

2 COMMENTS AND RESPONSES TO ENVIRONMENTAL ISSUES

This section of the Second Supplement to the Final EIR contains comment letters received during the public review period for the Second Partially Recirculated Draft EIR, which concluded on January 31, 2011. In conformance with State CEQA Guidelines Section 15088, subdivision (a), written responses to comments on environmental issues received from reviewers of the Second Partially Recirculated Draft EIR were prepared.

2.1 LIST OF COMMENTS ON THE SECOND PARTIALLY RECIRCULATED DRAFT EIR

Table 2-1 indicates the number designation for each comment letter received, the author of the comment letter, and the comment letter date.

Table 2-1 Written Comments Received on the Second Partially Recirculated Draft EIR		
Letter	Commenter	Date
1	Greg Baker, Tribal Administrator, United Auburn Indian Community of the Auburn Rancheria	December 20, 2010
2	Paul Holloway, Land Use and Water Resources Section, Department of Health & Human Services, Environmental Health Services	December 23, 2010
3	W.L. Donovan, Captain, Commander Auburn Area, Department of California Highway Patrol	January 17, 2011
4	Richard Helman, Chief, Office of Transportation Planning – East, Department of Transportation, District 3	January 31, 2011
5	Keith G. Wagner, Lippe Gaffney Wagner LLP	January 31, 2011
6	Scott Morgan, Director, State Clearinghouse, Governor’s Office of Planning and Research	February 1, 2011

2.2 COMMENTS AND RESPONSES ON THE SECOND PARTIALLY RECIRCULATED DRAFT EIR

The written comments received on the Second Partially Recirculated Draft EIR and the responses to those comments are provided in this section commencing with the master response. Following the master response, each comment letter is reproduced in its entirety and is followed by the response(s) to the letter. Where a commenter has provided multiple comments, each comment is indicated by a line bracket and an identifying number in the margin of the comment letter.

MASTER RESPONSE—PURPOSE OF THE SPRDEIR

During the first administrative process for the Rocklin Crossings Project, which ended in November 2008, legal counsel for Rocklin Residents for Responsible Growth, on the night of the final City Council hearing on the Project, raised a concern relating to both the Traffic Study and the Urban Decay prepared for the Project. Specifically, he noted that certain diagrams from the Traffic Study showed 40 percent of project traffic coming from the direction of Roseville along the I-80 corridor, while the Urban Decay analysis stated that very few Roseville residents would travel to the Project site from that direction, and particularly from the Highway 65

corridor, given that other, existing Walmarts and Home Depots were located closer to the homes of such residents. After traffic consultant Les Card offered testimony standing by his traffic analysis, the City Council, rather than continue its hearing until a later date, took action on the Project that night.

Rocklin Residents subsequently filed a lawsuit challenging the City's approval of the Project, raising a host of arguments under the California Environmental Quality Act. One such argument echoed the concern described above, namely, that there was an apparent inconsistency between the Traffic Study and the Urban Decay Analysis, in that the former assumed that 40 percent of the traffic coming to the Project would come from the I-80 corridor in the direction of Roseville, while the Urban Decay study had excluded Roseville from the so-called Primary and Secondary Market areas. According to Rocklin Residents, the EIR was flawed because of the differing conclusions of the two studies with respect to how much traffic would be visiting the Project site from the I-80 corridor coming from the direction of Roseville.

Although the Sacramento Superior Court rejected all of Rocklin Residents' other CEQA arguments, the Court did agree with this one argument. As the Court explained,

The Court is persuaded that there is a substantial inconsistency between the Draft EIR's discussion of the "market area" that will be served by the Project and the (revised) Draft EIR's traffic distribution calculations. Whereas the Draft EIR's market area study essentially concludes that the Project is not expected to generate significant sales from Roseville shoppers, the traffic study nevertheless assumes that significant amounts of the Project-related traffic (approximately 40%) will travel on Interstate 80 to/from the direction of Roseville.

* * *

To reconcile the economic and traffic analyses, the Court would have to accept the premise that residents of Roseville are unlikely to travel to the Project if they have the same or similar stores nearby, but that the same is not true for residents of Rocklin. In other words, the Court would have to accept that Rocklin residents will bypass the existing retail outlets (which include Wal-Mart, Home Depot, and Lowe's) located along the I-80 corridor in Roseville and travel several additional miles to visit the same or similar stores at the Project in Rocklin. This is an untenable position.

* * *

The City's reasons for proceeding as it did are not adequately explained in the EIR or supported by substantial evidence.

Rather than appeal the Court's decision on this issue, the City chose to address the court's concern by asking its traffic consultant, LSA Associates, and its economic consultant, CBRE Consulting, to get together to determine how, if at all, each of them might revisit their earlier analyses in light of the court's decision and in light of the technical conclusions of the other consultant's discipline. Under the City's direction, each consultant ultimately revised their earlier studies in light of information and insights gained from the other and in coordination with the other. The updated Traffic and Economic analyses in the Second Partially Recirculated Draft EIR reflect that coordination, as well as updated assumptions and data to address changed conditions that had arisen since the original studies had been completed. (For discussions of such coordination, see, e.g., SPRDEIR, pp. 1-9, 1-10, 4.2-10, 4.2-33, 4.2-36, 5-3, and 5-4 - 5-5.)

In their comments on the SPRDEIR, representatives of Rocklin Residents for Responsible Growth (attorney Keith G. Wagner and traffic engineer Daniel T. Smith) have offered numerous criticisms of the updated traffic and urban decay studies. With respect to traffic, in particular, these two gentlemen criticize the results of the revised traffic analysis and updated Project trip distribution and claim that the City's revised analyses fail to adequately

address the requirements of the Sacramento Superior Court's February 19, 2010, Consolidated Ruling After Hearing ("Ruling"). Mr. Wagner and Mr. Smith also criticize the manner in which the revised traffic analysis considered pass-by trips.

Despite the very technical nature of many of their comments, there are two primary themes through most, if not all, of their comments. Thus, the City has determined that a master response regarding their traffic comments, followed by more specific responses to specific technical comments, would be the clearest and most useful method to provide the public and decision-makers with correct and accurate information.

