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Yuba Highlands EIR; c/o Charles Thistlethwaite, AICP,
Principal Planner;
Yuba County Department of Community Development;
915 -8th Street, Suite 123; Marysville, CA 95901

Re: Comment on the Draft Yuba Highlands Specific Plan and Draft Environmental Impact Report

Dear Mr. Thistlethwaite,

Thank you for the opportunity to comment on the Draft Yuba Highlands Specific Plan and Draft Environmental Impact Report (DEIR), on behalf of Sierra Club - Sierra Nevada Group, Friends of Spenceville, Sierra Foothills Audubon Society (SFAS), South Yuba River Citizens League (SYRCL), Rural Quality Coalition (RQC), and the General Plan Defense Fund. These organizations oppose the proposed Specific Plan in its present form, and ask that the County and applicant consider the alternative projects described in this letter. Any such alternative and its EIR must, however, be fully compliant with California Planning Law, CEQA and all other applicable laws and regulations. The proposed Specific Plan and DEIR are woefully out of compliance.

Overall, the DEIR focuses on generalized mitigation measures for project level development impacts, and ignores the impacts of the entirety of this project which CEQA requires be evaluated at this programmatic stage of the development review process. Such major issues are the greatest concerns of the Planning Commission, Supervisors, and the public. These critical issues are summarized in our Introduction and in greater detail, along with other issues, in Sections II and III.

I. Introduction - Specific Plan Violates California Planning Law, DEIR Critically Flawed,

Analysis of the large scale impacts arising from urbanization of this rural area are postponed to future study in the future or attempts are made to mitigate them with measures more typical at the specific development project stage. This approach creates a critical flaw in the DEIR. Specifically:

1. A. The Specific Plan Fails to Comply With Government Code §65451.

The consultants were asked to evaluate a Specific Plan which is in violation of California Government Code § 65451, which requires that Specific Plans include detailed public facility and service master plans and financing plans. The lack of these plans required the EIR consultants to “fill the gap” by recommending that the master plans be prepared at a later date. Thus, an analysis of these critical components of the project, and their impacts, is not possible at this time. This improperly postpones disclosure and environmental review of necessary critical elements of the Specific Plan which should be reviewed at his time, and provides inadequate mitigation as described below.

B. Extensive necessary analysis is improperly deferred to later study.

Improperly deferring analysis of impacts to public facilities and services to the future preparation of master plans provides absolutely no information to assist the public and the decision-makers in evaluating the effects of the proposed Specific Plan. This elementary deficiency is repeated throughout the DEIR. The courts have repeatedly rejected this approach. In *Kings County Farm Bureau v. City of Hanford* (1990) the EIR's groundwater impact analysis was determined to be inadequate because it relied on a vague "mitigation agreement" without demonstrating that water would be available for purchase. In *Oro Fino Gold v. County of El Dorado* (1990) the post-approval formulation of plans was considered inadequate mitigation and that "*in the absence of overriding circumstances, the CEQA process demands that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an accountable arena.*" In *Sundstrom v. County of Mendocino* (1988) it was noted that mitigation measures are only adequate if the EIR demonstrates that the approving agency possessed "*meaningful information' reasonably justifying an expectation of compliance.*" Mitigation measures consisting of recommendations for later study or adoption of undetermined standards, ordinances, and fees cannot support findings that impacts are mitigated below level of significance. Information must be provided in the present DEIR for the Specific Plan which demonstrate that impacts of the Specific Plan will be mitigated below level of significance.

2. Analysis and mitigations for impacts of large-scale urban development are ignored or improperly deferred.

By deferring discussion of major impacts to later study, the DEIR improperly fails to address the impacts critical at this macro planning decision stage. For instance:

A. Traffic.

Is urban scale development in the Yuba Highlands area supportable at this time given the lack of regional funding for major off site road and highway improvements needed to accommodate additional traffic generated by the project? Is a regional solution, many of which have been unsuccessfully explored for many years, even possible?

The DEIR notes that impacts to SR 65 are unavoidable, but fails to address other impacted roads and highways throughout the region such as SR 20 and circulation in Marysville and Linda, and fails to suggest project alternatives which could

address these regional impacts. Analysis of these issues will reveal significant unavoidable regional traffic impacts.

Instead, the DEIR focuses on the more localized issue of the southerly access roads and other local roads and the degree of improvement needed to serve the project, while ignoring the bigger issues, such as:

-Should the southerly access even be allowed when it increases impacts to the regional circulation system and may result in major growth inducement;

-Should any major development in this area be permitted at this time given the constraints upon funding improved regional circulation; and

-What project alternatives would address these regional circulation impacts?

These are the major issues which should be addressed in this program level EIR, while there is opportunity to make appropriate decisions. After the Specific Plan is adopted, individual development projects will proceed regardless of the impacts on the regional traffic situation.

The DEIR is deficient without a thorough analysis of all of the regional traffic issues, alternatives, and feasibility of mitigation measures.

In particular, a westerly access to the project must be explored. It is clear that a major new circulation system is needed to support a project of this scale. The project proposes piecing together a southerly access via Smartville Rd. and Waldo Road which would result in significant impacts to the Spenceville Wildlife and Recreation Area and the circulation system in Wheatland and SR 65 and encourages a commuter orientation. We suggest that there should be no access to Smartville Rd. and Waldo Rd. and that westerly access via Hammonton Smartville Rd should be explored. This could be done in two ways:

(1) Improvement of Hammonton Smartville Rd. and associated roads accessing the Lindhurst Ave. exit/ on ramp. This alternative would require improvements in the Griffith Rd. to Lindhurst Ave. ramps road segments which could be difficult and would impact existing residents. However, it should be explored as a possibility.

(2) A preferred alternative which we suggest is described in detail in Attachment A by Mark Chainey and should be discussed in the EIR. This southwesterly alternative would access SR 65/70 from Hammonton Smartville Rd. to Rancho Rd. via a new roadway connection. Specifically: All project traffic originating from the project's western access point at Hammonton-Smartville Rd. seeking eastbound SR-65 access toward Wheatland and Roseville via SR-70 Lindhurst Ave. exit/on ramp could be intercepted at the Brophy Rd./ Hammonton-Smartville Rd. intersection and redirected east along Brophy Rd. to the beginning of a

proposed new road alignment at the Brophy Rd./North Beale intersection. The new road alignment would continue due east, providing a direct and highly improved route with easy access to the SR-65 Forty-Mile Road exit/on ramp (1/4 mile SW of Ostrom Rd./Forty-Mile Rd. junction) and the Rancho Road/Hwy 65 junction that currently have very low usage. This alternative would alleviate unacceptable levels of congestion at the SR-70 Lindhurst Ave. exit/on ramp and provide an efficient route toward Wheatland and the metropolitan areas of Roseville while eliminating traffic and road expansion impacts to the Spenceville Wildlife Area and Recreation Area.

A more detailed discussion is in Section III of this letter.

B. Public Facilities and Services.

Sewer, water, drainage, financing, parks, and fire safe master plans have not yet been prepared. The school construction lag time has not been resolved. Costs for sheriff and general government services are undetermined. As a result, the DEIR recommends that there be new Specific Plan policies and master plans, and improperly concludes, without evidence, that future preparation of these master plans will ensure mitigation of project impacts upon public facilities and services.

The public and the decision-makers cannot determine if future master plans will ensure adequate provision of facilities in advance of their preparation. These master plans must be prepared before the EIR is completed. Mitigation simply cannot be assured without knowing these costs, feasibility, and impacts.

The following questions must be answered in the EIR:

- Are the proposed facilities and services feasible given the absence of comprehensive cost estimates or a Financing Plan?
- Could the costs be so high that the project is infeasible? Could this result in eventual pressure to reduce the level of services promised? Could this result in failure of the special assessment districts, leaving the County taxpayers holding the bag?
- Would a more rural level of development, requiring a lower service level, be more appropriate in this area?

The DEIR is inadequate without a thorough analysis, at this time, of these issues and feasibility of mitigation measures.

C. Beale AFB.

What are the socio-economic impacts of impinging on Beale AFB? These major land use compatibility issues are best dealt with at this Program level. Yet the DEIR simply provides minor mitigation measures such as a perimeter fence and future evaluation of development projects against the Beale AFB Comprehensive

Land Use Plan (CLUP) (but, **ineffectively**, after the uses have already been approved as to location in the Specific Plan).

There is no evidence that this minor degree of mitigation can be effective. Should the project be substantially revised with the goal of genuinely addressing land use compatibility impacts with Beale AFB by locating development distant from the Beale boundaries? What will be the impact of urban encroachment on the Base as military missions change in the future? How can Beale maintain flexibility to allow for modern new military systems and missions which we cannot now envision? Is there the potential for conflict between civilian and military radio frequency systems?

Because the DEIR improperly concludes that minor mitigation measures will mitigate potential impacts to operations of Beale, discussion of more far reaching measures such as design alternatives is curtailed. The centrally-clustered down-scaled alternative projects we suggest should be discussed in the EIR so as to provide a full range of alternatives which address the Specific Plan's major impacts so that decision makers can fully evaluate available mitigation.

Comprehensive land use planning for the Beale area is out of date and does not address the potential for changing missions at the Base in the future:

- A Joint Land Use Study funded by the Department of Defense is currently underway for the area around Beale. Until this study is complete, no decision should be made on this project.
- The Beale Comprehensive Land Use Plan has not been fully updated since its initial preparation in 1984.
- The Yuba County General Plan Land Use Element has not been revised since Government Code § 65302(a)(2) was amended to require that the Land Use Element consider the impact of new growth on military readiness activities of adjacent military installations. Therefore, the Yuba County General Plan is not legally sufficient to support further land use decisions in the Beale AFB area, including Yuba Highlands.

The DEIR fails to comply with CEQA without a thorough analysis of potential impacts on Beale AFB in the future and analysis of a range of mitigation measures and alternatives, including the possibility that potential conflicts between the proposed residential development and activities of Beale, including aircraft operations and noise generated by military aircraft, could motivate the Department of Defense to close the base.

