area of Rocklin. Today, Rocklin drivers trying to reach points north of the city must first travel south, resulting in unnecessary traffic at a number of intersections, including Midas and Pacific, Sunset and Whitney, and Interstate 80 and Taylor Road. The new road connection will provide an alternate route for those who live in the north of the city, significantly reducing traffic congestion for everyone. The cost of this parkway will be over \$11.3 million. The project also includes contribution of nearly \$2 million for much needed improvements to Sierra College Boulevard.
- Improved fire protection with the construction of a new fire station which will drastically reduce response times in the northern Rocklin area.

The Clover Valley Partners have taken a very responsible and careful approach to the design and planning of the Clover Valley Lakes project to serve as a good Regional example of how development, the environment, preservation of cultural resources, and the community's needs can be balanced. We look forward to continuing our partnership with the Rocklin community in our development of the Clover Valley Lakes project.

Very truly yours,

JARVIS, FAY & DOPORTO, LLP

/s/

Rick W. Jarvis

J:\Clients\106 [Kamilos]\002 [Clover Valley Lakes]\DEIR Comments 03-15-06.wpd

**LETTER 27: JARVIS FAY & DOPORTO, LLP**

**Response to Comment 27-1**

The comment does not specifically address any area of concern within the RDEIR.

**Response to Comment 27-2**

Based on the comment, the list of project objectives as presented on page 3-11 of the RDEIR is hereby amended to include the following additional objectives:

7. Implement the 1998 Development Agreement by permitting a development project reasonably consistent with its terms.
8. Provide a well-designed project that is consistent with the Sacramento Area Council of Governments (SACOG) preferred blueprint scenario for 2050 and the associated Growth Principles, particularly the principles regarding transportation choices, use of existing assets, and natural resources conservation.

This amendment to the RDEIR results in no new significant project-related impacts under CEQA.

**Response to Comment 27-3**

The comment does not address the adequacy of the RDEIR.

**Response to Comment 27-4**

As stated in CEQA Guidelines section 15126.6(a) there is no established rules for governing the nature or scope of alternatives included within an EIR other than the rule of reason. CEQA Guidelines section 15126.6(f) further explains the execution of the rule of reason in regard to the selection of feasible alternatives:

The range of alternatives required in an EIR is governed by a “rule of reason” that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only those that the Lead Agency determines could feasibly attain most of the basic objectives of the project.

The no project and reduced buildout alternatives which are discussed in the DEIR perform the above function.

**Response to Comment 27-5**

The comment does not specifically address any area of concern within the RDEIR.

**Response to Comment 27-6**

This comment does not address the adequacy of the RDEIR.

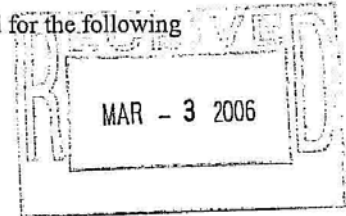
## Letter 28

Clover Valley Comments

Peter Hill

### 1. Traffic

- 28-1 I would like to see existing and projected traffic count data added for the following intersections:
- Crest near Whitney
  - Stanford Ranch Road near Sunset Blvd
  - Whitney Blvd near Sunset Blvd



### 2. Air Quality

- 28-2 Under the Ambient Air Quality Standards (p. 4.5-2 there is no discussion of Ozone. There is a discussion of Nitrogen Oxide, which is not a criteria pollutant, but is an ozone precursor, yet there is no discussion of Reactive Organic Gasses (ROG) the other ozone precursor. Since the Sacramento Non-Attainment Area includes Rocklin, a discussion of ozone is needed. The discussion should include a description of the two ozone precursors and it should explain how ozone is created. It should also clearly explain that the two precursors are not criteria pollutants, but simply precursors.

#### Existing Air Quality (p. 4.5-4)

- 28-3 This discussion is confusing and needs clarification. There is no description of the geographic boundaries of the Sacramento Non-Attainment Area and what Air Districts area part of it and how Rocklin fits into that. There is confusion over the designation of "severe" and "serious". Page 4.5-4 says we are severe, yet p. 4.5-6 says we are serious, then p. 4.5-16 says we are severe. The Sacramento Non-Attainment area chose to voluntarily "bump up" to severe under the 1 hour, but to my knowledge, we are serious under the new 8 hour standard. There is no indication of the difference of the 1 and 8 hour standards and what the significance is.

