



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**
950 MAIDU AVENUE, SUITE 170, PO BOX 599002, NEVADA CITY,
CA 95959-7902 (530) 265-1222 <http://nevadacountyca.gov>

Trisha Tillotson
Community Development Agency Director

Brian Foss
Planning Director

NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memorandum

MEETING DATE: February 28, 2023

TO: Board of Supervisors

FROM: Brian Foss, Planning Director

SUBJECT: **A Resolution of the County of Nevada Certifying the Programmatic Final Environmental Impact Report (EIR23-0001, SCH#2021120435) for the Broadband Program in accordance with the California Environmental Quality Act and making certain findings concerning environmental impacts, mitigation measures and alternatives to the project, adopting a Mitigation Monitoring and Reporting Program and adopting Findings of Fact for the project contemplated by the Final Environmental Impact Report**

RECOMMENDATION: Adopt the attached Resolution certifying Final Environmental Impact Report (EIR23-001, SCH#2021120435) for the Broadband Program in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (CCR Section 15132).

FUNDING: The FEIR was funded in the amount of \$226,000 from the PG&E settlement funds and \$50,000 from a grant from the California Emerging Technology Fund. The funds were included the FY 2021-22 Information and General Services Administration Budget. No budget amendments are required at this time.

ATTACHMENTS:

1. Draft Resolution
 - Exhibit A: Findings of Fact
 - Exhibit B: Mitigation Monitoring and Reporting Program

BACKGROUND:

The County has played a role in promoting increased local broadband coverage for many years. Activities have included performing many early e-commerce training sessions for local businesses, conducting demand surveys, partnering with local providers to identify and communicate areas of need, supporting local ISPs in their applications for American Recovery and Reinvestment Act (ARRA) grants to build broadband infrastructure projects and the adoption of the Dig Once policy and the Nevada County Broadband Strategy Plan among other efforts.

In 2021, the Board of Supervisors adopted Broadband as one of its top objectives due to high-speed internet's pivotal role in economic development, education, employment opportunities, access to healthcare, and general quality of life in Nevada County. One of the initiatives to support this objective was to prepare a Programmatic Environmental Impact Report so that future broadband infrastructure projects can satisfy some or all of the CEQA requirements needed for permitting and construction. On October 12, 2021 the Board of Supervisors approved Resolution 21-455 to execute a contract with Ascent Environmental, Inc. to prepare the Environmental Impact Report. The Countywide Programmatic EIR analyzed the overall impacts and benefits from approving and permitting the construction and installation of ubiquitous high-speed Internet infrastructure throughout Nevada County so that each proposed broadband project can be evaluated in the context of the net contributions to advancing the official policy of the Nevada County Board of Supervisors.

PROJECT LOCATION:

The program area extends throughout most of Nevada County. The area in which future individual broadband projects could be implemented includes unincorporated areas of the County, City of Grass Valley, Nevada City, and Town of Truckee; it excludes federal lands and state highway rights-of-way. Unincorporated areas expected to be served by future broadband projects include the unincorporated areas of South County, Cedar Ridge, Penn Valley, Donner Summit, Washington, and other small communities.

PROJECT DESCRIPTION:

The proposed program would expand access to broadband technology throughout unincorporated Nevada County and the incorporated communities of the City of Grass Valley, Nevada City, and the Town of Truckee. The County, incorporated cities, or individual service providers would construct individual broadband projects consistent with the proposed program.

The exact alignments of future broadband projects implemented in accordance with the program are unknown at this time and would be based on such considerations as construction feasibility, local preference, and locations of sensitive environmental resources. The fiber optic lines would generally be installed underground following public or private roadways throughout the county with the intention to minimize or avoid disturbance of roadway surfaces where feasible; however, it is possible some fiber optic

line could be installed directly under roadways in areas with limited shoulder space or where existing conduit under the road may be used, avoiding new surface disturbance.

The program area would also include those areas where lateral lines are installed between public or private roadways and individual businesses or residences. Individual residence or business connections typically would be located in previously disturbed and/or developed areas (e.g., adjacent to driveways or in landscaped areas), and generally would avoid drainages and sensitive habitats. Lateral alignments would typically follow other utility installations, such as electrical. Where subsurface installation of fiber optic cable is infeasible, aerial installation on new or existing poles would occur. Access to the new conduits that house the fiber optic cable would be provided by installing access boxes (vaults) at intervals of not more than 3,000 feet along a route for an individual project.

The program could develop approximately 2,230 miles of fiber-based infrastructure along public and private roads. Construction methods that could be used include horizontal directional drilling, plowing, trenching, microtrenching, and aerial stringing.

The program would allow limited use of fixed-wireless infrastructure, which would connect to fiber optic lines or to other wireless infrastructure. When considering issuance of a use permit for an individual fixed-wireless project, the County would consider the appropriateness of the site for use of these technologies (such as challenging terrain and effects on sensitive environmental resources). Specific fixed-wireless infrastructure included in the program could include equipment (e.g., antennas, transceivers) mounted on rooftops of homes and businesses, and/or attached to existing or new utility poles or small-diameter telecommunications towers/masts. With wireless infrastructure, antennas are used in lieu of fiber to transmit signal. Repeater equipment may also be attached to these same structures to direct signals in instances where there is no line of sight between the transmitter and receiver.