Importantly, the first point the City wants to make is that, despite the very critical tone that runs throughout their respective comments, the points made by Mr. Smith and Mr. Wagner are notable with respect to what they do *not* say. Neither gentleman takes direct issue with how the City and its consultants specifically approached the issue of coordination in light of the Court's ruling. In other words, neither Commenter offered a better method or roadmap for how two consultants from very different disciplines could better work together to minimize the differences in their respective assumptions and conclusions. The absence of any critique of the coordination conducted by LSA and CBRE Consulting clearly demonstrates that, despite their concerns regarding some of the particulars of both studies, Msrs. Wagner and Smith have not identified any failure by the City to satisfy the Superior Court's directives on remand.

As quoted above, the Court had determined and ruled that, based on the information available in the administrative record at the time of the litigation, the City had not produced substantial evidence to explain the facial differences between certain conclusions and/or assumptions in the traffic and urban decay analyses. In preparing updated analyses on remand, the City and its experts therefore not only coordinated their respective efforts but also endeavored to provide a more robust discussion of the legitimate differences that exist with respect to the methodologies, geographic areas analyzed, and other assumptions employed by the two disciplines in question. As the Commenters have not taken issue with LSA's general approach to coordination with CBRE Consulting, but rather have focused on very specific technical issues and questions for which the City has meritorious answers and responses, the City believes it has now met its informational and legal burdens, as clarified by the Court, in describing and explaining these issues. As is explained in great detail below, and in specific responses to specific comments from Mr. Wagner and Mr. Smith, the revisions to the traffic analysis contained in the SPRDEIR reflect a consideration of, and compliance with, the one issue of concern identified by the Court in its Ruling. These revisions to the traffic analysis were based on the professional judgment of the traffic analysis preparers employing standard methodologies and assumptions.

The second general theme addressed in this master response is the manner in which the City, in its revised Traffic Impact Analysis (TIA), dealt with the issue of "pass-by trips." Because this was a technical issue addressed by Mr. Smith in a number of his specific comments, the City believes it most appropriate, in this master response, to lay out the general and detailed approach taken by LSA, and the reasons why the comments offered by Mr. Smith (and summarized by Mr. Wagner) are in error. The City will deal with this issue before the issue of coordination between LSA and CBRE Consulting.

The analyses in the SPRDEIR were revised to comply with the Sacramento Superior Court's Ruling.

As discussed in the Introduction Chapter to the SPRDEIR, the Superior Court found that the prior traffic analysis in the 2008 Partially Recirculated Draft EIR ("PRDEIR") for the Project did not comply with CEQA in the following respect:

The traffic distribution analysis in the FEIR indicating that 40% of Project traffic will travel to/from the Project site along the I-80 corridor from points south of Rocklin Road is inconsistent with the economic analysis' market area study which indicates that, because they would have the same or similar stores in Roseville, only a small percentage of the Project's patrons would travel to/from the Project site on I-80 from southwest of Rocklin Road. (Ruling, pp. 12-13.)

Furthermore, the Court determined and ruled that, based on the information available in the administrative record at the time of the litigation, the City had not produced substantial evidence sufficient to explain the facial differences between certain conclusions in the traffic and economic/urban decay analyses.

Given the exclusive focus of Rocklin Residents' legal arguments on traffic coming from the direction of Roseville along the I-80 corridor to the Project site, as well as the Court's focus on that same traffic coming through that same corridor, the SPRDEIR includes revised (and expanded) traffic and economic/urban decay analysis relating to that corridor. In preparing updated analyses on remand, the City and its experts also endeavored to provide a far more robust discussion and analysis of the methodologies employed by the two disciplines in question.

With respect to the traffic analysis, because the Court, in its Ruling, perceived a conflict between the conclusions of the earlier Traffic Impact Analysis (TIA) and the economic study, the City consulted with its traffic consultant DKS and then instructed LSA, the traffic analysis preparers, to reconsider any assumptions used in the earlier PRDEIR traffic study that, though conservative from a CEQA standpoint, might have caused the study to reach conclusions at odds with those of the economic study. One such assumption was the use of a very low pass-by trip reduction rate.

The use of a pass-by reduction rate is standard practice in traffic analysis, especially for analysis of retail shopping centers. In general, many of the trips to a retail shopping center such as the Project would be trips in which the driver's primary destination is not the shopping center. Rather, people are already on the road heading somewhere else, and decide to make a short detour to do some shopping en route to their destinations. Here, most of the anticipated typical pass-by trips would be ones that exit I-80 at the Sierra College Boulevard Interchange in order for the driver to shop at Rocklin Crossings and then get right back onto the freeway after the driver completes his or her shopping, continuing to his or her ultimate destination. Such "pass-by" trips are not "new trips" generated by the Project, but rather are trips that are already on the roadway network but that would make a stopover at the proposed shopping center en route to some other destination(s). As such, the pass-by trips are essentially already accounted for in the baseline traffic levels and baseline traffic distribution. In calculating the gross trip generation for a project, however, there is no way to differentiate between project trips and pass-by trips. The gross trip generation for a project is based (i) on counts taken at the driveways of the various project land use components and (ii) on equations and rates developed using empirical data documented in the ITE Trip Generation Manual, which provides *all* trips to a project site. Because the purpose of a traffic analysis in an EIR is to identify the potential impacts on the circulation network from traffic caused by a project, a pass-by trip reduction rate is applied to the gross project trip generation calculated for a project as an adjustment factor. The result is a net trip generation for a project that more accurately represents the new traffic generated by the project. (See, e.g., SPRDEIR, pp. 4.2-29 through 4.2-30, Table 4.2-4.)

In the PRDEIR, the City and its consultants applied to the gross trip generation for the Project a very low pass-by trip reduction rate of 10 percent. Consistent with the spirit of CEQA, which has traditionally been understood by consultants to encourage experts to err on the side of caution in estimating environmental impacts, this low pass-by rate was intended to be very conservative, and as a result it likely significantly understated the actual rate of pass-by trips for the Project. In retrospect, this approach had the tendency to exaggerate the number of *new* trips attributable to the Project and to inflate the number of trips coming to the site from all directions, including the direction of Roseville (i.e., coming from the south along I-80).

