



BASS LAKE BULLETIN

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COURT FINDS MEASURE E UNCONSTITUTIONAL

In resolving a lawsuit challenging Measure E, El Dorado County Judge Warren Stracener has ruled that Measure E imposed exactions on new development that violate constitutional fair share requirements.

The “no-growth” proponents of Measure E promised voters that the initiative would make an affected development project pay for the full cost of improvements to regional roads and Highway 50 to serve 10 to 20 years of projected cumulative growth, divert impact fees from designated road projects to be spent in the area where the fees were collected, and allow fees to be used for road maintenance. Proponents could not deliver on these promises, however, because the power of the initiative does not authorize voters to enact laws that are unconstitutional or violate state law.

A long list of organizations including the El Dorado County Farm Bureau, El Dorado County Chamber of Commerce, El Dorado Hills Chamber of Commerce, Deputy Sheriffs’ Association, El Dorado Winery Association, El Dorado County Taxpayers Association, El Dorado County Republican Central Committee, and the editorial boards of the Sacramento Bee and Mountain Democrat – all opposed Measure E not only because it was unlawful, as the court has now confirmed, but because its broad brush approach impacted smaller projects, job-generating commercial, business expansion, agricultural uses, hospitals and medical facilities, parks and ballfields, and moderate income housing.

The court’s decision invalidating Measure E’s unconstitutional amendments will restore underlying General Plan policies from voter-approved Measure Y requiring new development to pay Traffic Impact

(continued on page 2)



Map showing the locations of the proposed surgery center (A) and the new Shops at El Dorado Hills (B)

SURGERY CENTER, RESTAURANTS IN THE WORKS ON SARATOGA

A local doctor has plans to create an outpatient orthopedic surgery center at El Dorado Hills Boulevard and Saratoga Way.

Plans for the 22,272-square-foot single-story ambulatory surgery center include four operating rooms, an 85-stall parking lot, associated site improvements and connections to existing utility systems. The property sits on 2.11 acres.

“The center would provide outpatient orthopedic surgical care beyond the medical environment found in a physician’s office,” owner Dr. Brian Hunt explained. “There is a need for more and newer outpatient surgery centers and facilities in the area.”

The Surgery Center is expected to be handling more complex surgeries on shoulders and backs according to Dr. Hunt. They will have the ability to keep patients for 23 hours and are making arrangements with nearby local hotels and assisted living facilities for care needed beyond that point.

Hunt is an anesthesiologist and El Dorado Hills resident. He said he plans for the ambulatory surgery center to be open Monday through Friday from 8 a.m. to 5 p.m.

The new business would also create jobs. “We plan to have 20 to 25 employees,” Hunt added.

Hunt purchased the land from Serrano Associates, LLC for an undisclosed amount. The proposed project requires a Planning Department design review, which is a discretionary approval. “Since it is a discretionary approval, a \$30,000 Measure E traffic study is required,” Director of Government Relations for Parker Development Kirk Bone explained. “The study for this project concluded that the required improvements are in place or planned and this project should not be required to construct any Measure E improvements.”

Since the project is still in the permit phase, no expected timeline was given. “We are pleased that Dr. Hunt is willing to locate this type of facility in El Dorado Hills,” Bone said.

New Restaurants

Two new restaurants are also being planned for a Walgreens center expansion to be called The Shops at El Dorado Hills. A Chick-fil-A and Habit Burger Grill are slated to open there in April 2018. ~

Credit: Julie Samrick, Mtn. Democrat

(continued on page 2)

MEASURE E *(continued)*

Mitigation (TIM) fees to fully mitigate traffic impacts.

Measure Y is working to maintain levels of service on our roads. The TIM fee program, which has generated over \$240 million in road improvements to date, is the most expensive and comprehensive regional road improvement program in the state. It is the only program designed to maintain levels of service on both local roads and state highways, including Highway 50 and interchanges. A 2015 nationwide fee survey shows El Dorado County TIM fees are the highest of all 280 jurisdictions surveyed – more than six times the national average, and 75% above the next highest reported city or county in California.