D. Is this a New Town or just sprawl?

Commercial and industrial development are not scheduled until the last phase, and there is no requirement or assurance that it will occur. This is often the experience with new town proposals. Very strong demand for commuter residential is so usually results in the build-out of supposed new towns as

sprawling subdivisions unless there are strict requirements for simultaneous phasing of jobs increase and housing increase. Yet the DEIR concludes that impacts of the project on jobs-housing balance will be less than significant because the developer estimates that 1/3 of the residences will be second homes and 1/3 retirees, raising the jobs to housing ratio (DEIR page 4.9.10, para. 2.) This assumption is not supported by any evidence, and there is no evidence of when the desired jobs to housing ratio will occur.

The EIR must discuss these issues. We believe that a reasoned analysis will demonstrate that the job to housing imbalance will result in significant impacts unless concurrent jobs and housing development are required as a mitigation, or the project is downscaled so that impacts of housing-only will not be significant.

E. Water Supply.

The project lacks a water supply. The DEIR says that the project's water supply will rely upon aquifers which are hydrologically connected to the Yuba River. (DEIR App. G, CH2M Hill, 5/7/03 pp. 2, 5; CH2M Hill 8/11/03, pp. 5, 9, 10.) ("...the aquifer that will supply water to the proposed project is, in part connected to the Yuba River..." *id.*, p. 9.) Therefore, the project has no entitlement to groundwater under the Agreement between the Yuba County Water Agency and the River Highlands CSD, June 1, 1999, because that Agreement states that the Agency will provide groundwater only from aquifers "which shall not be directly connected hydrologically to the Yuba River." DEIR App. C, p. 9, § 4.f. Same, DEIR p. 4.3-29.

If it were proposed to amend the June 1, 1999, contract to allow the project to use groundwater hydrologically connected to the Yuba River, approvals may be required by State and Federal agencies having regulatory jurisdiction over the waters of the Yuba River if it is determined that the underground water is part of the underflow of the Yuba River. Determination of whether the source of groundwater is part of the underflow may require lengthy studies, and there is no assurance that necessary permits for use of the underflow water will be granted.

In addition, *"it should be noted that according to CH2MHill there is presently insufficient data available to evaluate groundwater extraction effects on the Yuba River."* (DEIR page 4.3-29 para. 3.) These studies could be long and expensive. The fact that they have not been conducted brings the water supply assurance in question even if the June 1, 1999, contract were amended to allow use of groundwater hydrologically connected to the Yuba River. As a result, impacts upon the flow Yuba River may be unavoidable without significantly down-scaling the project.

All of these key impacts must be discussed in detail in this programmatic EIR because they are issues which involve decisions best made at the land use planning stage or involve cumulative impacts best dealt with early in the entitlement process when greater flexibility in providing solutions is possible.

While the DEIR is a Program EIR, this does not dismiss the agency's responsibility to address impacts in as great detail as possible at this stage, or to create mitigation measures for which implementation success is measurable. *"A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible."* (CEQA Guidelines §15168(c)(5).) Here, the DEIR does not provide the level of detail necessary to support the conclusion that public facility and service impacts can be mitigated.

A Program EIR is properly used to discuss these major components of the development of such a large area, before detailed subdivision maps and project plans are prepared. CEQA notes that an advantage of Program EIRs is that they *"allow the Lead Agency to consider broad policy alternatives and program wide mitigation measures at an early time to delay when the agency has greater flexibility to deal with basic problems or cumulative impacts..."* (CEQA Guidelines §15168 (b)(4)).

3. Effectiveness of Mitigation Measures Not Adequately Demonstrated.

The DEIR's avoidance of the discussion of many major impacts and the selection in many cases of the lowest possible level of mitigation avoids key issues and violates CEQA's intent that the EIR provide substantial evidence demonstrating that the recommended mitigation measures are capable of: *"(a) avoiding the impact altogether by not taking a certain action or parts of an action; (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (c) rectifying the impact by repairing, rehabilitating, or restoring the impacted environment; or (d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.* (CEQA Guidelines §15370.)

4. The DEIR jumps from program EIR to development project EIR.

The EIR fails in its attempts to provide program wide analysis in most instances by improperly deferring analysis of macro-level planning issues and impacts to a future date, yet attempts to address numerous development micro-level impacts at this time.

The DEIR ignores the impacts of the large issues and how they can be mitigated. For instance:

-Mitigation Measure 4.1.2d defers determination of major land use incompatibility issues to future analysis during the Planning Director's Special Permit process.

-Mitigation Measure 4.3.5 defers water quality mitigation to the State permit process when there is no evidence at this time that the overall system planned is even feasible given uncertainty as to the availability and location of disposal fields and the vagueness of whether or not tertiary treatment will actually be used.

-Biotic surveys which have not been conducted are treated as deferred mitigation, without evidence that mitigation is possible and without surveys which should be conducted at this stage to accurately predict impacts.

Mitigation Measure 4.3.7b assumes that there will be adequate quality water supply when evidence at this time shows lack of contractual entitlement to water, as discussed in § I.2.E, *supra*, of this letter, and potential regulatory uncertainties arising from hydrologic connection to the Yuba River.

On the other hand, the DEIR attempts to provide project level analysis by routinely characterizing project level impacts as significant yet mitigable by measures which appear to be detailed but which are not specific to the projects which will be constructed in the Yuba Highlands area. This may have the effect of curtailing future environmental review at the development project stage because, in theory, a significant impact was identified and mitigated in the Program EIR, unfortunately by a generalized measure not formulated specifically for the project. For instance:

-Mitigation Measure 4.1.5c maintains that a 450 foot buffer and a fence will reduce impacts on the Spenceville Wildlife and Recreation Area to less than significant. The major impacts of a major new urban area directly next to this Preserve are not discussed or disclosed, and the conclusion that the buffer and fence will minimize impacts to less than significant is not supported.

-Mitigation Measure 4.1.7b maintains that a fence will solve security issues with Beale AFB, which is not supported by evidence.

-Mitigation Measure 4.1.9b attempts to mitigate construction period impacts by location of coordinated construction staging areas. This level of mitigation is inappropriate at this macro planning level stage. It makes the DEIR appear to be a document which addresses impacts down to the detailed construction phase, avoiding the need for future environmental review. Yet macro scale impacts are not discussed, as discussed previously.

5. Planning Director's Special Permit does not constitute mitigation.

The DEIR proposes a master mitigation measure comprised of a permit process allowing the Planning Director to deny or approve subsequent development in the Specific Plan area, other than single family homes, including commercial development and all public facility and service master plans. This is intended as a catch-all method of mitigating impacts not analyzed at this time. This measure inappropriately delays impact analysis on program level issues which should receive attention at this time, such as circulation and public facility impacts.

The Planning Director's Special Permit seems to be an attempt to allow the EIR to serve as the EIR for more detailed development levels such as commercial site plans or road or facility master plans after the Specific Plan is adopted. It is unlikely that this broad-brush program EIR will adequately cover specific impacts of individual projects. The Planning Director's Special Permit cannot be used as the functional equivalent of CEQA; though it is considered a discretionary review, it does not include the same environmental analysis and disclosure required by CEQA and is only reviewed by decision makers (Planning Commissioners) in the usual "*accountable arena*", discussed in *Oro Fino Gold vs. County of El Dorado* (1990) if appealed. There is no evidence that the use of the Planning Director's Special Permit process will mitigate potential impacts. In *Sundstrom*

v. County of Mendocino (1988) it was noted that mitigation measures are only adequate if the EIR demonstrates that the approving agency possessed "meaningful information" reasonably justifying an expectation of compliance."

6. All available mitigation not explored.

An EIR must explore all available mitigation measures even if they are not selected (*CEQA Guidelines § 15126(c)*) and *Stevens v. City of Glendale* (1981).) In some cases, the DEIR "drops the ball" and concludes that an impact is unavoidable when, in fact, mitigation measures may be available. (A major example is the Waldo Road, southerly access which would result in significant traffic impacts. The obvious mitigation would be access to the west via Hammonton-Smartville Rd. with no access via to the south via Smartville Rd. and Waldo Rd. Because the Smartville/Waldo Rd. route represents one of the most troublesome aspects of the project design, we have included our own in-depth analysis of the route and an alternative alignment. We detail this mitigating alternative in Attachment A. Other examples include unavoidable off site traffic noise impacts (Impact 4.5.1) and project contributions to cumulative impacts upon open space and wildlife habitat resources (Impact 4.4.13). We recommend feasible mitigation measures to these impacts in our detailed discussion.) In other cases, minimal mitigation is selected when more effective mitigation may be available. (An example is the recommendation of a fence to mitigate potential security impacts to Beale AFB (Mitigation Measure 4.1.7b).) We note other examples specifically in our detailed discussion.

7. Full range of alternatives not discussed.

The creation of the environmentally superior alternative cannot be accomplished without evaluating a full range of alternatives, which will produce information sufficient to permit a reasonable choice of alternatives as to environmental aspects. (*San Bernardino Valley Audubon Society v. County of San Bernardino*, 1984). The DEIR discusses only three alternatives: No Project, Community Plan, and Residential Clustering. Only one of the alternatives represents a reduced scale (Community Plan). But this alternative for approximately 4,000 homes is not a significant variation from the 5,000 homes proposed by the project. In addition, the alternatives are not devised to address the elimination or reduction of the level of specific impacts as intended by CEQA (*CEQA Guidelines, § 15126.6(b) and (c)*).

A greater range of alternatives must be discussed. **We suggest two additional alternatives for discussion:**

- 1. 1000 units, clustered on approximately 300 acres in center of site at 4 homes/ acre, small neighborhood commercial site, westerly access via Hammonton-Smartville Rd.**
- 2. 580 units, clustered on approximately 1750 acres at 1 home per 3 acres, small neighborhood commercial site, westerly access via Hammonton-Smartville Rd.**

We outline these alternatives in detail later in this letter (Section II, 6.). Without a full range of alternatives, the DEIR fails to comply with CEQA.