In the SPRDEIR, in response to the City's directive and with the support of DKS, LSA modified its earlier approach and used a more realistic, yet still conservative, pass-by reduction rate of 20 percent. This revised rate was consistent with, and at the low (more conservative) end of, published empirical data suggesting that pass-by trips would account for approximately 20 to 40 percent of the gross trips for this type of project. (See SPRDEIR, pp. 1-7, 4.2-29, citing ITE Trip Generation Handbook (2004) as authority for a 28 percent rate for pass-by trips for a Free Standing Discount Superstore, a 48 percent rate for a Home Improvement Store, and a 34 percent rate for pass-by trips for a Shopping Center.) Application of the 20 percent pass-by reduction rate to the gross trip generation calculated for the Project results in a net trip generation for the Project that more accurately represents the traffic caused by the Project. (See, e.g., SPRDEIR, pp. 4.2-29 through 4.2-30, Table 4.2-4.) Because the 20

percent pass-by reduction rate is so conservative, however, it does not eliminate all potential pass-by trips from the project trip generation. Rather, in light of the ITE Trip Generation Handbook determination that pass-by trips could account for 28 to 48 percent of gross trip generation trips, the City and its consultants found that, even after the application of the 20 percent pass-by reduction rate, an additional range of 8 to 28 percent of the net trip generation trips could still be pass-by trips.

The net project generated trips were then distributed to the Project's study area using a select zone assignment from the City's traffic model, as well as information from the revised economic impact and urban decay analysis. But in order to provide more detail on the origins of the percentage of Project trips that the PRDEIR traffic analysis had indicated will travel to/from the Project site along the I-80 corridor from points south of Rocklin Road, the SPRDEIR Traffic Impact Analysis (TIA) examined the Project trip distribution of an expanded area – beyond the original study area – that extends (south along Interstate 80 [I-80]) beyond Roseville to the Placer County/Sacramento County boundary. In light of the refinements to the project trip generation and trip distribution analysis, which includes an expanded study area, the regional trip distribution percentages to specific regions/cities are more readily determined. (SPRDEIR, p. 4.2-33.) On this basis, as seen in SPRDEIR Exhibit 4.2-6, the SPRDEIR concludes that approximately 10 percent of net trip generation Project trips traveling to/from the Project site along the I-80 corridor from points south of Rocklin Road most likely end or originate in the City of Roseville. (SPRDEIR, p. 4.2-33, shown in squares on Exhibit 4.2-6.)

In reaching these conclusions, LSA closely coordinated its work with CBRE, the City's economic/urban decay consultant. CBRE reviewed all pertinent data relevant to the assumptions to be used for delineating the primary and secondary market areas for the economic/urban decay analysis for the Project in order to determine whether refinements to the market areas identified in the 2007 Draft EIR were appropriate. In the 2007 Draft EIR, the City of Roseville had been excluded from the primary and secondary market areas, though the analysis had identified travelers passing through Rocklin on Interstate 80 as coming from the "tertiary market." In the SPRDEIR, CBRE again concluded that Roseville should be excluded from the primary and secondary market areas because Roseville is already served by two Walmart stores, two Home Depots, and a Lowe's store. Because of the existence of these conveniently located stores, CBRE concluded that it would be unlikely that a significant number of residents of Roseville would choose to undertake a single purpose trip to Rocklin Crossings when they have the same or similar stores nearby. But in light of its coordination with LSA, CBRE re-examined and redefined the tertiary market area to specifically include residents of Roseville and portions of Rocklin, as well as other travelers passing through Rocklin on Interstate 80 and shoppers on pass-by trips. (SPRDEIR, Appendix C, p. 2.) Based on this refined tertiary market, CBRE assumed that residents coming from tertiary markets will generate 10 percent of the Center's sales, whereas the Draft EIR analysis prepared in 2006 assumed the tertiary market area represented only 5 percent of sales. (SPRDEIR, p. 5-20.) This new economic analysis is reasonably consistent with the revised traffic analysis, which concludes, as noted earlier, that approximately 10 percent of project trips traveling to/from the Project site along the I-80 corridor are most likely to end or originate in the City of Roseville. (SPRDEIR, p. 4.2-33, shown in squares on Exhibit 4.2-6.)

Although, as explained above, the concerns expressed by both Rocklin Residents and the Court have heretofore focused exclusively on traffic on the I-80 corridor coming from the direction of Roseville to the Project site, Rocklin Residents offered a brand new twist on its earlier concern in its comments on the SPRDEIR. In his comments on the document, traffic engineer Smith noted the obvious fact that "Project trips distributed through the City's traffic model that emanate from south of Rocklin's south city limits are not limited to traffic along I-80." This statement is true, of course, though Rocklin Residents had made no mention of the fact in their comments on the earlier EIR or in their arguments in court. Mr. Smith then noted another uncontested and seemingly obvious fact in stating that "Sierra College Boulevard is a major arterial having continuity, though the name changes to Hazel Avenue at the Sacramento County line, through Orangevale and all the way south to U.S. Highway 50." Mr. Smith next stated that "[b]ased on the turning movements displayed in the SPRDEIR's exhibits for traffic movements at the intersection of Sierra College Boulevard and Rocklin Road, it is probable that a considerable portion of this 19 percent of model-distributed traffic is generated by people coming from south of Rocklin City Limits. This subtlety is likely unperceived by the public as well as those who prepared the SPRDEIR's economic analysis."

Although the point of these observations was not clear to the City, Mr. Smith's comments prompted the City to ask LSA Associates to confirm the accuracy of Mr. Smith's statement about the possible origins of the 19 percent of Project traffic traveling north along Hazel Avenue/Sierra College Boulevard to the Project site. In doing so, LSA provided the City with still more detailed information regarding those origins and created new exhibits showing an expanded "study area" (meaning an area for which more precise trip numbers and turning movements have been made available). As is explained in response to Comment 5-53, and as is now reflected in modified text to the SRPDEIR as shown in Chapter 3 of this Second Supplement to the Final EIR, some of the trips at issue originate in that portion of Roseville directly south of the Rocklin City Limits (a different part of Roseville than the areas that would access the Project site from the I-80 corridor). Although neither Rocklin Residents nor the Court had ever focused on this portion of Roseville, the new data created by LSA requires the City to clarify, so as to avoid being misunderstood, the percentage of Project traffic coming from *anywhere* in Roseville, as opposed to coming from areas in Roseville that would access the Project site from the I-80 corridor. Because a total of six percent of Project traffic will travel to the Project site via Sierra College Boulevard from portions of Roseville due south of the Rocklin City limits, the total percentage of project trips traveling to/from the Project site from *anywhere* in Roseville is 16 percent (as compared with 10 percent coming from Roseville via I-80).