ENVIRONMENTAL REVIEW:

On September 30, 2022, Nevada County released the Draft EIR for a 45-day public review and comment period. The EIR consists of an analysis of the following environmental issue areas that may be affected by the proposed program:

- Aesthetics
- Archaeological, Historical, and Tribal Cultural Resources
- Biological Resources
- Geology, Soils, and Mineral Resources
- Greenhouse Gas Emissions and Climate Change
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Noise
- Transportation

The Draft EIR was submitted to the State Clearinghouse for distribution to reviewing agencies; posted on the County's website and was made available at the Nevada County Planning Department offices at 950 Maidu Avenue, Nevada City, California and the Grass Valley Library, Bear River Library Station, Madelyn Helling Library, and Truckee Library. A notice of availability of the Draft EIR was published in The Union and Sierra Sun and distributed to a project-specific mailing list.

As a result of these notification efforts, written comments were received from two agencies (Nevada Irrigation District and California Department of Transportation), one organization (i.e., a homeowners association), one tribal representative, and individuals on the content of the Draft EIR. Chapter 2, "Responses to Comments," identifies these commenting parties, their respective comments, and responses to these comments. None of the comments received, or the responses provided, constitute "significant new information" by CEQA standards (State CEQA Guidelines CCR Section 15088.5).

A total of 24 comments were received on the Draft EIR. The written comments received on the Draft EIR and the responses to those comments are provided in the Final EIR. The most common comment received was regarding potential health effects of radio frequency emissions. A Master Response to this issue is included in the Final EIR. The Master Response references the Telecommunications ACT of 1996 which as amended (47 USC 332(c)(7)(B)(iv)), prohibits "local government [from] regulat[ing] the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." Because of the Telecommunications Act, the County cannot deny a project based on RF emissions, as long as the project complies with FCC limits.

The Final EIR identifies significant or potentially significant environmental effects in the areas of archaeological, historical, and tribal cultural resources; biological resources; geology, soils, and mineral resources; hazards and hazardous materials; hydrology and water quality; and noise. All significant or potentially significant environmental effects can be reduced to a less-than-significant level with mitigation. The analysis concludes that the proposed program would not result in significant and unavoidable impacts. Mitigation Measures have been identified that would apply to future infrastructure projects so that impacts to the environment would be less than significant. The attached Mitigation, Monitoring and Reporting Program (MMRP) contains the list of the applicable mitigation measures.

SUMMARY:

A Program EIR provides a regional consideration of cumulative effects and includes broad policy alternatives and program mitigation measures that are equally broad in scope. This program EIR provides a regional scale analysis and a framework of mitigation measures for subsequent, site-specific environmental review documents

prepared by lead agencies in the County as individual broadband projects are identified and designed and moved through the planning, review, and decision-making processes.

A program EIR may serve as a first-tier document for later CEQA review of individual projects determined not to be wholly within the scope of the program EIR. These project-specific CEQA reviews, if needed, will focus on project-specific impacts and mitigation measures and need not repeat the broad analyses contained in the program EIR. This document addresses environmental impacts to the level that they can be assessed without undue speculation (State CEQA Guidelines Section 15145).

If a subsequent project or later activity consistent with the program would have effects that were not examined in this program EIR, an initial study may be prepared to determine the appropriate level of environmental review. If another environmental document is needed, whether it is a notice of exemption, negative declaration, mitigated negative declaration, or EIR, the program EIR can be used to simplify the task of preparing the subsequent environmental document, as indicated in State CEQA Guidelines Section 15168(d). For instance, regional influences, secondary effects, cumulative impacts, and broad alternatives that apply to the overall program can be incorporated by reference, allowing the later environmental document to focus solely on the new effects, such as site-specific environmental impacts related to project design that had not been previously considered in the program EIR. Any project-specific impacts that are too speculative to define at the program level would be resolved during CEQA review of individual projects.

The program area includes areas within the incorporated portions of the county, City of Grass Valley, Nevada City, and Town of Truckee. As defined by State CEQA Guidelines Section 15381, these local agencies are considered responsible agencies (i.e., public agencies other than the lead agency that have the authority to carry out or approve a project). To approve later activities under the program, the responsible agencies would make findings for each significant effect disclosed in the EIR, file a Notice of Determination, and review subsequent projects within their respective jurisdictions to determine whether they are within the scope of the program EIR or require subsequent environmental review.

RECOMMENDATION: Staff recommends that the Board of Supervisors take the following actions:

- I. Adopt the attached Resolution Certifying the Final Environmental Impact Report (EIR23-0001, SCH#2021120435) for the Broadband Program in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (CCR Section 15132).

Item Approved by: Brian Foss, Planning Director