8. Conclusion

We request that either the project be 1) denied at this time or 2) processing be curtailed until an adequate Specific Plan with public facility master plans is submitted.

A. Immediate Denial.

We urge that the project be immediately denied because:

-It fails to comply with Government Code §65451 and CEQA, and

-It is clear that major urban scale development in the entire River Highlands area is not appropriate at this time given the flaws in the regional circulation funding system and the inability to demonstrate how the developers will provide cost effective public facilities and services to the area. Policy plans such as the General Plan and Community Plan are long term in nature and their implementation may not proceed for many years, based on the presence of facilitating conditions such as population growth, extension of public facilities, and the presence of a funding climate to provide public facilities such as regional roads and highways. These conditions can also provide constraints to development, which appears to be the situation in the River Highlands area.

Under State law, this denial can proceed without further environmental analysis.

B. Curtail Processing.

Alternatively, processing of the Specific Plan application should be curtailed until the appropriate public facility and service master plans and financing plan have been submitted and the Specific Plan contains the information required by Government Code §65451. If processing then continues, a revised DEIR must be prepared because of the substantial changes, new information, and expected new significant impacts. Because of inadequacies in the General Plan as well as changed conditions and ongoing encroachment studies relative to Beale Air Force Base, a revised General Plan and Community Plan Land Use Map for the River Highlands should be completed before further processing of this Specific Plan. If the project is ever approved, it is clear that a substantially downscaled project would be necessary as well as elimination of the southwesterly Smartville Rd./ Waldo Rd. access in favor of a new circulation system to the west via Hammonton-Smartville Rd. and perhaps a new connection to SR 65/70 via Rancho Rd.

If processing continues, we urge the County to commit the resources necessary to allow the consultants to conduct the additional analysis and mitigation formulation which will be necessary to fully address a revised Specific Plan consistent with Government Code §65451, and our comments.

Our detailed comments follow.

II. THE SPECIFIC PLAN FAILS TO COMPLY WITH GOVERNMENT CODE §65451.

Government Code Section 65451(a) requires that “A specific plan shall include a text and a diagram or diagrams which specify all of the following in detail”:

“(1) The distribution, location, and extent of uses of land --- within the area covered by the plan.”

“(2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.”

“(3) Standards and criteria by which development will proceed ---.”

“(4) A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).” (emphasis added).

1. The Specific Plan violates § 65451(a)(2) by failing to specify the location of proposed public facilities.

The Specific Plan proposes to discharge treated wastewater on the project's golf course, and on unspecified "nearby off-site, privately owned existing irrigated pasture land." (Specific Plan, p. 87.) The Specific Plan violates § 65451(a)(2) by failing to disclose the size and the location of the proposed "off-site privately owned" pasture land that will receive treated tertiary wastewater, and the size and location of the facilities, including pump stations and pipes, that will transport wastewater to the hoped-for off-site discharge area. The DEIR assumes, without basis, that such a site will be readily available "nearby". (DEIR p. 4.3-24.)

There is no reason to assume that a landowner will allow discharge of effluent onto pastureland of sufficient (unknown) size "nearby" which would meet the requirements of the Regional Water Quality Control Board. There is no assurance that private landowners near the project site would choose to accept even treated wastewater, and the discharge site must be deemed suitable by the Regional Water Quality Control Board and contoured so that the effluent will not flow to where it is not wanted. If no suitable discharge site is available "nearby", construction of a pipeline to transport treated effluent to a more distant discharge site may or may not be financially feasible. The DEIR says that there is a proposed site near the proposed well field, which is likely unacceptable due to potential for contamination of the project's water supply.

The Specific Plan shows the proposed location of the wastewater treatment plant, but fails to disclose the size or configuration of this or any other facility, and fails to disclose the site and size of the winter wastewater treatment ponds.

The Specific Plan discusses the alternative of using the Beale AFB wastewater treatment plan, but Beale has not agreed to do this, and reportedly has refused.

The Specific Plan fails to show the location of the proposed wells, pipes, and pumps to supply to bring raw water from the wells to the on-site water treatment plant (if adopted), nor the location and size of the water treatment plant near the wellfield which is the preferred alternative. It

appears from the DEIR, pp. 1.12-17 though 26 that the applicant has not determined the location or size or type of components of the water supply system and mistakenly thinks that the elements of the water supply system, and its financing, need not be described in the Specific Plan at this time.

Proposed well sites shown on earlier documents may not be usable by the project because the project's contract for is limited only to groundwater not directly connected hydrologically to the Yuba River, which may preclude use of those wells. (See prior discussion, *supra*, p. 6, §II.2.E.)

The Specific Plan fails to show the location of proposed drainage facilities, including detention basins. It also fails to include a master plan for roads.

The DEIR, p. 4.11-12, says that there will be six schools, but the Specific Plan show locations for only three schools, and does not disclose the locations of the other three schools.

The DEIR recommends the adoption of numerous new Specific Plan Policies to address the numerous deficiencies of the draft Specific Plan.

2. The Specific Plan violates § 65451(a)(4) by failing to describe financing measures necessary to construct, operate, and maintain public and private facilities needed to support the project, and by failing to describe a program of implementation measures, including regulations, programs, and projects.

The Specific Plan lists some very general policies and principles that will govern financing measures that may be adopted in the future. Page 117, states that a "Phasing and Financing Plan" shall be prepared later, even though § 65451(a)(4) requires that financing measures be part of the Specific Plan now. Very general policies and principles that will guide financing measures that may be adopted in the future are briefly discussed on pp.17, 40, 125.

The draft Specific Plan does not include a program of financing measures, and does not comply with Government Code § 65451(a)(4) by any stretch of the imagination.

The Specific Plan fails to provide even the minimum of information recommended by *The Planner's Guide to Specific Plans*, (1998) published by the Governors Office of Planning and Research, which is incorporated herein by reference. See <http://ceres.ca.gov/planning/specific/>.

The Planner's Guide recommends that the following information be included in any specific plan regarding capital improvements: (a) estimated cost of capital projects identified by the specific plan's infrastructure plan; (b) the measure by which each capital project will be financed; and (c) identification of parties responsible for completing each proposed improvement. (*Guide*, 1998, *supra*, Part II, p. 8.)

As to financing measures for implementation of proposals other than capital improvements, *The Planner's Guide* recommends inclusion of the following: (a) list and description of projects needing financing; (b) cost estimates; (c) the measures by which each specific plan proposal will be financed; (d) identification of parties responsible for completing each proposal.

The conspicuous lack of any financial information and financing plan goes to the very heart of the feasibility of the project, construction and operation of public facilities, and implementation

of mitigation measures; and raises concerns about potential failure of the sewage disposal, stormwater drainage systems and other public facilities after project completion due to uncertain financing for operations and maintenance. The omission of any cost estimates is perhaps a tacit admission that the costs of constructing and maintaining functional public facilities which comply with applicable laws and regulations are unknown, or would be unacceptably high. **Failure of funding for constructing, maintaining, or operating public facilities could lead to reduction of level of service, and/or place the burden upon Yuba County taxpayers.**

Likewise, there is **no information about the projected cost of operating and maintaining the water supply, drainage, wastewater storage, treatment, and disposal facilities.** What will be the cost, and who will pay it? There are no projections of anticipated annual operating costs, annual maintenance costs, and projected costs or frequency of "major" capital repair and replacement costs. Assessments and special taxes for water supply, roads, sewer and stormwater service within a County Service Area cannot be increased if there is a majority protest by the property owners in an election. (See Calif. Const. XIII.D (4).)

The Fiscal Impact Analysis (DEIR App. J), assumes that all facilities will be constructed, without explaining how they are financed. It is not compliance with § 65451(a)(4).

Likewise, the Specific Plan fails to describe a program of implementation measures, regulations, and projects required by § 65451(4).

The DEIR recommends that numerous new Specific Plan Policies be adopted to address these deficiencies.

III. THE DEIR FAILS TO COMPLY WITH CEQA

1. Impacts on Community Services and Public Facilities

The DEIR recognizes the potential for significant impacts resulting from inadequate provision of public facilities and services recommends that various master plans be prepared (parks, water, sewer, drainage, financing, fire safety) and that additional study be undertaken in the future to determine need for sheriff facilities and general government services and their cost.

A. The DEIR's findings that impacts to community service and public facilities are avoidable and will be mitigated is not supported by evidence due to lack of financing measures to fund public facilities and community services.

Without completion of the program of financing measures required by Government Code § 65451(a)(4) and the future master plans recommended by the DEIR, there is no evidence that impacts can be mitigated. For that reason, impacts relating to proper provision of public facilities and community services in DEIR Chapters 4.11 and 4.12, and elsewhere, must be considered unavoidable and unmitigated..

Of particular concern is the fact that the actual costs of the public facilities and community services are unknown. Therefore the cost per unit to construct facilities for these services is not known. Operation and maintenance costs have also not been estimated. The costs may be so high that the project is infeasible which could result in

eventual pressure to reduce the level of various services promised. Mitigation simply cannot be assured without knowing these costs.

In some instances, large scale development proposals dependant on special districts with very high mitigation fees and ongoing operation and maintenance costs have failed. The DEIR should discuss this potential and the impacts which could result.

The 1997 River Highlands CSD Community Facilities Plan estimates of costs for circulation, drainage, water, and wastewater systems are outdated and no longer fully relevant to this proposed project. Water supply and sewage treatment feasibility studies were prepared by the applicant, but these proposals are vague and not costed out.

While this DEIR is a Program EIR, this does not dismiss the agency's responsibility to address impacts in as great detail as possible given the action at hand or to create mitigation measures for which implementation success is measurable. *"A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible."* (CEQA Guidelines, §15168 (5).) In this instance, the level of detail in the DEIR is not provided to support the conclusion that public facility and service impacts can be mitigated since the following are unclear:

- The actual need which will be generated by the new population for certain services
- The full extent of various services proposed at this time
- Whether or not proposed facilities and services are feasible given the absence of comprehensive cost estimates or a Financing Plan.