Although the Court's directive dealt only with the I-80 corridor and not Sierra College Boulevard (as Rocklin Residents had not previously expressed any concern about traffic coming from Roseville to the Project site via Sierra College Boulevard), the City and LSA have nevertheless developed a figure for *all* Project traffic originating in Roseville in order to avoid any ambiguity or confusion as to whether the *10 percent* number represented all Roseville-based Project traffic or only traffic coming from Roseville to the Project site via I-80. The 10 percent number represents the latter, and not the former. The *total* figure is 16 percent.

Mr. Smith went on to suggest that the City ask its economic consultants to consider whether any new information created in response to his comments would alter their original conclusions. As is explained in a March 17, 2011, letter from economists Amy Herman and Elliot Stein (included as Appendix B to this Second Supplement to the Final EIR), the City's economic consultants have indeed considered whether this new information changes any of their earlier conclusions. It does not. As before, these consultants conclude that the Project will not lead to "urban decay" within the meaning of CEQA case law. The fact that six percent of Project traffic will originate in that portion of Roseville immediately south of Rocklin does not alter their analysis or any of their conclusions, for reasons set forth in their letter.

The analysis of pass-by trips in the SPRDEIR is appropriate and does not undermine the SPRDEIR's compliance with the Sacramento Superior Court's Ruling.

Mr. Wagner and Mr. Smith question the City's conclusion that greater consistency between the traffic analysis and the economic analysis can be achieved, in part, by increasing the pass-by trip reduction rate applied to the Project trip generation. The City and its capable and respected consultants respectfully disagree.

It was appropriate for LSA to increase the pass-by trip reduction rate from 10 percent in the PRDEIR to a still conservative 20 percent in the SPRDEIR. Many of the trips generated by a shopping center such as the project would be pass-by trips; and, according to ITE Trip Generation Handbook, pass-by trips could account for 28 to 48 percent of the gross project trip generation trips for this type of project. Despite this data, the PRDEIR very conservatively assumed that only 10 percent of the gross project trip generation trips were pass-by trips. This meant that even after the gross trip generation was reduced by 10 percent, from 18 to 38 percent of the trips analyzed as Project trips in the PRDEIR could still be pass-by trips. By increasing the pass-by reduction rate to 20 percent, the SPRDEIR analysis actually identifies and eliminates 10 percent more of these pass-by trips from being analyzed as Project trips. The result is a net project trip generation in the SPRDEIR that more closely, but still conservatively, reflects the actual trips *caused* by the Project, as it ultimately counts fewer pass-by trips as Project trips than did the PRDEIR. Notably, Mr. Smith *validates* the pass-by trip reduction rate of 20 percent used in the SPRDEIR, stating that it is "clearly within the range of documented precedent for such shopping centers." (See Comment 5-35.)

From a traffic distribution standpoint, as well, the SPRDEIR appropriately handled pass-by trips. While the increase in the pass-by trip reduction rate did reduce the net project trip generation, the change did not ultimately influence the percent traffic *distribution* in any one direction, including south (towards Roseville). Trip generation and trip distribution are two independently and mutually exclusive processes. Coming up with trip generation is a process by which the number of trips generated by a land use is estimated based on equations and rates developed using empirical data documented in the ITE Trip Generation Manual. The trip distribution is a process by which the trips generated for a project are distributed over a circulation network, as reflected in a computer model. The trip generation defines the number of vehicles generated by the project, while the trip distribution defines the directional orientation of those trips. For the Rocklin Crossings TIA, the trip generation was developed based on the ITE Trip Generation Manual (8th Edition), while the trip distribution was developed using the City's traffic model. Since the trip generation and trip distribution are two separate processes, any change in the trip generation (for instance, by increasing pass-by reduction rate) does not influence or alter the percent trip distribution at one particular intersection or roadway segment more than any other.

Furthermore, as the purpose of the traffic analysis is to determine the impact of traffic caused by a project on the circulation network, only the *net* project generation trips are distributed through the circulation network throughout the Project's study area. The pass-by trips were not distributed through the circulation network; nor were they required to be, because, by definition, pass-by trips are trips that are already on the roadway. As such, they are essentially already accounted for in the baseline traffic levels. If the pass-by trips were again distributed through the circulation network, the trips would be double-counted and lead to inaccurate forecasting results. The approach employed by LSA and the City is consistent with industry standards and was confirmed not only by LSA, but also by peer review of LSA's work conducted by experienced transportation engineers at DKS Associates (completed on the City's behalf).

On that basis, the traffic study does not, nor is it required to, determine or show the origins of the pass-by trips, as such information is not relevant to the analysis of determining the impact of traffic *caused* by the Project on the circulation network. Because the Project site is not the pass-by trip's primary destination, these trips are not considered to be "attracted" to the Project site from some sub-area of the region, as "new project trips" would be. Rather, the only analysis for which the pass-by trips are germane is in determining the Level of Service (LOS) at the intersections and roadway segments where the pass-by trips divert from their primary route to the Project, as that is the only portion of the pass-by trip that could be considered to be generated by the Project. The SPRDEIR includes both pass-by trips and Project trips in its analysis of the LOS at the project driveways (entrances) and roadway segment adjacent to the project site. As discussed in the Project Description portion of the traffic impact analysis, the Project has three access locations. (SPRDEIR, Appendix B, p. 2.) Two of these intersections were analyzed using traffic volumes that included pass-by trips: the northernmost project access, which forms the east leg of the Sierra College Boulevard/ I-80 Eastbound Ramp (intersection 11); and the southernmost access, which will align with the future extension of Dominguez Road over I-80 (intersection 12). The third access (Sierra College Boulevard/Black Willow Street) was not analyzed, as it is a right-in/right-out access and does not have any conflicting movements. Additionally, the roadway segment adjacent to the project site (Sierra College Boulevard between I-80 and Dominguez Road) was analyzed using volumes that included pass-by trips. (See Response to Comment 5-56 for a step by step explanation of how to isolate the pass-by trips in the LOS analysis for these intersections and roadway segment.)

The intersection of Sierra College Boulevard/I-80 Westbound Ramps (intersection 10) mistakenly did not include pass-by trips in the LOS analysis in the SPRDEIR. But this intersection was reanalyzed to include pass-by trips (or diverted trips in this case) and the revised LOS worksheets are included in Appendix D of this Second Supplement to the Final EIR. The revised results for the "Existing Plus Project" scenario, the "Existing plus Approved Projects Plus Project" scenario, the "2030 without Dominguez plus project" scenario, and the "2030 with Dominguez plus project" scenario did not change the LOS or significantly impact the intersection in the a.m. weekday, p.m. weekday, or Saturday peak hour analysis. (See Response to Comment 5-56.)