In a 2014 report to the Board of Supervisors, County staff and counsel acknowledged that Measure E raised constitutional issues that would need to be addressed if the measure was approved by voters. After the election, the County was between a rock and a hard place – it was required to enforce Measure E by either imposing unconstitutional conditions on new projects, or unconstitutionally denying a permit because the condition couldn't be lawfully imposed. EDCARP decided to file its own lawsuit to ask the court to resolve the important constitutional rights of property owners, small businesses, farmers and ranchers and others in our community.

In addition to invalidating Measure E exactions that exceeded federal and state constitutional and state law requirements, the court's detailed 49 page opinion upheld a handful of implementation measures that were already being applied under the TIM fee program and several other clauses amended to reinstate 1998 Measure Y language. Measure E revoked a 2008 voter amendment to Measure Y authorizing the Board, by a 4/5 vote, to add a road segment to the list allowed to operate at LOS F - authority the Board has never exercised. Changes regarding multi-family housing were found not to be inconsistent with the Housing Element, because after invalidating other unconstitutional conditions, traffic impacts can be mitigated by payment of TIM fees. A new policy requiring a 2/3 vote to form an Infrastructure Financing District (IFD) was upheld because it simply restated existing state law and applied only to IFDs.

The court's decision, the Petition for Writ of Mandate and briefs filed by the parties may be found at www.edcarp.org. ~

Credit: EDCARP press release



MIDWEST 'FLASH DROUGHT' WARNS EL NIÑO MAY HAMMER WEST COAST

The "flash drought" in the upper plains states, and rising temperatures in the Equatorial Pacific, are warnings that another El Niño is forming that could slam the West Coast this winter with heavy rainfall, widespread flooding and infrastructure failure risks.

Farmers in Montana, North Dakota, and South Dakota are already facing over \$1 billion in crop losses, as a short-term spike in surface temperature and rapidly decreasing soil moisture is causing what meteorologists refer to as a "flash drought."

Rainfall across the affected region has been less than half the norm since the beginning of the April growing season. At the epicenter of the drought in Montana's Missouri River basin, rainfall is running at a historic low of less than a quarter of the norm.

Commodity grain prices shot up this summer, led by wheat, which spiked 32 percent from its June price of \$440 a metric ton to a high of \$580 in mid-July. The agricultural price indexes have fallen back in the last three weeks, but prices could skyrocket again if fingers of extreme heat and low humidity stretch south into Nebraska, Kansas, Iowa and Missouri.

Some news sources have been quick to blame this summer's farmer misfortune on global warming. According to the Daily Kos, the increase in "droughts like these are closely linked to climate change." DK's supposed experts claim that "global warming is reducing key proteins and key minerals like iron and zinc from cereal crops sparking fears that vulnerable populations will face stunted growth and early death."

But the real culprit appears to be the 50-55 percent probability of the onset of an El Niño, according to the National Weather Service Climate Prediction Center. Nor-

mally, two out of every seven years an El Niño forms off the western coast of South America. The ocean currents and winds reverse, causing water temperatures to warm and displacing the nutrient-rich cold water that normally wells up from deep in the ocean. As a result, the warm water evaporates and heavy moisture-bearing storms slingshot up from the Equator to dump massive amounts of rain and snow on the West Coast.

But there could be a back-to-back set of El Niños as water temperature along the Pacific Equator is already warm enough to signal a coming El Niño. The Weather Service is only predicting a 50-55 percent probability, because air temperatures are not sufficiently warm enough to proclaim a full-blown El Niño, as of the last monthly readings on July 13.

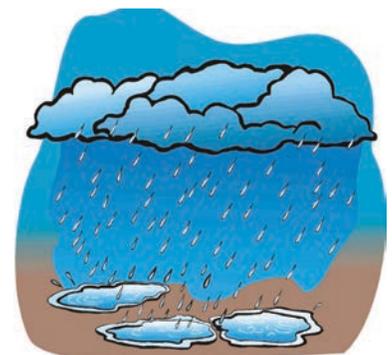
Breitbart News warned in March, as California's Central Valley and the Sierras were experiencing what would turn out to be the second heaviest rain and snowfall fall since scientific records were first produced in 1921, that there was risk of an El Niño next winter.