In *Oro Fino Gold v. County of El Dorado* (1990) the post-approval formulation of plans (such as the facility master plans recommended in the DEIR) was considered inadequate mitigation and that *"in the absence of overriding circumstances, the CEQA process demands that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an accountable arena."* Future adoption of master plans by a Community Services District not under the jurisdiction of the Board of Supervisors and not subject to review by the Planning Director, for example, constitutes an accountable arena on an environmental decision which should be made now. In *Sundstrom v. County of Mendocino* (1988) it was noted that mitigation measures are adequate only if the EIR demonstrates that the approving agency possessed *"meaningful information' reasonably justifying an expectation of compliance."* Here, the information available on the actual feasibility of services and facilities which may be needed or proposed to support the development is very thin and does not constitute *"meaningful information"*.

As examples, the DEIR, in Chapter 4.11 concludes that a number of impacts are mitigated to less than significant, without any evidence supporting those conclusions:

(1) Fire Protection and Emergency Services, Impact 4.11.1. In the discussion of Impact 4.11.1 it is admitted that there could be "...significant, short term inadequacies in the provision of services prior to completion of enough development to adequately fund facilities." (DEIR page 4.11-16) However, Mitigation Measure 4.11.1e ignores this very important public safety problem.

(2) Libraries, Impact 4.11.4. This discussion concludes that demand for new library services in the area will be generated by the project and that funding is unlikely. The conclusion that impacts are less than significant is unsupported. Impacts should be considered significant and the applicant should be required to fund library service.

(3) Schools, Impact 4.11.5. This discussion concludes that there is a need for 6 new schools and says that mitigation will be provided by State funds. State law does not preclude the open discussion of potential impacts in an EIR. The DEIR does not disclose when State school construction funds will be available, if there will be a shortfall, or if there will be a funding gap during the early stages of development. In addition, only 3 school sites have been identified according the DEIR (page 4.11-21, final para.). Yet 6 schools will be needed in the River Highlands area (including a high school). Impacts should be considered significant and not mitigated or unresolved

(4) Cemetery Districts, Impact 4.11.6. This discussion concludes that the project will generate a need for new cemeteries, yet no land is provided in the plan area and there is no requirement that it be provided. However, this impact is not determined to be significant. Rather the discussion focuses on the physical impacts of cemetery construction which are determined to be less than significant because environmental review will be conducted at a later date. This is a faulty conclusion since there is no evidence at this time that the physical impacts can be mitigated. Impacts must be considered significant and not mitigated or unresolved at this time.

(5) Cumulative Impacts on Community Services, Impact 4.11.7. This discussion notes that the Community Plan EIR resolved this issue by discussing the need for community services to serve the entire River Highlands area and determined that land development be coordinated with provision of services. However, the Specific Plan, as discussed previously, does not state how these community services will be provided and financed. Thus, the intent of the mitigation in the River Highlands EIR has not been met. Impacts must still be considered significant and unmitigated or unresolved.

Physical impacts of community service facility construction are determined to be less than significant in this section because environmental review will be conducted at a later date. This is a faulty conclusion since there is no evidence at this time that the physical impacts can be mitigated. Rather, impacts must be considered unresolved at this time.

(6) Raw water supply, Impact 4.12.2. This section considers only the physical pumping and conveyance facilities. It ignores the unstudied possible extraction effects of the well field on the Yuba River and, if to over come this problem, would it be necessary to seal off the wells down to a level where production would be affected? This could result in more and deeper wells resulting in significantly greater capital and operating costs and even a reduction in anticipated volume of raw water available to the project. Nevertheless, this issue, fundamental to the project was not addressed.

(7) Wastewater impacts. Impacts 4.12.9 through 4.12.18 deal with wastewater impacts. Related mitigation measures call for a number of studies and new Specific Plan policies which are assumed to mitigate impacts below the significant level. These are faulty conclusions because there is no evidence at this time that the potential impacts can be

mitigated. As an example, the location of winter storage ponds have not been identified (Impact 4.12.16.) This is a critical component of wastewater facilities which can result in physical impacts due to impacts such as: loss of habitat, aesthetics, safety, odor, etc. In another example, Impact 4.12.18 notes that disposal areas may impact the proposed well field and that further studies are needed which can be expected to mitigate impacts. Again, there is no evidence at this time that this impact can be mitigated.

Wastewater impacts must be considered significant and not mitigated.

(8) Cumulative Impacts of Wastewater. This section of the DEIR (pages 4.12-48 to 4.12-49) concludes that since the proposed wastewater facilities are “feasible”, cumulative impacts are expected to be less than significant. Yet, a financing plan has not been prepared and critical elements of the wastewater proposal such as Phase 2 disposal areas have not been determined. As a result, there is no basis in fact for this conclusion.

This discussion notes that the Community Plan EIR resolved this issue by discussing the need for wastewater facilities to serve the entire River Highlands area and determined that land development be coordinated with provision of services. However, the Specific Plan, as discussed previously, does not fully outline how wastewater facilities will be provided and financed. Thus, the intent of the mitigation in the River Highlands EIR has not been met.

Impacts must still be considered significant and not mitigated or unresolved.

B. Non-compliance with Government Code §65451 makes it impossible for the DEIR to analyze the effectiveness of public facilities

As discuss in § II of this letter, supra, the Specific Plan does not comply with Government Code §65451, which requires that Specific Plans include “*The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses in the plan;*” and “*A program of implementation measures including...financing measures necessary to carry out paragraphs 1,2, and 3.*” The Specific Plan does not provide enough detail in any of these areas to meet the requirements of §65451 or to provide any basis for attempting to evaluate the effectiveness of public facilities and their impacts. Therefore, it is impossible to reach conclusions on related impacts which the DEIR attempts to do.

2. Traffic impacts.

A. Southerly access must be eliminated. There should be no access to the project on Smartville Rd.

(1) The DEIR clearly concludes that impacts related to use of a southerly access to the site will be unavoidable. This includes impacts to Main Street in Wheatland as well as SR 65 with or without the Eastern Bypass. The environmentally superior approach is to access the site via Hammonton-Smartville Rd. from the west and eliminate all project access to Smartville Rd. to the east. This access should be included in the EIR as the

preferred mitigation. This is both a feasible alternative as described in *CEQA Guidelines, Sections 15002 (a) (3), 15021 (a) (2), 15091 (a)* as well as a feasible mitigation measure as described in *CEQA Guidelines §15126(c)*.

This measure must be quantified and evaluated in detail in the EIR. Impact thresholds for this alternative must be determined similar to the analysis of the southerly access in the DEIR; it is likely that a combination of project down sizing and use of the Hammonton-Smartville Rd. access will be needed to reduce impacts to the area wide circulation system below the significant level. For instance, it is unlikely that funds will be available to increase capacity of SR 20 to handle the Yuba Highlands/ River Highlands build out. As a result, project down sizing will be needed to address this impact. The DEIR does note that at 1000 units, passing lanes and signalization at Simpson Lane on Hammonton-Smartville Rd. will not be required; as a result, this unit count may be the appropriate total for the River Highlands area. The necessary level of down sizing to avoid significant impacts to off-site roads locally and regionally must be determined in the EIR.

A westerly Hammonton-Smartville Rd. access would:

Provide a more direct access to SR 65 and SR 70.

Create a greater economic tie between Yuba Highlands and the Marysville/ Linda community, reducing the Roseville commuter orientation of the project. This would also lower the southerly trip distribution which would reduce impacts in Wheatland and to SR 65. The westerly access would facilitate the construction of the Marysville Bypass which the project must contribute to financially.

Eliminate impacts due to the improvement of southerly Smartville Rd., Spenceville Rd., Camp Far West Rd., and Waldo Rd. discussed below in favor of improvements to Hammonton-Smartville Rd. which passes through a less sensitive area.

There are two westerly access alternatives which should be analyzed:

1. Improvement of Hammonton Smartville Rd. and associated roads accessing the Lindhurst Ave. exit/ on ramp. This alternative would require improvements in the Griffith Rd. to Lindhurst Ave. ramps road segments which could be difficult and would impact existing residents. However, it should be explored as a possibility.
2. A preferred alternative which we suggest is described in detail in Attachment A by Mark Chainey and should be discussed in the EIR. Currently the Lindhurst Hwy exit/on ramp provides the only feasible route for traffic originating from the western access point of the project seeking eastbound Hwy 65 access toward Roseville and traffic accessing Hwy 70 heading south toward Sacramento. A significant amount of traffic heading west toward Marysville also uses this exit/on ramp. To alleviate potential project impacts at this location, all

project traffic originating from the western access point at Hammonton-Smartville Rd. seeking eastbound SR-65 access toward Wheatland and Roseville via SR-70 Lindhurst Ave. exit/on ramp could be intercepted at the Brophy Rd./Hammonton-Smartville Rd. intersection and redirected east along Brophy Rd. to the beginning of the proposed new road alignment at the Brophy Rd./North Beale intersection. The new road alignment would continue due east, providing a direct and highly improved route with easy access to the SR-65 Forty-Mile Road exit/on ramp (1/4 mile SW of Ostrom Rd./Forty-Mile Rd. junction) and the Rancho Road/Hwy 65 junction that currently have very low usage.

The proposed alignment would direct traffic away from busier roads at the outskirts of the Linda business district to the above two highway access points where currently no feasible route to these points exists. The DEIR, as currently written, provides no solution for project traffic originating from the western access point of the project needing

an efficient route east toward the metropolitan areas of Roseville via SR-65. As a demonstration of the proposed route's ability to move project traffic efficiently, a comparison of the most efficient route using the preexisting road system and the proposed route is as follows: From the Brophy/Hammonton-Smartville Rd. intersection to the SR-65/Rancho Rd. junction, the proposed route would be approx. 7.80 miles. Using preexisting roads: From the Brophy/Hammonton-Smartville Rd. via Griffith Ave., then via Erle Rd. to the Lindhurst SR-65 exit/on ramp, then east on SR-70 to the junction with SR-65, continuing east to the SR-65/Rancho Rd. junction, is approximately 12.60 miles, an additional 4.90 miles longer than the proposed route.