To comply with the Court’s Ruling, LSA and CBRE closely coordinated their work to determine the appropriateness of both the refinements made to trip generation and trip distribution assumptions, on the one hand, and the market areas used in the economic analysis in the 2008 FEIR, on the other.

As discussed above, consistent with the court’s Ruling, LSA and CBRE closely coordinated their work to determine the appropriateness of both the refinements made to trip generation and trip distribution assumptions, on the one hand, and the market areas used in the economic analysis in the 2008 FEIR, on the other. (See, e.g., SPRDEIR, p. 4.2-10, 4.2-30, 5-4 to 5-5.) The coordination between consultants revealed, however, that given the nature of their respective disciplines and their own ethical obligations to be as accurate and consistent as possible, some of their respective assumptions appropriately diverged, which can be explained by the manner in which each study has chosen to be conservative, consistent with CEQA principles.

For example, the traffic study must consider all traffic categories (shoppers, employees, deliveries, etc.) coming to the Project site, while the economic and urban decay analysis focuses only on shoppers and economic activity, at least with respect to demarcating the Primary and Secondary Market Areas. (SPRDEIR, 4.2-36, App. B, p. 27.) To impose economic analysis on the origins of all vendors and employees would require speculation, which is not supported or required by CEQA (see CEQA Guidelines, § 15145). As another example, the traffic distribution modeling process applies generic land uses such as retail, industrial or office and does not recognize specific brands of retail (Walmart, Home Depot, etc.). For purposes of traffic analysis, ignoring brands and focusing on retail use categories is a superior methodology as, over time, it produces more stable results and more accurate outcomes in analyzing traffic patterns. This “generic” approach is particularly important in traffic studies, since they are used for, among other purposes, identifying expensive long-term physical improvements needed to maintain a free flow of traffic over a large grid for decades into the future – which improvements do not depend on specific brands of retail.

The economic and urban decay analysis, however, does take specific brands into consideration, since it must determine the effect of the various locations of specific brands and tenants on potential shoppers. Compared with a traffic study, an economic/urban decay analysis is inevitably more focused on short-term and mid-term scenarios, as long-term scenarios for economic/urban decay analysis are inherently speculative. In other words, while it is possible for an economist to predict how competition between “brand-name” retailers might play out over a few years or even a decade or more, economists acknowledge that their conclusions become less reliable the farther into the future they look.

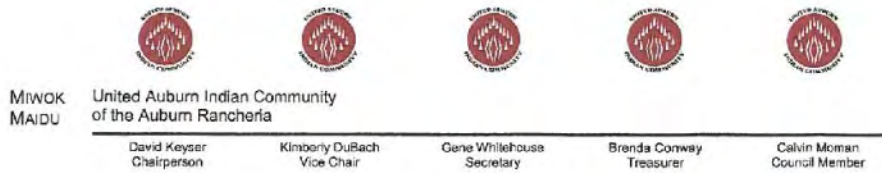
It is also worth noting that there are inherent differences in what traffic studies and economic/urban decay analyses are trying to accomplish. Whereas the trip distribution for a traffic study is related to the amount of traffic traveling to or from a project site during a *peak hour* condition when road capacity is under the most pressure, a market analysis, in contrast, estimates the amount of *yearly sales* from primary, secondary, and tertiary market areas. Because retail land uses typically draw shoppers over the course of an entire day, including on weekends when many people find shopping most convenient, there is no necessary correlation between overall peak hour traffic and the time when shopping trips occur. Thus, traffic analyses and economic/urban decay analyses are not engaged in an “apples to apples” comparison.

In short, the City strongly believes that the approaches followed by LSA and CBRE in preparing their respective studies are consistent with CEQA, which grants agencies broad discretion to determine the appropriate approach for analyzing a project’s impacts. (CEQA Guidelines, §§ 15151, 15204, subd. (a); *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 493 (*Mira Mar*) [agency has discretion to determine whether to classify impacts as “significant” depending on the circumstances and nature of affected area]; *Ebbetts Pass Forest Watch v. California Dept. of Forestry* (2004) 123 Cal.App.4th 1331, 1351 (*Ebbetts Pass I*) [“[t]he selection of the assessment area is left to the [agency’s] expertise, and absent a showing of *arbitrary* action, we must assume the [agency] exercised its discretion appropriately”] (italics added); see also *O.W.L. Foundation v. City of Rohnert Park* (2008) 168 Cal.App.4th 568, 574 [noting that where the relevant statute does not specify a particular methodology for a sufficiency analysis, the agency is afforded substantial discretion in determining how to measure an impact].)

As these cases demonstrate, it is appropriate from a CEQA perspective and reasonable from a practical perspective as well, for experts in differing disciplines to employ different assumptions in preparing individual impact analyses or technical studies for particular issue areas, even where some of the assumptions required for these individual studies may overlap. Such flexibility and discretion are appropriate, as they permit an expert in a particular field to adjust technical assumptions to ensure they are conservative (i.e., to avoid the risk that any impacts might be understated), and reflect the varied focuses that, under different disciplines, are required to develop accurate forecasts and conclusions.

More importantly, the City has ensured that the traffic study and economic study reflect close coordination and ongoing conversations between the two experts, and has reviewed all conclusions reached by the respective experts to confirm that they reflect such close coordination.

In light of the above information, the City believes it has now met its informational and legal burdens, as clarified by the Court, by LSA coordinating with CBRE Consulting in preparing a refined and updated traffic analysis, by CBRE Consulting coordinating with LSA in preparing a refined and updated economic study, and by describing and explaining the appropriateness of the general approaches taken by these experts in preparing their respective analyses.



December 20, 2010

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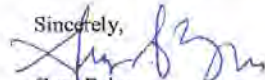
Subject: Rocklin Crossing Draft EIR

Dear Ms. Abbas,

Thank you for requesting information regarding the above referenced project. The United Auburn Indian Community (UAIC) of the Auburn Rancheria is comprised of Miwok and Nisenan (Southern Maidu) people whose tribal lands are within Placer County and ancestral territory spans into Eldorado, Nevada, Sacramento, Sierra, Sutter, and Yuba counties. The UAIC is concerned about development within its aboriginal territory that has potential to impact the lifeways, cultural sites, and landscapes that may be of sacred or ceremonial significance. We appreciate the opportunity to comment on this and other projects in your jurisdiction.