Page 4.5-6 has a discussion of the Placer County Air Pollution Control District, yet fails to discuss the ozone non-attainment area and how the Placer APCD fits into that effort.

#### Tables in General

- 28-4 None of the tables in this section tell you what the measurement is. Example: Table 4.5-3 p. 45-9 shows Construction Emissions for On-Site Project. The table has some numbers, yet there is no way to tell if they are Tons Per Day (TPD), Tons per Year (TPY), Grams Per Hour (GPH), or ?

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cont'd**

Page 4.5-12

28-5

This discussion says that the increased vehicle emissions shown in Table 4.5-4, particularly for ROG, exceed the PCAPCD threshold of significance. The exceedance is the difference between 94.1 (of some measure, but not shown of the table) and 82.0, which is the PCAPCD threshold. That means the exceedance is 12.1 of something (maybe Pounds per Day?). What is missing is any data on the emission total for the entire non-attainment area and any discussion of what the significance of the 12.1 pounds per day would be on the non-attainment area total, which will be measured in Tons per Day and any discussion of what impacts the 12.1 pounds per day would have on the creation of ozone.

**LETTER 28: HILL, PETER, CITY COUNCILMEMBER**

**Response to Comment 28-1**

As stated in the response to comment 19-20, the study area of the proposed project is based upon the magnitude of the traffic generated by the project and its anticipated routes in relationship to non-project traffic volumes and roadway capacities. The locations mentioned by the commentor were not included in the study area because the change in traffic volumes resulting from the project was small in relationship to available roadway capacity. For informational purposes, the table below summarizes 2025 Current General Plan daily traffic volumes at selected locations with and without the Clover Valley project including a number of locations on Park Drive. The information in the table was derived from the December 2005 Clover Valley Transportation/Circulation report prepared by DKS Associates. Increases in traffic on Park Drive will not cause degradation in operating conditions beyond the level of service “C” standard maintained by the City of Rocklin. For informational purposes, Table 3.3-2 summarizes 2025 Current General Plan daily traffic volumes at selected locations with and without the project.

<b>Table 3.3-2</b>				
<b>Selected Daily Traffic Model Volumes and Roadway Level of Service</b>				
<b>City of Rocklin 2025 Current General Plan</b>				
<b>Location</b>	<b>Without Project</b>		<b>With Project</b>	
	<b>Volume</b>	<b>LOS</b>	<b>Volume</b>	<b>LOS</b>
Argonaut Avenue east of Midas Avenue	5,100	A	6,500	A
Crest Drive east of Whitney Boulevard	4,100	A	5,200	A
Midas Avenue south of Argonaut Avenue	10,800	C	10,200	B
Park Drive northeast of Sunset Boulevard	19,000	A	20,500	A
Park Drive south of Valley View Parkway	2,700	A	7,800	A
Stanford Ranch Road northeast of Sunset Blvd.	21,000	A	20,900	A
Victory Drive east of Park Drive	700	A	800	A
Whitney Boulevard northeast of Sunset Blvd.	7,500	A	7,600	A
Wyckford Boulevard north of Park Drive	3,700	A	3,700	A

*Source: DKS and Associates, June, 2006.*

**Response to Comment 28-2**

The commenter is correct. For clarification purposes, the following is hereby added at the bottom of Page 4.5-3:



### Ozone

Ozone is produced by chemical reactions, involving nitrogen oxides (NOx) and reactive organic gases (ROG) that are triggered by sunlight. Nitrogen oxides are created during combustion of fuels, while reactive organic gases are emitted during combustion and evaporation of organic solvents. Since ozone is not directly emitted to the atmosphere, but is formed as a result of photochemical reactions, it is considered a secondary pollutant. In the Sacramento Valley Air Basin ozone is a seasonal problem, occurring roughly from April through October.