It should be noted that the River Highlands Community Plan (page 24, para.3) did not expect that the southerly access would be needed to serve the Plan area and assumed the northwesterly access orientation using Hammonton-Smartville Rd. and SR 20. The Specific Plan is a major change in direction.

(2) The impacts of the southerly access have been under-reported in the DEIR. Significant impacts are expected, which are detailed in Attachment A by Mark Chainey.

To summarize, the following impacts must be addressed:

The socio-economic impacts of using a southerly access rather than an orientation toward the existing struggling business hubs of Linda and Marysville should be discussed in the EIR.

Growth inducing impacts. Growth inducing impacts of an improved southerly access are not discussed in the DEIR. The condition of Smartville Road, Spenceville Rd., Camp Far West Rd., and Waldo Road (which is unpaved) serve to limit through traffic from Highway 20 to the south. Improvements of these roads will create potential for growth inducement. Pressure to convert land use designations to higher densities can be expected. Growth under current land use designations is likely to occur earlier than expected as the area is opened up with an improved circulation system. The entire road corridor area from Wheatland and Sheridan to areas both east and west on SR 20 can all expect additional growth pressure created by this newly improved access. The **indirect impacts of this growth inducement must be evaluated in detail.**

Traffic Diversion. The DEIR notes that with full improvement, potentially 1000 vehicle trips per day from SR 20 could be diverted to use the newly improved road to reach southerly locations and Highway 65 (DEIR page 4.10-18, para. 2). This diversion will increase traffic levels that will add to the indirect impacts of the road improvements.

Impacts to Spenceville Wildlife and Recreation Area. Over half of the southerly access alignment is within the Spenceville Wildlife and Recreation Area. Biotic and cultural impacts due to road improvements are discussed briefly in the DEIR and we comment on this analysis elsewhere in this letter. However, the impacts of decreased visitor quality of experience due to increased traffic noise, lighting, and an urban activity level as a result of the intrusion of a new major arterial into the area have not been discussed and can be expected to be significant.

Federal requirements must be met. It is also not clear whether or not improvements to Smartville Rd. would be consistent with the original pact with the federal government which created the Wildlife and Recreation Area. If the pact prohibits such improvements or if the increased access would compromise the wildlife use intended for the property, mitigation may not be possible and impacts would be unavoidable. This impact must be pursued in the EIR.

B. Impacts to SR 20 are also unavoidable; DEIR should clarify.

The DEIR text does not make it clear that project impacts and project plus cumulative impacts will be significant and unavoidable on SR 20 west and east of Smartville Rd. (See Tables 4.10-9, 4.10-10, and 4.10-11).

C. Regional traffic impacts need more discussion; impacts likely unavoidable.

(1) Section 4.10.12 of the DEIR briefly discusses the project's contribution to regional traffic improvement needs throughout Yuba County and concludes that impacts will be unavoidable. This discussion must be expanded to quantify specific project and cumulative impacts to the circulation systems in nearby jurisdictions including Marysville and Grass Valley, both of which will receive substantial additional SR 20 traffic (even with the southerly access, 52% of traffic is expected to travel west and 15% east (DEIR Table 4.10-8)). Impacts to SR 70 in the Linda area should be discussed. In addition, Grass Valley will be a major shopping attraction to this development. Numerous key arterials in Grass Valley which will serve Yuba Highlands traffic are currently operating at unacceptable levels of service and are expected to deteriorate further with cumulative development.

(2) Cumulative traffic impact analysis must also include traffic expected from projected growth in neighboring Nevada County.

D. Specific Plan incomplete; DEIR mitigation inappropriately improperly deferred to further study.

Impact 4-10.1 notes that the Specific Plan does not include a Roads Master Plan nor a Financing Plan as required by State law. As mitigation, the DEIR proposes their

preparation. However, this form of mitigation defers impact analysis to further study; thus, it cannot be determined whether or not mitigation is possible. CEQA prohibits agencies from deferring analysis to the future where it could reasonably be conducted before project approval (*Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296, 309 (1988)). Clearly, a Roads Master Plan and Financing Plan could be conducted at this time.

F. Access impacts not discussed in DEIR.

The ability of the applicant to obtain easements across public and private property to improve and construct off-site roads is not disclosed. Does the applicant have easements across these properties? If not, is the CSD willing to use eminent domain to obtain it? These issues must be discussed. It is possible that mitigation cannot be assured and an additional unavoidable impact will result.

G. School safety measures in Wheatland not assured.

Mitigation Measure 4.10.2h calls for interim student safety measures to be worked out with the Wheatland Unified School District. There is no assurance that adequate safety measures can be devised at these locations which will be heavily impacted by project traffic. These measures should be identified in the EIR.

3. Jobs - Housing Balance Not Assured.

Impact 4.9.3 concludes that the project will not result in significant jobs-housing balance impacts. This conclusion is erroneous for the reasons stated at pp. 5, 6, of this letter, §D "Is this a New town or just sprawl?"

4. Socioeconomic Impacts Must Discuss Protection of Beale AFB and Spenceville Wildlife and Recreation Area.

The DEIR does not discuss the socioeconomic impacts which could result from gradual impingement of an urbanized area on both Beale AFB and the Spenceville Wildlife and Recreation Area.

A. Beale AFB. While urbanization of the area was generally discussed in the River Highlands Community Plan EIR, new conditions have arisen since its adoption. The federal government is exploring a new round of base closures throughout the country and this trend is expected to continue into the future. This political climate requires air bases to be very competitive to remain open. Thus, even though surrounding zoning may be consistent with the Air Base's Comprehensive Land Use Plan (CLUP), general concerns which are not covered by a CLUP such as how urbanized the surrounding area is, community acceptance, etc. become more important in base evaluation. Attached are comments from Raymond duBois, Deputy Under Secretary of Defense, March 7, 2002, which detail problems associated with urban encroachment around military bases. He notes that "*urban growth and development is the most visible form of encroachment and has the greatest impact on military operations, training, and readiness.*" (See Attachment B)

There is substantial evidence that **closure of the Beale Air Force Base specifically could be hastened by urban impingement**. Recently, the State Office of Military and Aerospace Support has issued documents which state that Beale Air Force base “*may be seriously jeopardized*” by future residential projects. The State Agency recently proposed that a Regional Land Use Compatibility Plan be prepared for land surrounding Beale. In the proposal, the state agency noted that Beale AFB is “*not experiencing significant environmental, land use and air quality conflicts due to the regional rural nature,*” but that the area population has been increasing since Beale AFB was built and “*Future development to accommodate this population could impair the base’s operation.... Also there is concern that development spilling over from Sacramento County may create conflicts between Beale AFB and the local community... If residential projects being discussed are allowed to go forward, future training and the overall mission of Beale AFB may be seriously jeopardized.*” (Kruger, Harold, “Encroachment Could Hurt Beale”, Appeal-Democrat.com, April 29, 2005.) Attachment C.

The potential socio-economic impacts that could result from closure of Beale AFB are well documented. The base has over 5,000 employees. Losing Beale would be “*more than a small blip on the employment radar screen*” (John Fleming, Yuba County Economic Development Coordinator, in Kruger, Harold, “Broadcast Looks at Life Without Beale”, Appeal-Democrat.com, April 21, 2005. Attachment D) The base contributes \$1.2 billion annually to the area economy. The base has contracts with 185 local businesses. In 2004, the base had a payroll of 206 million and nearly \$145 million in expenditures for construction projects, supplies, services, etc. Tim Johnson of the Yuba-Sutter Economic Development Corporation estimates that the base creates another 7,200 off base jobs. He also estimates that 34% of the gross local product is generated by Beale and 22% of Yuba County’s labor force is dependant on Beale and that its closure could raise the unemployment rate in the County from 10.5% to 40%. (Witter, Daniel, “Closure’s Impact on Y-S Business Concerns Many,” Appeal-Democrat.com, March 31, 2005. Attachment E.) Over half of the attendance of Wheatland Elementary School District attendance is Beale students. With closure of Beale, the Wheatland Elementary District would lose its military impact aid which is nearly a quarter of its budget and also state average daily attendance funds; together, one-half of the District’s budget could be lost. (Witter, Daniel, “Beale Funds Aid Education,” Appeal-Democrat.com, March 24, 2005. Attachment F) Wheatland Mayor Entia Elphick believes that the region would survive closure of Beale, “but would hurt for many years.” (Witter, Daniel, “Wheatland Beale applaud ties,” Appeal-Democrat.com, May 1, 2005. Attachment G.)

The DEIR addresses only the micro level issues relative to land use compatibility with Beale AFB with mitigation measures focusing on a security fence (Mitigation Measure 4.17b) and height of building (Mitigation Measure 4.1.6c) as well as the Planning Director’s Special Permit process as though this is a project level EIR rather than a Program EIR. The broader socioeconomic issues of potential loss of the Base as a result of overall urbanization of the area was not

discussed in previous EIRs, is now a heightened concern given new political conditions, and must be discussed in detail in the DEIR.

Should the project be substantially revised with the goal of genuinely addressing land use compatibility impacts with Beale AFB by locating development distant from the Beale boundaries? What will be the impact of urban encroachment on the Base as military missions change in the future? How can flexibility be maintained to allow for modern new military systems which we cannot now envision? Is there the potential for conflict between civilian and military radio frequency systems?

Because minor mitigation measures are concluded in the DEIR to mitigate potential impacts to Beale, discussion of more far reaching measures such as design alternatives is curtailed. The centrally clustered down scaled alternatives we suggest should be discussed in the EIR in order to provide a full range of alternatives which address the Specific Plan's major impacts so that decision makers can fully evaluate available mitigation.

Comprehensive land use planning for the Beale area is outdated and does not address the potential for changing missions at the Base in the future:

- A Joint Land Use Study funded by the Department of Defense is currently underway for the area around Beale. Until this study is complete, no decision should be made on this project.
- The Beale Comprehensive Land Use Plan has not been fully updated since its initial preparation in 1984.
- In addition, the Yuba County General Plan Land Use Element has not been revised since the passage of SB 1468 which revised Government Code §65302 requiring that Land Use Elements consider the importance of military facilities when proposing zoning ordinances or designating land uses covered by the general plan for land near or around military facilities. This creates an inadequate General Plan as the base for further land use decisions in the Beale AFB area including Yuba Highlands.