In order to ascertain whether or not the project could affect cultural resources that may be of importance to the UAIC, we would like to receive copies of any archaeological reports that have been, or will be, completed for the project. We also request copies of future environmental documents for the proposed project so that we have the opportunity to comment on potential impacts and proposed mitigation measures related to cultural resources. The UAIC would also like the opportunity to have our preservation committee accompany you during the field survey. The information gathered will provide us with a better understanding of the project and cultural resources on site and is invaluable for consultation purposes.

Thank you again for taking these matters into consideration, and for involving the UAIC early in the planning process. We look forward to reviewing the aforementioned documents as requested. Please contact Marcos Guerrero, cultural resources specialist, at (530) 883-2364 or email at mguerrero@auburnrancheria.com.

Sincerely,

Greg Baker,
Tribal Administrator

CC: Marcos Guerrero, UAIC

Tribal Office 10720 Indian Hill Road Auburn, CA 95603 (530) 883-2360 FAX (530) 883-2380

1-1

1-1 This comment is based on information contained in the 2007 Draft EIR, not the 2010 SPRDEIR. The Notice of Availability (NOA) for the 2010 SPRDEIR noted that, pursuant to procedures set forth in Section 15088.5, subdivision (f)(2) of the State CEQA Guidelines, reviewers should limit their comments to the materials contained in the 2010 SPRDEIR. The NOA further noted that the City would respond only to comments received during the recirculation period that relate to the 2010 SPRDEIR. Therefore, this comment is outside the scope of the documents identified in the NOA of the 2010 SPRDEIR for which comments were invited, and no response is required under CEQA. (CEQA Guidelines, § 15088.5, subd. (f)(2).) In the interest of clarity, however, the City as CEQA lead agency, has chosen to respond to this comment.

The commenter requests copies of any archaeological reports that have been, or will be, completed for the project. Cultural resource investigations were conducted for the project site by ECORP (November 2005a and November 2005b) and the 2007 Draft EIR provides a summary of these investigations. (See 2007 Draft EIR, pp. 4.13-4 through 4.13-5.) These investigations were reviewed by EDAW's archaeologists for technical adequacy, which included a site reconnaissance visit to confirm the investigation's findings in the field. As noted in response to the United Auburn Indian Community's January 2, 2008 comment letter on the 2007 Draft EIR, the following is a summary of the cultural resource investigations and the analysis contained in the 2007 Draft EIR:

Based on previous studies [by ECORP], as well as EDAW archival and field investigations, three prehistoric archaeological sites, one isolated prehistoric artifact, and five historic-era cultural resources have been identified within the project site. The three early Native American sites, the isolated prehistoric artifact, and the five historic-era resources were evaluated to determine their eligibility for listing on the CRHR (or the National Register of Historical Places). None of the prehistoric or historic-era resources located within the project site (inclusive of the detention basin area) was determined to be eligible for listing on the CRHR (or the National Register of Historical Places) and none of them were considered to be unique archaeological resources (as defined in Public Resources Code, Section 21083.2) due to a lack of association with historically significant persons or events, a lack of historical integrity, and/or a lack of data potential. Therefore, no significant cultural or historical resources would be affected by project implementation and no impacts on cultural resources would occur with development of the project.

Two of the three prehistoric archaeological sites identified within the project boundaries were likely removed during the grading activities for the improvements to the Interstate 80/Sierra College Boulevard Interchange. This separate project included use of nearly 50 percent of the project site to accommodate interchange improvements and a soil borrow area. Two of the three prehistoric archaeological sites were located within this excavation area. The excavated soils from the project site [were] used to construct the interchange's elevated freeway on- and off-ramps. The last remaining prehistoric archaeological site is anticipated to be removed during site grading for the proposed project. (See 2008 Final EIR, p. 2-44.)

As no change to the Project site is proposed in conjunction with the SPRDEIR, no changes to the above information or conclusions will occur.

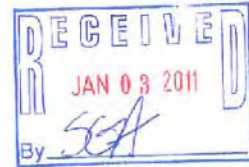
The commenter also requests the opportunity to have its preservation committee present during the field survey. As noted above, field studies have already been performed by EDAW and no further surveys are anticipated for the Project. Notably, as a component of the cultural resource investigations, ECORP's cultural resource specialists consulted with the Native American Heritage Commission (NAHC) concerning potential areas of Native American concern regarding the Rocklin Crossings project area. The NAHC conducted a search of the Sacred Lands File and provided a list of appropriate regional Native American tribal contacts and individuals with a potential interest in the project. Contact letters were mailed to the NAHC-suggested contacts and they were provided with an opportunity to comment on the proposed project and contribute information on cultural resources or areas of concern potentially located within and in the vicinity of the project area. No responses were received (ECORP November 2005a).



**Placer County
Health and Human Services Department**

Richard J. Burton, M.D., M.P.H.
Health Officer and Director

Jill Pahl, R.E.H.S.
Director, Environmental Health



MEMORANDUM
DEPARTMENT OF HEALTH & HUMAN SERVICES
ENVIRONMENTAL HEALTH SERVICES

Perspective, Hope, and Opportunity

To: Sherri Abbas, Acting Community Development Director, City of Rocklin
From: Paul Holloway *PA*
Land Use and Water Resources Section
Date: December 23, 2010
Subject: Rocklin Crossings Second Partially Recirculated Draft EIR (SCH#2006112097)

Environmental Health Services has reviewed the December 16, 2010 Notice of Public Review for the above-mentioned project and have no comments. 2-1

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Community Development and Resource Agency Building, 3091 County Center Drive, Suite 180, Auburn, CA 95603
530 745-2300 • www.placer.ca.gov • fax 530.745-2370

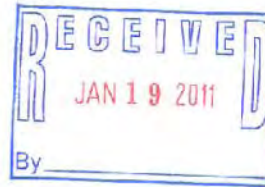
**Letter
2
Response**

Department of Health & Human Services, Environmental Health Services
Land Use and Water Resources Section
Paul Holloway
December 23, 2010

2-1 The comment is noted.