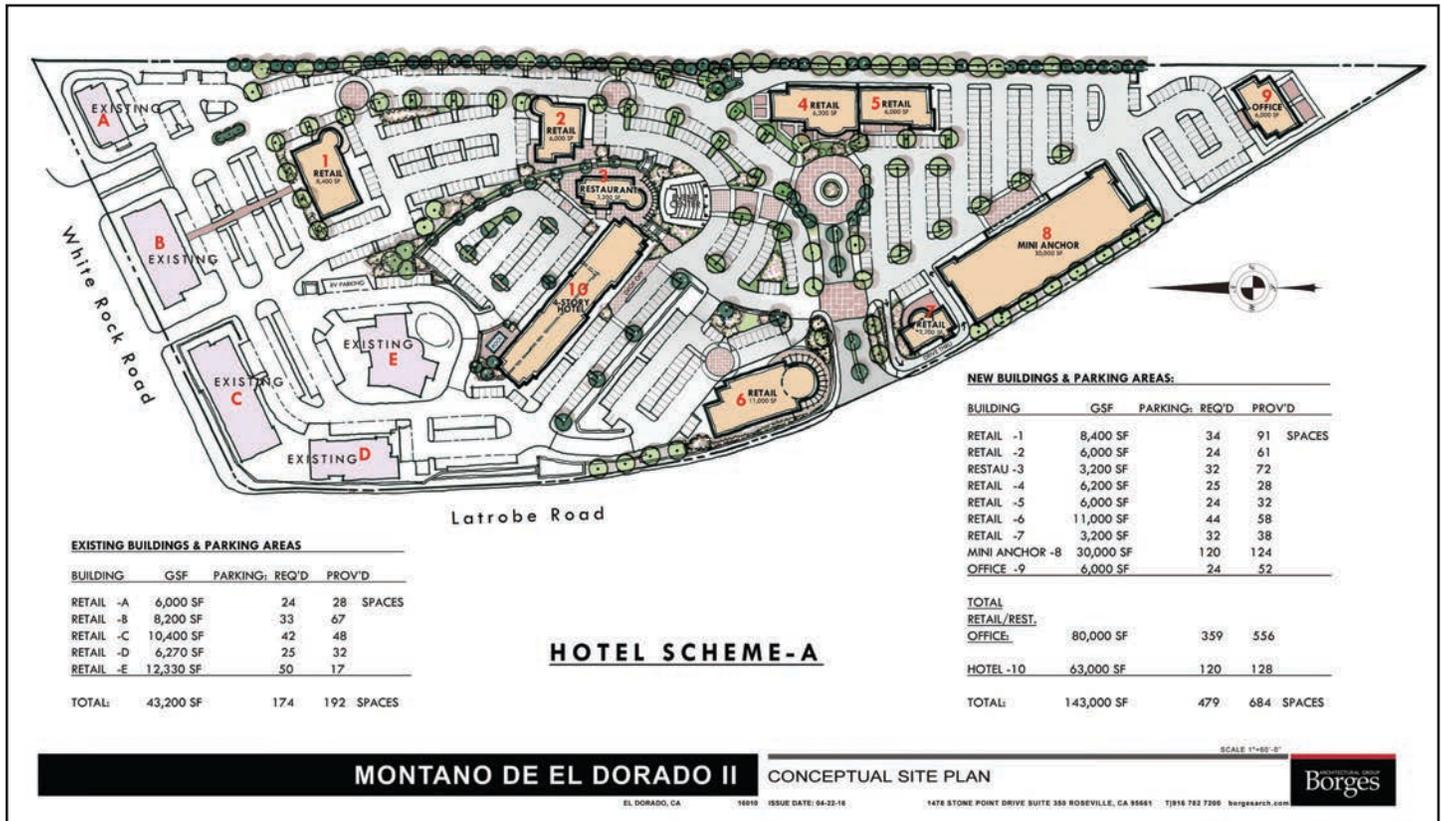
The volume of California's snowpack runoff has been so huge that 19 of California's 43 reservoirs are still above 90 percent full this late in the summer. The end of the 5-year drought, which caused extraordinary low reservoir water levels at the beginning of torrential rains, meant several dams might have catastrophically failed.

The U.S. Geological Survey's 'Surface Water' reports that 2017 precipitation was so heavy that a majority of California creeks, streams and rivers are still running at or above average for the last 4 months, as the Department of Water Resources tries to dump water before the 2018 rainy season begins in October.