The DEIR is inadequate without a thorough analysis of potential impacts on Beale AFB in the future and analysis of a range of mitigation measures and alternatives.

B Spenceville Wildlife and Recreation Area ("SWRA"). Likewise, the socioeconomic impacts of the overall urbanization of the area upon the Spenceville Wildlife and Recreation Area must be discussed. The SWRA is a major visitor destination and has the potential to become even more important to the area's economy in the future. This was not discussed in previous EIRs.

The Mitigation Measures (4.1.2a- 4.1.2d) relative to land use compatibility of the project with the SWRA focus on minor solutions such as density transitions adjacent to the SWRA and compatibility reviews in the future when specific

projects are proposed as though this is a project level EIR rather than a Program EIR. There is no evidence that these measures will provide effective mitigation. The larger issue of land use compatibility of a major urban area adjacent to the SWRA and a major thoroughfare proposed through it is not addressed, nor were these issues addressed specifically in previous EIRs-

5. Water Supply Not Assured; Mitigation Not Assured (Impact 4.3.7).

Please refer to discussion at pp. 6, 7, § I.E. of this letter, *supra*.

The California State Water Resources Control Board in its comment letter of March 17, 2005 also raised these issues and requested detailed analysis at this time. The Board also raised the issue of whether or not senior water rights holders will be impacted if the groundwater and the river are hydrologically connected. Finally, the Board noted that the DEIR's determination that future environmental review of the well field acts as a "will serve" letter under SB 221 is unfounded and should be withdrawn because impacts have not been disclosed, therefore quantity of water which can be pumped is unknown at this time, and there is no information on whether the impacts of diverting 3,500 acre feet of water can be adequately mitigated.

6. A Full Range of Alternatives Must Be Evaluated.

One of our key concerns is the creation of the environmentally superior alternative, which cannot be accomplished without evaluating a full range of alternatives. A range of alternatives is needed which will produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned (*San Bernardino Valley Audubon Society v. County of San Bernardino*, 1984). These alternatives must all feasibly attain the project's basic objectives. The DEIR defines the project sponsor objectives as "to help satisfy the need for a variety of housing types in the foothills of northern California and Yuba County" and to "allow for commercial and retail areas to serve the community" and to "allow for office and light industrial uses... to reduce commuting..." (DEIR p.3-13). A variety of project alternatives, both in scale and use mix, could meet these objectives.

A "reasoned choice" cannot be fostered by the minimal range of alternatives provided in the DEIR. Any of the alternatives described below could be feasibly implemented and thus implementation would not be "remote and speculative".

A. The following alternatives should be analyzed in the DEIR and considered:

.1 1000 unit alternative, clustered, 3 acres neighborhood retail, 30 acres park and school uses, with no access to Smartville Rd., main access via Hammonton-Smartville Rd. to west. This alternative would eliminate traffic and urbanization impacts on the Spenceville Wildlife and Recreation Area. The lack of road improvements would, in turn, lessen the future potential for diverting existing traffic from Highway 20. This alternative must be evaluated to limit impacts from the southerly access and also other impacts discussed throughout the DEIR, especially since it is likely that the southerly access will not be feasible because of environmental constraints and potential unavailability of easements.

The 1000 unit alternative could utilize as little as 283 acres (homes at 4 units per acre - the maximum clustering density recommended in the Community Plan). Lots could be clustered in the west central portion of the site to provide as much as 90% open space. This degree of clustering has the potential to eliminate unavoidable loss of open space impacts or to substantially reduce such impacts and impacts of urbanization on the Spenceville Wildlife and Recreation Area. Encroachment on Beale AFB would be substantially reduced with no encroachment into areas of concern for loud noise.

To ensure that cumulative impacts of other development in the River Highlands area do not create a need for improvements to the southerly access, this alternative must include assurances that the remaining Yuba Highlands area is redesignated for lower densities or that no additional access from new developments is allowed access to Smartville Rd.

As a comparison to the project as proposed, this alternative would result in approximately 2600 residents, 8000 ADT, a generated need for 640 acre feet of domestic water.

The following significant, unavoidable impacts identified in the DEIR would be eliminated or substantially reduced by this alternative:

1. Unavoidable loss of open space.
2. Traffic noise
3. Air quality
4. Intersections of SR 65/ Main St. in Wheatland
- 5.. SR 65 through Wheatland

The following significant, potentially unavoidable impacts identified in this letter would be eliminated or substantially reduced by this alternative:

1. Impacts to the Wildlife and Recreation Area due to traffic (no access to Smartville Rd.), noise, and increased access.
2. Land use and quality of life impacts in Wheatland and Sheridan.
3. Light and glare.
4. Growth inducing impacts.
5. Socioeconomic impacts
6. Biological resources
7. Domestic water availability
8. Impact to public facilities and services (including fire and police)

9. Water quality

(1) 580 units, clustered. 3 acres neighborhood commercial, 20 acre school/park site, westerly access, no access on to Smartville Rd.. This alternative provides for an average 5 acre per unit overall density applied across the 2900 acres. Using 3 acre rural ranchette size lots which could allow septic systems, 1763 acres would be developed, leaving approximately 45% of the site in common open space. A suburban ranch appearance would complement the rural surroundings. The neighborhood commercial site would provide for the need generated by this size project (2 acres neighborhood commercial/ 1000 people).

This alternative would even further reduce traffic impacts. It also has the potential to eliminate unmitigable loss of open space impacts or substantially reduce such impacts. Encroachment on Beale AFB would be substantially reduced with no encroachment into areas of noise concern.

As a comparison to the project as proposed, this alternative would result in approximately 1500 residents, 4600 ADT, and need for 4000 afy of domestic water.

The following significant, unavoidable impacts identified in the DEIR would be eliminated or substantially reduced by this alternative:

1. Unavoidable loss of open space.
2. Traffic noise
3. Air quality
4. Intersections of SR 65/ Main St. in Wheatland
5. SR 65 through Wheatland

The following significant, potentially unavoidable impacts identified in this letter would be eliminated or substantially reduced by this alternative:

1. Impacts to the Wildlife and Recreation Area due to traffic, noise, and increased access.
2. Impacts on land use and quality of life in Wheatland and Sheridan.
3. Light and glare.
4. Growth inducing impacts.
5. Socioeconomic impacts
6. Impacts to biological resources

7. Impacts on domestic water availability
8. Impact to public facilities and services (including fire and police)
9. Impacts to water quality

B. Quantification of Impacts of Alternatives.

A number of impacts have not been quantified under each Alternative discussion. An adequate analysis requires a map of each alternative. A chart comparing acreage of the various land use alternatives under each alternative is necessary to truly understand each proposal. This will allow quantification of a number of impacts which are discussed in a qualitative manner such as loss of open space. Quantification of impacts to all of the potentially impacted roadways is also needed under each of the alternatives to allow for a reasoned choice.

7. Impacts of population growth underestimated.

Impact 4.9.1 concludes that the impacts of increasing the population of the undeveloped site by as many as 14,640 people will be less than significant because mitigation for related physical impacts has been provided in other sections of the DEIR. This conclusion is not supported by evidence. Actually, the DEIR concludes that the project will result in a number of unavoidable impacts; thus population growth impacts must also be considered significant and unavoidable both from the project alone and cumulatively with area development.

DEIR §7.3 discusses growth inducing impacts further and concludes that the project will not induce additional area growth even though the project will increase the 1999 population of the County by 24%. The project will make up 15% of the projected County population in 2025. The DEIR conclusion that growth inducement will not occur from a project of this size is not consistent with the history of land use in California. The following issues were not addressed:

- Will the amount of commercial development provided by the project exceed the need generated by a population of 14,600 thus attracting users from outside the area and inducing further growth?
- It has not been demonstrated that the project will provide housing affordable by moderate or lower income households. Will the low paying retail jobs created by the project attract workers from outside the area, thus increasing impacts (such as traffic, air quality, and noise) created by a daytime population not anticipated in the DEIR? (Commuter impacts are discussed on DEIR page 4.9-3, para 1.)
- Will public use of the golf course result in growth inducement?
- Will the rate of urbanization of surrounding lands, Wheatland and Sheridan be hastened by improvement of area roads, particularly Smartville Rd. which provides a shortened route from Highway 20 to Highway 65?

- Although the water and wastewater systems currently proposed will not be sized to serve surrounding properties, will the rate of growth of surrounding lands be hastened by the ability to tie into wastewater and water lines and expand these facilities?

The physical impacts (avoidable and unavoidable) discussed throughout the DEIR will be exacerbated by the growth inducement which should be discussed in a recirculated DEIR.

8. Affordable housing impacts underestimated.

Impact 4.9.2 concludes that because the project does not provide explicitly for affordable housing, impacts are potentially significant but can be mitigated by the recommended Planning Director's Special Permit (Mitigation Measure 4.1.1). This measure does not ensure mitigation. During that process it can be assumed that the Planning Director would review for consistency against the River Highlands Community Plan which "encourages" affordable housing. However, it is clear that to meet County housing goals, affordable housing construction must be ensured, not just encouraged, and in the amounts identified in the Housing Element (23.5% very low income, 17.4% low income, 11.5% moderate income, and 47.6% above moderate income). Mitigation cannot be assured and impacts must be considered significant and unavoidable unless these targets are required in the Specific Plan.