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

California Highway Patrol
9440 Indian Hill Road
Newcastle, CA 95658
(916) 735-3344
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



January 17, 2011

File No.: 220.12336.11784.SCH#2006112097

Ms. Sherri Abbas, AICP, Planning Services Manager
3870 Rocklin Road
Rocklin, CA 95677

Dear Ms. Abbas:

Recently, the California Highway Patrol (CHP) Auburn Area had the opportunity to review the Second Partially Recirculated Draft Environmental Impact Report for the Rocklin Crossings Project SCH#2006112097. We believe the growth discussed will have a major impact the mission of the CHP of providing safety and service to the public as they use the highway transportation system within Placer County. The project as outlined will substantially increase traffic volume and impact the State highways and roadways within the southern portion of Placer County, primarily Interstate 80 (I-80), State Route 65 (SR-65) and north and south of the project on Sierra College Boulevard.

The effect this project will have on the Auburn CHP Area could be significant in the number of residents it will attract. The proposed plan encompasses approximately 55.1 acres of land currently in the City of Rocklin and County of Placer. The plan calls for the construction of a regional shopping center at the southeast corner of Interstate 80 and Sierra College Boulevard. A variety of retail outlets, using 21 buildings and 543,500 total maximum square feet, in addition to 2,463 parking stalls. This project will contribute a significant amount of traffic volume on regional roadways and intersections that would exceed their current capacity.

3-1

The Auburn CHP Area office is responsible for more than 800 square miles of area in west Placer County, which includes I-80, SR-49, SR-193, SR-65, and over 1,100 miles of county roadways. We are committed to providing the maximum amount of service and traffic enforcement allowable with our current staffing levels. This project will significantly impact our ability to provide traffic law enforcement services, unless additional staffing is allocated to patrol this project.

There are no immediate plans to augment the workforce in the Auburn CHP Area Office, nor are there any major roadway projects to significantly increase the traffic capacity of I-80 or SR-65. This is an area that should be discussed as this project, along with several other major developments within the immediate vicinity, will have a major impact on traffic.

3-2

I-80, which bisects the City of Roseville, is currently operating at or near maximum capacity. During certain times of the day, I-80 is beyond capacity resulting in gridlock or near gridlock as traffic flows at a seriously reduced speed in both directions. Furthermore, SR-65, which is located on the north edge of Roseville, has already experienced a major increase in usage due to the growth from the cities of Lincoln,

Safety, Service, and Security

LETTER 3

Ms. Abbas
Page 2
December 27, 2010

Roseville, Rocklin and unincorporated Placer County. Any significant increase in growth will further adversely affect these major routes of travel.

3-2
Cont'd

We thank you for allowing our comments regarding the Second Partially Recirculated Draft Environmental Impact Report for the Rocklin Crossings Project. Through cooperative partnerships with local, county and State entities the CHP will continue to monitor the growth within western Placer County and the surrounding cities for its impact on the CHP's mission.

3-3

Sincerely,


W. L. DONOVAN, Captain
Commander
Auburn Area

cc: Assistant Chief M. S. Champion, Valley Division
R. M. Nannini, SSM III, Commander, Special Projects Section

3-1 The commenter summarizes the Project and states the project will substantially increase traffic volume and impact the State highways and roadways within the southern portion of Placer County, primarily Interstate 80 (I-80), State Route 65 (SR-65) and north and south of the project on Sierra College Boulevard.

The commenter also states the growth from the Project will significantly affect the Auburn CHP's ability to provide traffic law enforcement services unless additional staffing is allocated to patrol the project. While the CHP does provide traffic-related services on City roads (e.g., speed control), growth in the City and elsewhere will increase demand for CHP services, as well as other State-funded services. Typically, these services are provided through resources available to the State, such as income tax. The City of Rocklin does not fund CHP activities. As the population of Rocklin and the State grows, taxes and other sources of revenue available to the State should also increase. The State would then decide how best to fund the various services and programs.

3-2 The commenter claims that the impact of the Project on traffic capacity on I-80 and SR-65 should be discussed in the SPRDEIR. In fact, such analysis is included in the SPRDEIR under Impact 4.2-13—Freeway Mainline Impacts. This impact analyzes baseline and cumulative (2030) levels of service (LOS) on certain segments of I-80 and SR-65 in the vicinity of the Project identified by Caltrans, and analyzes the effect of the addition of Project traffic on these segments. (See SPRDEIR, p. 4.2-125 through 4.2-126.) Furthermore, contrary to the commenter's assertion, there are major roadway projects planned to increase the capacity of I-80 and SR-65 and the SPRDEIR addresses these projects. The discussion under Impact 4.2-13 notes planned improvements on I-80 and SR-65, including the I-80 improvement (widening) project—a project that will be completed before the construction of the development Project—which will widen the I-80 mainline between Atlantic Street and SR-65 to a ten lane (mainline) freeway, and widen the I-80 mainline segment between SR-65 and Horseshoe Bar Road interchange to a six lane freeway.

Taking into consideration the I-80 improvement (widening) project, the Impact 4.2-13 analysis concludes that under existing plus approved projects (baseline) conditions only two segments along SR-65 between I-80 and Galleria Boulevard and between Galleria Boulevard and Pleasant Grove Boulevard would operate at unacceptable LOS. While the Project would contribute traffic to these two segments under baseline conditions, the increase in traffic volume with the Project would be less than 1.6 percent. The SPRDEIR sets a threshold of significance for freeway mainline segments such that if a segment is already operating at an unsatisfactory LOS, a significant impact would not result unless the Project contributes to an increase of 5 percent of the total traffic. Since the project contributes less than 5 percent of the total traffic to the segments along SR-65 between I-80 and Galleria Boulevard and between Galleria Boulevard and Pleasant Grove Boulevard, the SPRDEIR concludes that the Project does not have a significant impact along these segments of the freeway mainline. Therefore, no mitigation is required.

Furthermore, in the cumulative scenario, all freeway mainline segments along I-80 are predicted to operate at acceptable LOS (LOS E or better) in 2030 with the future ten-lane freeway for the segment between Atlantic Street and SR-65. In addition, all freeway segments along SR-65 are projected to operate at LOS E or better in 2030 with the future six-lane freeway except for the northbound segment on SR-65 between I-80 and Galleria Boulevard/Stanford Ranch Road. While the Project would contribute traffic to the freeway mainline segment on SR-65 that is projected to operate unacceptably, the increase in traffic volume with the Project would be less than 1.2 percent. Since the

Project contributes less than 5 percent of the total traffic, the project impact on this freeway mainline segment is considered less than significant. Therefore, no mitigation is required.