With just seven weeks before the rainy season begins, risks are high that all of California's aging dams, canals and aqueducts may struggle through another big rain year.~

Credit: Chriss W. Street, Breitbart News





Conceptual site plan of proposed Phase II of Montañó de El Dorado project showing existing and proposed facilities. Map courtesy of Vinal Perkins, CEO, LLC Managing Member, and Perkins Commercial Group, Inc.

MONTAÑO DE EL DORADO RETAIL CENTER TO EXPAND

A proposed expansion of the Montañó de El Dorado retail center in El Dorado Hills has been announced, and the project is wending its way through the approval process as Phase II.

The approximately 16.8 acre project is Phase II of the Montañó de El Dorado Master Plan. The initial phase, completed several years ago, is located at the corner of White Rock and Latrobe Roads. The Phase II plan design includes additional retail space, an office building, a boutique hotel, and a small amphitheater to host occasional events.

The retail element of the project consists of eight buildings containing approximately 74,000 square feet (sf) of retail space. The retail buildings are planned to be dispersed along the eastern and western boundaries of the site, with one of the retail buildings located near the center of the site. The retail buildings would be between 24 and 50 feet in height, with some architectural elements reaching 70 feet.

An office building containing approximately 6,000 sf of office space is planned for the southernmost portion of the site, with a maximum height of 43 feet.

A four-story hotel is proposed on the

north-western portion of the project site at Latrobe Road (south of the existing Pottery World Building), and may include up to 99 guest rooms, two ground level conference rooms of approximately 1,000 square feet each, a lobby area, and other typical hotel amenities. The hotel would be located along the western boundary of the project site.

A small amphitheater is proposed near the center of the site to host occasional local events for the El Dorado Hills community and others who are visiting the area. Typical events may include plays, music, and local celebrations. The amphitheater would be constructed in a lowered grade configuration to minimize and contain noise levels from travelling into nearby neighborhoods. Sound barrier walls would surround the stage on three sides and heavy landscaping would further dampen noise as well as add ambiance. The seating area would be a combination concrete and grass “step down” area that gradually transitions to the lowered stage area.

The primary entrances to the project would be the existing signalized Post Street at White Rock Road and an extension of Post Street to the proposed Latrobe Road entrance. A right in/right out only access is proposed on Latrobe Road near the southern tip of the project site. Approximately 534 new parking spaces would be created to

serve the site.

Parking lot and building lighting would be “night sky friendly” like the existing Montañó de El Dorado retail center. During installation of outdoor lighting at the project site, outdoor lighting at the existing retail center would be converted from incandescent to light-emitting diode (LED) to conform with proposed outdoor lighting of the project site. Water-efficient landscaping, including parking lot shade trees, would be provided throughout the site and consistent with the character of surrounding landscaping.

Comments and suggestions are requested during the 30-day public comment period for the Notice of Preparation of the Environmental Impact Report regarding the environmental issues that will be analyzed.

If you have any questions, please contact Rommel (Mel) Pabalinas at the County of El Dorado, Community Development Agency, Development Services Division-Planning, 2850 Fairlane Court, Building C, Placerville, CA 95667, by telephone at (530) 621-5363, or by email to rommel.pabalinas@edcgov.us.

Additional project information can be accessed via the following web link:

<http://edcapps.edcgov.us/Planning/ProjectInquiryDisplay.asp?ProjectID=20502> ~

Credit: El Dorado County



NEW DIRECTOR FOR CAPITAL SOUTHEAST CONNECTOR

In its first board meeting under new executive director Derek Minnema, the board of the Capital Southeast Connector Joint Powers Authority (JPA) approved a \$13.1 million budget, mostly for the planning, design and engineering of a 34-mile stretch of road that could someday connect the Rancho Cordova, Folsom and El Dorado area to Elk Grove, paving the way for more connectivity in the region.



Summer - Bourne-Jones

Fairest of the months!
Ripe summer's queen
The hey-day of the year
With robes that gleam with sunny sheen
Sweet August doth appear.

—R. Combe Miller

The JPA has been working on the project since 2006 and has already planned 22 miles of the expressway, using funds from the half-cent sales tax approved in 2004 by Sacramento County voters with Measure A.

Minnema said he expects the project to be shovel-ready in five years. His top priority, after being appointed last month, is to arrange long-term funding for the Capital Southeast Connector project. Funds available from Measure A are capped at \$108 million, and the entire project is expected to cost about \$450 million.

