

Section 3.2 AIR QUALITY

The addition of this section of the revised DEIR, dedicated to the issues of potential project impacts to area air quality, is appreciated. The lack of an air quality section in the original DEIR was an oversight.

Relative to Section 3.2.1 – Setting

“An EIR must contain an accurate description of the project's environmental setting” to “ensure that the EIR’s analysis of significant effects, which is generated from this description of the environmental context, is as accurate as possible.” (Friends of the Eel River v. Sonoma County Water Agency (2003) 108 Cal.App.4th 859, 874.) There are three overall factors that must be considered when looking at the analysis of air quality impacts and proposed mitigations.

1. Calaveras County is currently in non-attainment in relation to the Federal Clean Air Act for both Ozone and PM(10) and under the California Clean Air Act is in non-attainment for PM(10) and designated as non-attainment for Ozone. The Calaveras County Air Pollution Control District has not prepared an air quality plan as required by federal law. From page 3.2-2 of the RDEIR: “Continued non-attainment status under the Federal Clean Air Act could result in economic penalties and prohibitions on development in the region.” The county has until June 2009 to establish attainment in its air basin. It currently has no adopted quantitative air pollution thresholds with which to evaluate proposed projects.

The fact of county non-attainment and the failure to create an air quality plan suggest that A) it is impossible to assess a project’s conflicts with the air quality plan (given the lack of a plan), and B) **any** new development of any kind would potentially add to the non-attainment conditions, or, at the very least, not improve them.

2. The RDEIR provides insufficient background information for the public and the decisionmaker to put the air quality impacts of this project into their proper context. The RDEIR does not mention that the Federal Clean Air Act has been in place since 1970. This Act and its amendments delegate enormous regulatory authority and responsibility to achieve compliance with ambient air quality standards to states, the air basins, and the Counties. In the over 35 years, federal, state, and air basins efforts, as well as technological advances, have resulted in huge reductions in emissions from individual stationary sources (e.g. industries) and mobile sources (motor vehicles). However, the RDEIR does not mention that these efforts have failed to result in compliance with health-based ambient air quality standards, because local governments (including Calaveras County) have made no effort to limit the number of stationary and mobile sources they add on an annual basis. In fact, from the year 2000 to 2006, neither emissions of nitrogen oxides (ozone precursors) nor ambient levels of ozone (a key smog component) in Calaveras County show a trend toward improvement. (See California Air Resources Board,

Almanac of Emission Projection Data, Calaveras County; California Air Resources Board, Ozone Trends Summary: San Andreas-Gold Strike Road.) Thus, despite huge personal financial investments in air pollution reduction, lack of local government accountability has prevented Calaveras County and the region from achieving health-based air quality standards. To make matters worse, decades of research indicate the productivity of agricultural crops key to Calaveras County (pine trees and wine grapes) are also harmed by these substandard air pollution levels.

In addition, the analysis does not disclose is that the County has been issuing building permits for 400 to 800 units of housing consistently over the years from 2000 - 2005, without the benefit of air pollution mitigation, and that the County has developed an inventory of over 15,000 similar vacant parcels, posing a huge potentially significant impact on air pollution when they build out. Clearly the unmitigated cumulative impacts are potentially huge, and must be addressed for this and all future projects.

3. The California Climate Solutions Act of 2006 (AB 32) requires that greenhouse gas emissions be reduced to 1990 levels by 2020. The Draft Scoping Plan for AB 32 identifies transportation as the leading cause of GHG emissions – producing 38% of total emissions (p. 7). The plan proposes technology changes to vehicles and fuels as means of reducing emissions. It does not propose specific steps to reduce vehicle miles traveled. In statewide meetings called by the Attorney General, however, reducing vehicle miles traveled was named as an essential condition for meeting the goals of AB 32.

Relative to Section 3.2.3 – Impacts and Mitigation Measures

Impact #3.2-1

While it is true that it is impossible to obstruct implementation of an applicable air quality plan when no such plan exists, it is an odd “less than significant” impact. The fact that the county has no air quality attainment program should in itself be a significant impact, albeit not of the project being studied in this document.