9. Geology and Soil, Erosion impacts underestimated and passed on to further study. (Impact 4.2.1).

The DEIR improperly defers mitigation of potential erosion impacts to further study (Mitigation Measure 4.2.1b). While detailed geotechnical and soils studies are generally prepared closer to the development stage, in this case specific concerns have been raised which call for determination of impacts at this earlier stage. Specifically, **a major policy change is recommended by the Specific Plan** - the Community Plan prohibition of any disturbance on slopes over 25% is weakened, allowing for use for public utilities, roads, or open space purposes. This would permit residential parcels to include steep slopes in yard areas. There is no evidence given demonstrating that the further studies can effectively ensure mitigation of impacts from the weakening of this policy. Further study is not a mitigation, see *CEQA Guidelines, §15370*. Rather, the experience in the foothills has been that it is very difficult to control erosion on slopes over 20 to 25%; extensive, costly engineering solutions become necessary which often have secondary aesthetic impacts. In addition, it is nearly impossible to control disturbance in private yard areas; deed restrictions and CCRs are impractical to enforce in a large residential area and are rarely implemented. Avoidance is the most effective mitigation in this instance. Impacts must be considered significant and unavoidable if the 25% slope policy is weakened.

The issue of whether or not area soils include unhealthy background levels of arsenic which is common in the foothills has not been explored.

10. Hydrology and water quality.

A. Pollutant contribution to area waterways underestimated and mitigation improperly deferred to further study.

Impact 4.3.2 discusses potential soil erosion from development of the site which could release pollution into adjacent waterways. Mitigation is improperly deferred to further study in Mitigation Measures 4.3.2a, 4.3.2b, 4.3.2c, and 4.3.2d. There is no evidence demonstrating that the further studies can effectively ensure mitigation of impacts, as required by *CEQA Guidelines, §15370*. In fact, certain macro level impacts and solutions should be explored at this level:

- For instance, the extent of the area to be developed (over 75% of the site) makes it difficult if not impossible to control erosion. More intensive clustering as recommended in our mitigated alternative should be explored as a more effective mitigation measure.
- As described in the DEIR Cultural Resources section, the area has been disturbed by mining exploration (test pits and glory holes) which often are associated with naturally occurring arsenic. Local stream beds may include mining-related arsenic and mercury. Appropriate studies and tests for presence of these toxins must be done at the earliest stage before major land use decisions are finalized.

B. Drainage, impacts underestimated and mitigation improperly deferred to further study.

Impact 4.3.3 discusses potential drainage impacts and notes that impacts are potentially significant because a drainage plan has not been prepared; required mitigation is a drainage report (Mitigation Measure 4.3.3). There is no evidence demonstrating that further study can effectively ensure mitigation of impacts. Further study is not mitigation, see *CEQA Guidelines, §15370*. Certain macro level impacts and solutions should be explored at this level:

- The general drainage system should be laid out at this time so that the impacts of major features such as retention and detention ponds and channelization can be determined. These facilities can often be large and have associated aesthetic, safety, water quality, and odor impacts.

C. Wastewater treatment plant impact discussion minimal and mitigation improperly deferred to further study.

Impact 4.3.5 includes a cursory discussion of potential impacts of the proposed wastewater treatment system; mitigation is the Regional Water Quality Control Board permit system (Mitigation Measure 4.3.5). There is no evidence that further study can effectively ensure mitigation of impacts. Studies are not mitigation, see *CEQA Guidelines, §15370*. In fact, certain macro level impacts and solutions should be explored at this level:

- The entire system should be generally laid out at this time so that impacts can be understood. Major features such as the location of the plant and storage ponds should be determined. These facilities are usually associated with aesthetic, safety, water quality, noise, and odor impacts.

- The DEIR concludes that “*Given the lack of availability of surface water supplies in the area, it is considered likely that agreement can be obtained from landowners of sufficient acreage to dispose of the recycled water not needed at the golf courses or community park....*” . (Page 4.3-24, para 3). There is no evidence that adequate disposal area is actually available, given the fact that ranchers and farmers are often suspect of recycled wastewater. The DEIR notes that golf course area soils will need to be supplemented to accept wastewater. Are other candidate disposal locations in the surrounding area also unsuitable for wastewater application? Please refer to discussion at § II, pp. 11, 12, *supra*, of this letter.

The NOP comment from the South Yuba River Citizen’s League (SYRCL) and 5 other groups including our organization, dated October 23, 2002, specifically requested discussion of each of these issues.

D. Golf course impact discussion cursory and mitigation improperly deferred off on further study.

While this impact discussion (4.3.6) concludes that impacts are potentially significant, it is not demonstrated that the mitigation proposed (a future chemical management plan) can mitigate impacts below the significant level (as required by *CEQA Guidelines, §15370*). A performance criteria is not included requiring that no chemicals leave the site, rather it is required that the plan “minimize” impacts.

11. Biological Resources

A. Impacts on special status species impacts underestimated; surveys for presence of special status species are grossly inadequate.

Please refer to the comment letter of Eva Begley, PhD. dated April 24, 2005.

The DEIR Biological Resources Section 4.4 relative to Special Status species focuses on species determined by the authors to have the greatest potential for occurrence, rated from low to high. There is a significant disagreement among experts on these ratings. See the NOP response letter by biologist Mark Chainey dated October 28, 2002. In that letter, Mr. Chainey provides evidence that numerous species which were not mentioned in the DEIR or are rated with a lower possibility of occurrence in the plan than the evidence points to deserve additional attention. They include:

- The California black rail (Federal Species of Concern, State Threatened) which have been located in the immediate project vicinity (Chainey, page 4, para 5)
- The Vernal pool tadpole shrimp (Federal Endangered), Vernal pool fairy shrimp (Federal Threatened), and the Conservancy fairy shrimp (Federal Endangered) (Chainey, page 5, para 4).
- Northwestern pond turtle (State Species of Concern), Western spadefoot toad. (Chainey, page 6, para 2.) Impact 4.4.7 of the DEIR concludes that impacts to special status amphibians and reptiles will be less than significant without actual on site surveys and in contradiction to the Chainey evidence which raises the reasonable possibility of occurrence.

- Special status bird species which have greater potential for occurring on the site (Chainey, page 6, para. 2) were either not mentioned or dismissed with little evidence within the DEIR and include the long-eared owl, the yellow-breasted chat, the yellow warbler, and the willow flycatcher.

None of these species, except perhaps the vernal pool species, will receive further survey since the DEIR proposes additional surveys only for the elderberry longhorn beetle, and raptor and burrowing owl nests. Yet detailed surveys have never been conducted for their presence. As a result, the full extent of impacts is not understood.

This is the time when these surveys must be conducted, at the macro land use plan level, when future subdivisions can be designed to avoid sensitive habitat. Mitigation cannot be assured by the future surveys and protection plans recommended (Mitigation Measures 4.1.1, 4.4.4b, 4.4.5a) since the extent of the impacts is not now understood and the plans and surveys will not be conducted in an accountable arena.

B. Analysis of impacts on oak trees is deficient (Impact 4.4.9).

The DEIR discussion of this impact is cursory, avoiding detail by concluding that impacts are potentially significant. As a result, it is not clear whether or not the proposed mitigation will be effective. The DEIR must:

- Estimate the degree of oak tree loss which may result,
- Discuss the short term to mid term impacts of tree loss prior to replacement tree maturation,
- Discuss tree loss which will result during off site road improvements
- Evaluate the effectiveness of avoidance of the oak woodland as opposed to the replacement mitigation proposed. The down scaled project that we have proposed would also avoid the oak woodland and should be discussed.
- Discuss the viability of tree replacement given the site's poor soils. Is there enough open space available with soils appropriate for oak tree growth for successful mitigation?
- Discuss the project's contribution to cumulative loss of regional oak woodland.

C. Impacts to wetlands not fully mitigated; discussion improperly deferred to further study.

Impact 4.4.10 concludes that impacts to waters of the U.S. and wetlands may be significant and calls for a project wide wetland delineation. Now is the time to conduct these surveys, at the macro land use planning level, when future subdivisions can be designed to avoid sensitive habitat. Without the surveys, the extent of the impacts is not now understood. In addition, the no net loss criteria in the mitigation measure does not address the reduction of setbacks from streams from 125 feet to 50 feet. This proposed policy change in the Specific Plan is mentioned a number of times throughout the DEIR, but is not effectively mitigated. Stream setbacks should not be reduced; the River Highlands EIR designates the stream setbacks as mitigation measures.

D. Impacts on wildlife movement underestimated (Impact 4.4.11).

The impacts to wildlife movement and the interconnected nature of the two separated sections of the Spenceville Wildlife and Recreation Area, Beale AFB, and the site in a number of NOP comments (SYRCL, October 23, 2002; Friends of Spenceville,, October 23, 2002; Sierra Club, October 22, 2002; Mark Chainey, October 28, 2002). Yet only a cursory discussion is given in the DEIR with a conclusion of "less than significant". The discussion does not provide substantial evidence to support the conclusion.

Fragmentation of habitat is a well understood threat to viability of wildlife habitat (Chainey NOP letter, page 2, para 3). The DEIR statement that wildlife are “displaced to similar habitat” (Impact 4.4.11) is not supported by substantial evidence, and is false. Because of the importance of this large expanse of wildlife area (Chainey NOP letter, page 1, para 4) this impact deserves greater scrutiny; the evidence supports a conclusion of significant impacts.

E. Cumulative biotic impacts - mitigation not proposed.

In Impact 4.4.13 the DEIR determines that plan implementation will contribute to a the regional decline of biological resources and species diversity and that traffic and human disturbance in proximity to habitat area will also result in significant cumulative impacts. Yet no mitigation is explored. CEQA requires that all available mitigation be explored (*CEQA Guidelines, §15126(c)*). A significantly down scaled project clustered on 25% of the site would reduce these impacts below significance. At a minimum, this impact should be addressed in the Alternatives section of the DEIR with the down-scaled alternative.

12. Noise Impacts

A. Off site noise impacts not mitigated.

Impacts 4.5.1 and 4.5.4 conclude that the project will result in unavoidable traffic noise impacts at a number of off-site locations. This impact underscores the fact that the level of urbanization proposed is inappropriate. All available mitigation must be explored (*CEQA Guidelines, §15126(c)*), rather than merely concluding that noise walls are not feasible leaving impacts unavoidable. Elimination of the Smartville Rd. access would eliminate traffic noise impacts on this road as well as Spenceville Rd. Substantial reduction in the size of the project, as our groups have pointed out, would also mitigate this impact.