“We are going to turn over every rock on the state and federal level,” Minnema said.

His efforts will be watched by Sacramento area building interests. The project could bring up to 25,000 jobs, according to an economic study by California State University Sacramento business professor Sanjay Varshney. Joshua Wood, CEO of construction industry advocacy group Region Builders, said he believes that Minnema has a good funding plan to get each segment on track to finish.

Since 2014, Minnema has been the project manager for the Capital Southeast Connector, serving under Tom Zlotkowski, who recently retired as executive director.

Previously, Minnema worked at transportation engineering firms Drake Haglan & Associates Inc. as a senior project manager, and at Mark Thomas as a project manager. Minnema graduated from California State University Sacramento with a degree in civil engineering. ~

Credit: Chelsea Shannon, Sacramento Business Journal



Bass Lake Action Committee
501 Kirkwood Court
El Dorado Hills, CA 95762



BLAC BOARD HEARS ROAD UPDATE, SETS NOVEMBER AND DECEMBER MEETINGS

The August 7 meeting of the Bass Lake Action Committee (BLAC) Board of Directors was held at Oak Knoll Park. The September issue of the *Bulletin* will feature highlights of the update.

The next meeting of the BLAC Board of Directors will be on Monday, November 6th, 2017, at a venue to be determined. All BLAC members are cordially invited to attend Board Meetings.

The BLAC Annual Membership Meeting will be held December 4, 2017, at the home of Fran and John Thomson. BLAC members are asked to save the date.

For further information about BLAC meetings and membership, please contact Vice President Kathy Prevost at 530-672-6836. ~

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John E. Thomson, Ph.D., Editor
doctorjet@aol.com - 530-677-3039

For additional information contact:
Vice President Kathy Prevost
blacinfo@aol.com - 530-672-6836

El Dorado County Statement Regarding Measure E Ruling

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El Dorado County Statement Regarding Measure E Ruling

Department: CAO
Date: 8/9/2017

Contact: Carla Hass
Phone: (530) 621-4609

(PLACERVILLE, CA) – The El Dorado County Board of Supervisors today issued the following statement about El Dorado County Superior Court Judge Warren Stracener’s decision regarding the constitutionality of Measure E, which was passed by voters in June 2016 and enacted or reinstated certain restrictions and policies concerning roads and traffic congestion, especially traffic issues related to new development: "Superior Court Judge Stracener last week ruled that certain aspects of Measure E are unconstitutional, violate state law, and are inconsistent with the County’s General Plan, while also upholding other aspects of the Measure. Judge Stracener found that certain provisions of Measure E were unconstitutional because they would require developers to pay more than a project’s fair share of costs to improve roads to mitigate the impacts of a project. He also held that another provision would interfere with the Board of Supervisors’ ability to manage financial affairs of the County. At the same time, Judge Stracener upheld other provisions of Measure E, including its extension of the General Plan’s prohibition of a project resulting in Level of Service F to multi-unit residential projects, not just single family projects.

"Measure E was challenged by Alliance for Responsible Planning, which is a California nonprofit public benefit corporation that focuses on issues affecting El Dorado County. The proponents and drafters of Measure E, Save Our County and Sue Taylor, intervened to defend the merits of the Measure. The County had supported the proponents’ efforts to join the lawsuit and defend the Measure. Since its passage by the voters in June 2016, the County had concerns about some provisions of Measure E. County staff had spent an exceptional amount of time working to offer potential ways to constitutionally apply the Measure so that the County could carry out its duty to enforce a law passed by a majority of the voters.

"In the lawsuit, the County’s primary concern was preserving its ability to interpret and apply its General Plan—including any amendments to it by Measure E. In the short time since its passage, a specific project had not yet been approved that would have required the Board to interpret the Measure. Judge Stracener’s decision provides clarity for future projects and, most importantly, allows the Board to apply the County’s General Plan in the context of a specific project.

"We are pleased that the decision will provide greater clarity for future projects and that the intent of the County’s General Plan in continuing to mitigate traffic impacts will continue to guide development decisions in our County."

(NOTE TO EDITOR: [Attached is a chart indicating which sections of Measure E were upheld and which were struck down.](#))