Impact #3.2-2

In the absence of county air quality standards concerning the impacts of vehicle miles traveled, the RDEIR relies upon the San Joaquin Valley Air Pollution Control District standards to determine whether traffic associated with Trinitas exceeds its threshold of significance. “Projects that... fall below the significance thresholds are not required to quantitatively show their emissions...” (p. 3.2-19) and are considered to be at the Small Project Analysis Level (SPAL). The trip generation threshold is 1,453 trips per day. Under almost all circumstances analyzed in this RDEIR, trip generation by the golf course and related ancillary activities (i.e. restaurant, driving range) is estimated to fall beneath that level.

The one exception is events drawing 1,000 people. One such event is projected for any given year. The traffic at this event is projected at 1,807 trips per day. Based on this, “...the project will have a *potentially significant* impact on air quality.” (p. 3.2-20) Here the RDEIR makes a

confusing statement: “This impact is reduced by Mitigation Measure 3.11-5c which prohibits the approval of the Conditional Use Permit for the lodge until a public water supply is made available to the site. The number of trips generated by the project reduced by the lodge not being developed will result in this being a *less than significant* impact.” (p. 3.2-20)

This less than significant impact will be temporary, however. Once the public water is available, if the lodge is built, traffic will presumably exceed the threshold. This mitigation measure reduces traffic only as a by-product and only for a short while.

An agency must produce rigorous analysis and concrete substantial evidence to support a determination that the project's impacts are insignificant. (Kings County Farm Bureau et al. v. City of Hanford (5th Dist. 1990) 221 Cal.App.3d 692 [270 Cal.Rptr. 650].) For this RDEIR it is uncertain as to whether the numbers used to achieve the Total Daily Estimated Traffic of 913 vehicle trips are accurate. On page 3.2-20, the ADT for 12,000 annual rounds of golf is 100. In the transportation section of the RDEIR, 130 is also used for the number of vehicle trips associated with 12,000 rounds. Additionally, the transportation section compares numbers for 24,000 annual rounds (260 trips) and 36,000 annual rounds (390 trips). From the RDEIR Transportation Section: “The data sample that is available from ITE suggests daily trip generation for an 18-hole golf course that ranges from 280 to 980 daily trips, with the average rate yielding an estimate of 644 daily trips.” This is considerably higher than any estimate produced by the RDEIR.

In addition, while an annual event of 1000 people is included in the daily trip analysis, there is no estimate of the effect of mid-level events (250 – 499 people) scheduled on a more regular basis – as many as 24 per year. Where is the estimate of trips generated by these events? If any of these are golf tournaments, they would be multi-day events with guests/participants/observers not staying on the property and thus driving in and out every day. Even if the number of golf rounds includes players for these events, it does not appear that there has been an effort to estimate non-playing visitors for these. If any of the tournament events could be PGA-sponsored, might there be significant numbers of people coming to watch play?

There is no county, state, or federal oversight for the number of rounds of golf played on a course, so if the actual number of annual rounds were to be much greater than any of these estimates, the number of trips could rise to an amount that puts the project above the SPAL levels. It seems truly difficult to ascertain the amount of traffic that will be generated in a year, and therefore the significance of the impact.

The RDEIR states that for the once yearly large event, the impact is **significant and unavoidable**. The daily impact is considered by the report to be **less than significant**. But if any of the larger estimates stated above were used, it is certainly possible that the impact could be significant and unavoidable on a daily basis as well.

Impact #3.2-3

It is important to emphasize the final paragraph of this section: “Although the project’s contribution to regional air quality pollutants is expected to be **less than significant**, Calaveras County, as part of the MCAB, is in non-attainment for state and federal Ozone, and state PM(10) standards. Therefore any cumulative increase in these non-attainment pollutants would be a **significant and unavoidable** impact.” The RDEIR goes on to state that no mitigation measures are available.