Ozone is a strong irritant that attacks the respiratory system, leading to the damage of lung tissue. Asthma, bronchitis and other respiratory ailments as well as cardiovascular diseases are aggravated by exposure to ozone. A healthy person exposed to high concentrations may become nauseated or dizzy, may develop headache or cough, or may experience a burning sensation in the chest.

Research has shown that exposure to ozone damages the alveoli (the individual air sacs in the lung where the exchange of oxygen and carbon dioxide between the air and blood takes place). Research has shown that ozone also damages vegetation.”

The addition of the above text does not alter any of the conclusions included in the DEIR.

### **Response to Comment 28-3**

The references to “severe” nonattainment on pages 4.5-4 and 4.5-16 have been changed to “serious” nonattainment to reflect current status. The following clarifying text is hereby added at the top of page 4.5-6:

In July 1997, EPA promulgated a new 8-hour standard for ozone. This change lowered the standard for ambient ozone from 0.12 parts per million of ozone averaged over one hour to 0.08 parts per million of ozone averaged over eight hours. In general, the 8-hour standard is more protective of public health and more stringent than the federal 1-hour standard. The adoption of the 8-hour ozone standard required new designations and nonattainment classifications in June 2004 and the revocation of the 1-hour ozone standard in June 2005. The Sacramento region has been designated as a “serious” nonattainment area for the federal 8-hour ozone standard with an attainment deadline of June 2013.

In addition, the following is hereby added to the second paragraph on page 4.5-5:

The Sacramento Federal Nonattainment Area for ozone includes all of Sacramento and Yolo Counties, and portions of El Dorado, Placer, Sutter and Solano Counties.

The addition of the above text does not alter any of the conclusions included in the DEIR.

**Response to Comment 28-4**

The title of Table 4.5-3 is hereby corrected to read:

Construction Emissions for On-site Project, in Pounds Per Day

This change does not alter any of the conclusions included in the DEIR.

**Response to Comment 28-5**

The exceedance difference of 12.1 noted by the comment is in pounds per day.

According to the California Air Resources Board publication entitled “California Almanac of Emissions and Air Quality – 2006 Edition”, the Sacramento Valley Air Basin (which is comprised of Butte, Sacramento, Yolo, Yuba, Sutter, Colusa, Glenn, Tehama, Shasta and parts of Placer and Solano Counties) had an annual average total of 243 tons per day of reactive organic gases (ROG) emissions for the year 2005. Of that total, Placer County had an annual average total of 20 tons per day of ROG emissions for the year 2005.

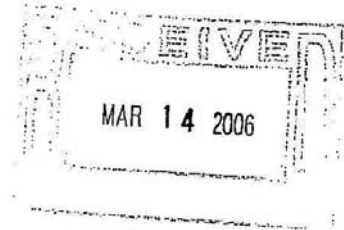
The exceedance of 12.1 pounds per day of ROG for operational emissions as projected for the Clover Valley project represents 0.0000248 percent of the 486,000 pounds per day (243 tons/day) of the Sacramento Valley Air Basin and 0.0003025 percent of the 40,000 pounds per day (20 tons/day) of Placer County’s portion of the 2005 ROG emissions. As demonstrated by these numbers, the Clover Valley project’s contribution to ROG emissions when viewed in relationship to the overall Sacramento Valley Air Basin and Placer County is minimal.

Because ozone is a secondary pollutant that is created in the atmosphere by chemical reactions involving nitrogen oxides (NO<sub>x</sub>) and ROG, it is currently not possible to estimate concentrations of pollutants such as ozone resulting from an indirect source of air pollutants such as the project. However, one can infer from the numbers above that the project’s contribution from operational emissions to ozone formation in the Sacramento Valley Air Basin and Placer County is also minimal. See Response Comment 28.4 regarding the units used in Table 4.5-3.