B. On site noise impacts not mitigated.

Impact 4.5.5 concludes that new homes on site many be exposed to significant traffic noise; future site specific acoustical analyses as subdivisions are designed is recommended. However, no performance criteria are given. As a result, it cannot be assured that mitigation will be effective. All available mitigation must be explored (*CEQA Guidelines, §15126(c)*). New subdivisions can be designed to include adequate noise setbacks to avoid significant impacts; this should be required.

C. Impacts of noise of Beale AFB aircraft operations not sufficiently analyzed.

The DEIR, Figure 4.5-1, shows noise the Beale AFB noise contours of 75, 70, and 65 dB, the latter being very close to the boundary between the golf course and residential uses. In Sacramento County, residential uses are restricted within the 60 dB jet noise contour. Interestingly, the DEIR fails to disclose the 60dB and 55dB Beale AFB jet noise contour, which, in all likelihood, encompass much of the residential area of the project.

A revised DEIR should show the 60 and 55 dB Beale AFB jet noise contours, and address the issue of whether such levels of jet noise has led to conflicts with aircraft operations at other civilian and military airports. Based on personal knowledge in the Sacramento area, the answer to the latter question is unequivocally "yes." The impacts of such conflicts upon the potential for closure of Beale AFB should be analyzed in a recirculated DEIR.

13. Aesthetics/ Light and Glare.

A. Impacts of nighttime lighting not fully mitigated (Impact 4.6.1).

The DEIR's conclusion relating to impacts of night lighting rely on Specific Plan policies which are very general and include no quantified performance criteria such as foot candle levels permitted. The policies include vague directive language such as “may be” and “should be” (DEIR page 4.6-15, para, 5 and 6). Additional mitigation measures recommended are also minimal (“low intensity” fixtures, “lowest height feasible”, and lighting “shielded to minimize lighting of adjacent properties” (DEIR Mitigation Measures 4.6.1b and 4.6.1c)) and do not included quantifiable performance criteria. These vague measures are not the state of the art in lighting mitigation. The area wide off-site light pollution in this presently dark sky has not been addressed.

B. Foothill views (Impact 4.6.2)

(1) Impact mitigation inappropriately improperly deferred to further study.

The visual impact analysis to determine visibility of the development from the three scenic roadways recommended as mitigation can be conducted at this time. Passing this analysis on to future study reduces the ability of the public to fully understand impacts at this time and takes decision making on this issue into an unaccountable arena in the future.

(2) Impacts on ridgeline views not mitigated. The DEIR states that the 25% slope restriction will help to ensure that prominent ridge lines visible from off site locations (not delineated in the YHSP) will retain their existing character (DEIR page 4.6-19). Therefore, there was not requirement for mitigation. However, as many of the ridge tops in this rolling terrain have areas which flatten off to less than 25%, building would be permitted on those ridge lines. Access would be possible to these sites because of the relaxation of the 25% slope requirement for construction of roads and utilities called for in the Specific Plan.

C. Cumulative visual impacts (Impact 4.6.4).

The River Highlands Community Plan evaluated a land use plan which was more rural (largely one-half acre low density residential parcels) than the more urban Specific Plan,

which includes commercial development and almost 700 acres of medium density and multi family density housing (2.6 to 10 units per acre), in addition to low density residential areas. Therefore, previous environmental analysis in the River Highlands EIR does not necessarily apply. Designated of the area for suburban land uses does not eliminate the visual impacts will result (DEIR page 4.6.21, para 5). The conclusion that there will be less than significant cumulative visual impacts ignores the overall magnitude of the change which will result regardless of design guidelines and screening, etc. The degree of visual change in this large expanse of area must be concluded to be unavoidable unless there is significant downscaling and clustering as recommended in our alternatives.

14. Air Quality.

Mitigation for impacts to air quality impact improperly deferred to further study.

The key mitigation measure recommended in this section of the DEIR (Mitigation Measure 4.7.3b) calls for an Emissions Reduction Plan which would reduce potential project emissions by 35% or use of equivalent off site emission reductions. There is no reason that this Plan cannot be submitted and reviewed at this time. Deferring this analysis to future study reduces the public's ability comment on the effectiveness of measures and takes decision-making on this issue into an unaccountable arena in the future.

15. Risk of Upset/ Human Health and Safety.

A. Mitigation from risk of exposure to unexploded ordnance on site improperly deferred to further study (Mitigation Measure 4.8.3b).

There is no reason that the plan of action recommended could not be conducted at this time. Deferring this analysis to future study prevents the public from fully commenting on the effectiveness of measures at this time and defers decision-making on this issue to the unknown and unpredictable future. In addition, it is not clear whether or not further on site analysis of underground ordnance will be conducted or if the plan of action would trigger protocols only if hazardous ordnance is discovered during construction. Because such analysis has not been conducted, impacts cannot be understood.

B. Risk of exposure to unexploded ordnance on surrounding properties underestimated.

The DEIR concludes on page 4.8-11 (para 3) that the Yuba Highlands project is currently located in an area identified as Priority Area 2, Volume 3 “where more information is needed to determine the extent of OE usage and further investigation is required to determine the necessary remedial action”. The DEIR says that it is possible that the Yuba Highlands project site could be reevaluated and reassigned a higher risk classification based upon its potential for development and the probability that more ‘risk’ could be associated with the increased use of the site.” This conclusion is inconsistent with the conclusion in Impact 4.8.4 (DEIR page 4.8-31) that impacts due to risk of discovery of ordnance and explosives on the site surroundings is less than significant. The conclusion that perimeter fencing and trespass laws will adequately

reduce access to the adjacent areas with ordnance potential must be further evaluated against case studies. A town of approximately 14,000 people will be located on the other side of the fence, increasing greatly the potential rate of trespass onto a hazardous area.

C. PAVE PAWS EWR impacts not fully evaluated.

The potential that urbanization of the area will reduce the attractiveness of maintaining this system at Beale AFB in the future must be discussed. Will increased concerns of new residents make relocation at another site a possibility? If so, what will be the socio-economic impacts of loss of this system?

16. Cultural Resources.

Impacts to cultural resources are not mitigated. Mitigation Measure 4.13.5 recommends no future study of site areas which were surveyed at a low intensity. These areas should be fully explored prior to approval of individual site plans and tentative subdivision maps as is typical of most development projects.

17. Consistency with Previous EIRS/ Findings. Treatment of Cumulative impacts. The DEIR attempts to rely on previous EIRs (on the Yuba County General Plan and the River Highlands Community Plan) for many of its conclusions or lack of recommended mitigation. This is particularly apparent in the Cumulative Impact discussions. Yet these EIRs are outdated and provide minimal analysis. In general, the level of detail in the previous documents did not anticipate the specific impacts of the more detailed proposals in the Specific Plan. In addition, the DEIR does not analyze the previous EIRs specifically for their usefulness relative to the Specific Plan DEIR's discussion of individual impacts. Where the previous EIRs are assumed to excuse further environmental study in the Specific Plan DEIR, specific page citations must be given as well as a description of how any recommended mitigation in the previous EIRs will ensure mitigation at this more specific level. The project's consistency with previously recommended mitigation and adopted Findings has not been analyzed.

CEQA Guideline § 15168 (c) (4): "Where subsequent activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activities to determine whether the environmental effects of the operation were covered in the program EIR."

18. The DEIR fails to contain a complete and consistent project description.

The DEIR violates CEQA by failing to contain a complete and consistent project description. See discussion at § II, supra, of this letter, regarding failure of Specific Plan to comply with Government Code §§ 65451, and other comments, supra, regarding incomplete or inconsistent descriptions of various components of the project.

19. The County improperly segments CEQA review of the project.

As discussed above, CEQA review of numerous components of the project are improperly deferred. CEQA does not allow an agency to segment or piecemeal a project into parts and avoid evaluating the complete project in one EIR.

20. Conclusion.

We look forward to a thorough response to these comments. Again, we must emphasize that the Specific Plan is legally inadequate, and that there are significant questions relative to the appropriateness of a major urban development in this area at this time. As a result, the project should be immediately denied. At a minimum, the application is incomplete and processing should halt until it is completed. In addition, the next environmental document issued should be a newly circulated draft EIR because of the substantial changes, new information, and new significant impacts expected as a result of the comments on the DEIR and the additional items needed to complete the Specific Plan. **Because of inadequacies in the General Plan as well as changed conditions and ongoing encroachment studies relative to Beale Air Force Base, a revised General Plan and Community Plan Land Use Map for the River Highlands is needed before processing of this application. If the project is ever approved, it is clear that a substantially downscaled project would be necessary, and that the southwesterly Smartville Rd./ Waldo Rd. access should be eliminated in favor of a new circulation system to the west via Hammonton-Smartville Rd. and perhaps a new connection to SR 65/70 via Rancho Rd.**

Thank you again for the opportunity to comment.

Very Truly Yours,

/S/

JAMES P. PACHL, Attorney

/S/

LAURIE OBERHOLTZER, Environmental Planner

Attachments

- A. Chainey, Mark, "Proposed Alternative Route to Waldo Road Alignment".
- B. Dubois, Jr., Raymond, "Statement of Mr. Raymond F. Dubois, Jr., Deputy under Secretary of Defense (Installations and Environment) before the House Armed Services Committee Subcommittee on Military Installations and Facilities, U.S. House of Representatives," March 7, 2002. (Excerpts.)
- C. Kruger, Harold, "Encroachment could hurt Beale", Appeal Democrat.com, March 29, 2005.
- D. Kruger, Harold, "Broadcast looks at life without Beale," Appeal-Democrat.com, April 21, 2005.
- E. Witter, Daniel, "Closure's impact on Y-S business concerns vary", Appeal Democrat.com, March 31, 2005.

- F. Witter, Daniel, "Beale funds aid education", Appeal Democrat.com, March 24, 2005.
- G. Witter, Daniel, "Beale's survival: The hard facts", Appeal Democrat.com, March 17, 2005.
- H. Witter, Daniel, "Wheatland Beale applaud ties," Appeal-Democrat.com, May 1, 2005