The El Dorado County Air Pollution Control District provides a manual listing a number of feasible project-specific air pollution mitigation measures, and how to calculate their emission reductions. They consider a project to have a cumulatively significant impact until it has applied as many feasible mitigation measures as possible to lessen or avoid its impacts. (See El Dorado County Air Pollution Control District, Guide to Air Quality Assessment, 2002.) [Similar mitigation measure lists are found in air quality assessment guides used in Sacramento and the San Francisco Bay Area: See SMAQMD, CEQA Guide to Air Quality Assessment, July 2004 and BAAQMD CEQA Guidelines, 1999.] The same sort of analysis and mitigation can be done in Calaveras County. In the final EIR, please quantitatively evaluate and mitigate the significant cumulative air quality impacts of this project to the extent feasible.

The more severe the existing air quality problems are, the lower the threshold for treating the project’s cumulative impacts as significant. (Kings County Farm Bureau et al. v. City of Hanford (5th Dist. 1990) 221 Cal.App.3d 692, 718-721 [270 Cal.Rptr. 650].) As long as our region is in non-attainment, any new project that will substantially contribute a net increase of those substances, which we already have in excess of state and federal standards, will result in a cumulatively significant impact. (Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98, 117-121.) Any project alternative other than the “no project” alternative will have such a cumulatively significant impact.

Impact #3.2-6

The California Climate Solutions Act of 2008 (AB 32) requires the state to reduce greenhouse gas emissions to 1990 levels by 2020. The Scoping Plan created by the California Air Resources Board states that 38% of greenhouse gas emissions are created by vehicles (p.7). The Scoping Plan aims to address this through improved vehicle emission standards; it does not at this time address reduction in vehicle miles traveled. However, in public sessions held throughout the state, Attorney General Jerry Brown stated that reducing vehicle miles traveled will be a major factor in achieving the needed reductions.

Any project which adds to the number of vehicle miles traveled will increase, rather than decrease, greenhouse gas emissions. Yet the RDEIR states “Since there are no quantifiable thresholds, it is difficult to determine whether an individual project would actually have an impact on global climate change. In this case, the project is relatively small and would probably contribute a minimal amount of greenhouse gas emission when viewed from a global perspective.” But, minimal or not, from a state regulatory perspective, any increase in the face of a law that calls for decrease must be significant, yes?

A recent court decision in Southern California suggests more analysis could be needed in relation to GHG emissions and the proposed Ridge at Trinitas project. From a press release by the Center for Biological Diversity:

INDIO, *Calif.*— In response to a lawsuit from the Center for Biological Diversity and the Sierra Club, a California court has rejected a proposal to build a controversial luxury resort and golf course because the project's environmental study failed to analyze the project's greenhouse gas emissions. The lawsuit had challenged the city of Desert Hot Springs' approval of the Palmwood resort near Joshua Tree National Park.

"The court affirmed what the California legislature made clear: that global warming must be addressed in land-use decisions," said Jonathan Evans, a staff attorney with the Center.

The lawsuit is one of a series of court challenges brought by the Center to reduce greenhouse gases from new development through the California Environmental Quality Act. In 2007 California passed Senate Bill 97, which affirms the requirement to reduce greenhouse gas emissions from land-use decisions. In June 2008 California also provided [technical guidance](#) on how to properly calculate and reduce greenhouse gases. The California Environmental Quality Act requirements are in addition to the requirements of the California Global Warming Solutions Act and the governor's June 2005 Executive Order, which aims to reduce emissions 80 percent below 1990 levels by 2050.

Might the failure to estimate GHG impacts in this RDEIR subject the county to litigation should the project be approved? In the final EIR, please quantify the GHG impacts pursuant to the white paper prepared by CAPCOA, CEQA & Climate Change, January 2008.

Given that there are no mitigations identified for the current project to minimize vehicle miles traveled, we strongly encourage the requirement of the list of possible mitigations stated in the RDEIR from the California Climate Action Team. We ask that the project, should it go forward as planned, use all conservation and recycling measures for water, energy, and building, including constructing the lodge to LEED standards. Since 23% of GHG emissions are from the production of electricity, we also suggest alternative energy sources for the project (wind, solar).