## Letter 29

### HISTORIC TRAILS COUNCIL

Evan Jones, Director  
11570 Bridges Lane  
Nevada City, CA 95959  
(530) 265-4208  
revwin@yahoo.com



We respectfully request that the DEIR for the Clover Valley subdivision project adequately address the following issues:

- 29-1 1. Preservation of historical sites. These sites include, but are not restricted to, ancient rock walls, Indian sites, historical corrals, and encampment sites.
- 29-2 2. Sewer line design. This should be adequate for planned and future needs.
- 29-3 3. Preservation of designated permanent and seasonal wetlands and valley oaks. We believe that mitigation is not an option in the case of valley oaks, because they are virtually impossible to raise from seedlings. Even natural propagation requires many years and hundreds of aborted attempts to produce even one valley oak.
- 29-4 4. Adequate setback from creek. Our analysis suggests that a 100 foot setback is necessary to preserve the integrity of the creek.
- 29-5 5. Anticipation of future adequate open space for the city. It is tempting to continue development on a project basis, as has often been the practice in western Placer County. The inevitable result is the discovery that inadequate open space remains. Already, residents of Twelve Bridges complain about the erosion of the rural lifestyle which had attracted them to the area. Crowding, lack of open space, pollution, and increased traffic congestion all contribute to this problem. New York City would not today develop Central Park. Neither should Rockin develop its few remaining natural preserves. With nearby Lincoln Hills, Bickford Ranch, and other surrounding developments proposed or in place, Clover Valley remains as the final hope for preserving the very qualities that make western Placer County a desirable place to raise children.

Respectfully submitted,

Evan Jones, Director  
Historic Trails Council

**LETTER 29: HISTORIC TRAILS COUNCIL**

**Response to Comment 29-1**

The RDEIR discusses issues pertaining to historic and prehistoric resources on the project site in Chapter 4.7, Cultural and Paleontological Resources. See also Appendices G and H in Volume 2 of the RDEIR: Appendices D through Q.

**Response to Comment 29-2**

Sewer line design for the proposed project is addressed throughout the RDEIR, including on pages 3-13 through 3-15, and pages 4.12-8 through 4.12-11.

**Response to Comment 29-3**

The RDEIR addresses project-related impacts to wetland areas in Impact Statements 4.8I-4 and 4.8I-5 (pp. 4.8-28 to -33). Regarding oak trees, the RDEIR finds that implementation of the proposed project would result in significant and unavoidable impacts related to loss of oaks of all species on the project site, even with the implementation of the required mitigation.

**Response to Comment 29-4**

See Section 1 of Master Response 2 – Land Use.

**Response to Comment 29-5**

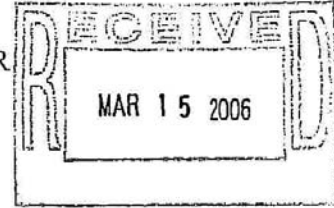
In accordance with the proposed project goals (see Page 3-11 of the DEIR), the Clover Valley project includes a number of bike trails and pedestrian access along the Clover Valley Creek, which is currently inaccessible to the public.

The commenter's request that the proposed project address the further dedication of open space for Rocklin is an issue of City policy and does not address the adequacy of the environmental analysis for the Clover Valley project.

**Letter 30**

CLOVER VALLEY  
RECIRCULATED DRAFT EIR

COMMENTS  
Kathy Lund  
Councilmember  
March 15, 2006



**Letter 30**

TRAFFIC

- 30-1 1. The draft Recalculated EIR does not analyze the effect of Valley View Parkway on Midas, Whitney and Argonaut. What is the effect on these roads?
- 30-2 2. The Town of Loomis is currently installing traffic signals at the intersection of King Road and Sierra College Blvd. What, if any, difference will the signals make in the level of service at that intersection?
- 30-3 3. Page 4.3-20 states that "numerous runs of historic, mortar-less, stone range walls exist on the project site." Since no state, county or municipal policy protects these fences; their removal is considered less than significant. Although I understand why this was the finding, I feel their loss is significant. The city should require the developer to rebuild some of these fences in either park and/or open space land.

**LETTER 30: LUND, KATHY, CITY COUNCILMEMBER**

**Response to Comment 30-1**

See response to comment 28-1.

**Response to Comment 30-2**

Signalization of this intersection has been assumed for future conditions and all future LOS calculations are based on a signal at this location.

**Response to Comment 30-3**

The commenter's opinion regarding the significance of the stone walls is noted and their request will be forwarded to the appropriate decision-making bodies. See Section 3 of Master Response 7 – Cultural Resources.