- 3-3** The City appreciates the commenter's courtesy in thanking the City for allowing the commenter to submit its comments on the Project.

DEPARTMENT OF TRANSPORTATION
DISTRICT 3
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www.dot.ca.gov



*Flex your power!
Be energy efficient!*

January 31, 2011

032010PLA0042
03-PLA-80/ PM 7.603
Rocklin Crossings
Second Partially Recirculated Draft Environmental Impact Report

Mr. David Mohlenbrok
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677

Dear Mr. Mohlenbrok:

Thank you for the opportunity to review and comment on the Second Partially Recirculated Draft Environmental Impact Report (EIR) for the Rocklin Crossings project. The project site measures 55.1 acres with 5.6 acres for a detention basin site. The proposed regional shopping mall consists of 21 buildings and totals 543,500 sq ft including small retail, restaurants, and other traveler-serving uses. We have the following comments:

- According to the “Caltrans Guide for the Preparation of Traffic Impact Studies,” (“Guide”), if an existing State facility is operating at less than the acceptable Level of Service (LOS), the existing Measure of Effectiveness (MOE) must be maintained. Caltrans endeavors to maintain a target LOS between LOS C and D on its facilities. If a facility is currently operating at an unacceptable LOS, then at the very least, fair share contributions must be made by the project proponent to maintain the current MOE or existing LOS, regardless of the percentage of degradation of operations or the percent total increase in traffic volume.
- On page 4.2 – 126, first paragraph, top of page: The applicant states that for the existing plus projects scenario, Interstate 80 (I-80) between Atlantic Street and State Route 65 (SR 65) was analyzed as a future ten lane freeway and the segment of I-80 between SR 65 and Horseshoe Bar Road was analyzed as a future six lane freeway. The existing plus project facilities scenario should be analyzed as the actual existing facilities and not as future planned facilities.
- On page 4.2 – 125, under Freeway Mainline Impacts, Impact 4.2 – 13, third sentence: The applicant states that because the project contributes less than 5 percent (%) to total traffic along two segments that will operate at an unacceptable LOS in the baseline condition, the project’s impacts are less than significant. The two segments in regard to the baseline condition are: 1) SR 65 between its junction with I-80 and Galleria Boulevard (Blvd.)/Stanford Ranch Road and, 2) SR 65 between Galleria Blvd. and Pleasant Grove Blvd. According to the Draft EIR, the increase in traffic volume due to



“Caltrans improves mobility across California”

Mr. Mohlenbrok
January 31, 2011
Page 2

the project for Segment 1 is 1.7% and for Segment 2 is 1.6%. As stated above, fair share contributions, such as traffic impact fees, must be made by the project proponent to maintain the current "without project" LOS. The project proponent should make fair share contributions to all future planned projects along impacted segments. Please identify appropriate measures that will mitigate the impact.

4-5
Cont'd

- On page 4.2 – 126, third paragraph: For 2030 conditions it states that the northbound segment of SR 65 between I-80 and Galleria Blvd., Stanford Ranch Road will not serve future demand with or without the project. The Draft EIR further states that because the project would contribute less than 1.2% in traffic volume increase, the impacts are less than significant. As stated above, the project should provide a fair share contribution toward future improvements to the above mentioned segment of SR 65. Please identify appropriate measures that will mitigate the impact.

4-6

Please provide our office with copies of any further action(s) regarding this project. If you have any questions, please contact the Placer County Intergovernmental Review Coordinator, Chad Riding, by email at chad_riding@dot.ca.gov or by telephone at 530-741-4543.

4-7

Sincerely,



RICHARD HELMAN, Chief
Office of Transportation Planning—East

c: State Clearinghouse

"Caltrans improves mobility across California"

4-1 The Commenter’s summary of the Project description is correct. No further response is required.

4-2 The Commenter claims that according to its Guide, if an existing State facility is operating at less than the acceptable Level of Service (LOS), the existing Measure of Effectiveness (MOE) must be maintained.

MOE is a general term used by Caltrans to describe the measures best suited for analyzing state highway facilities such as freeway segments, signalized intersections, on-ramps, off-ramps, etc. The Caltrans Guide for the Preparation of Traffic Impact Studies (Caltrans Guide) lists MOEs based on the facility type. For example, the MOE for a freeway segment is “Density (pc/mi/ln).” For a signalized intersection, the MOE is “Control Delay per Vehicle (sec/veh).” These MOEs are calculated based on Highway Capacity Manual (HCM) methodology, as described in the Caltrans guide. The analysis of Caltrans facilities (freeway segments and signalized intersections) included in the SPRDEIR is consistent with the procedure described in the Caltrans Guide. Using the MOEs (density for freeway segments and control delay per vehicle for signalized intersections), the LOS was derived from the HCM tables that are referenced in the Caltrans Guide. Page 4.2-5 of the SPRDEIR includes a table for freeway segments, which shows the density and the corresponding LOS. The density values and corresponding LOS are consistent with the table included in Caltrans Guide.

Although, as noted above, the City and its consultants followed the Caltrans Guide with respect to the MOEs, and in fact followed the Caltrans Guide generally to the extent that it reflects the requirements of CEQA and CEQA case law, the City was not required to follow the Caltrans Guide with respect to the decision as to what significance thresholds to follow. On the question of lead agency discretion to make its own determinations of impact significance, see the response to comment 4-3 below. Notably, the Caltrans Guide itself does not have the force of law, as it would if it were a duly enacted regulation subject to a formal approval process.

4-3 The Commenter claims that it endeavors to maintain a target LOS between LOS C and D on its facilities and that if a project contributes traffic on a facility already operating at an unacceptable LOS, the Commenter believes fair share contributions must be made by the project proponent to maintain the current MOE or existing LOS, regardless of the project’s contribution to the unacceptable LOS. The City respectfully disagrees with the notion that “[i]f a facility is currently operating at an unacceptable LOS, then at the very least, fair share contributions must be made by the project proponent to maintain the current MOE or existing LOS, regardless of the percentage of degradation of operations or the percent total increase in traffic volume.” There are a number of issues raised by that statement.

The first issue raised by the comment is the Commenter’s implied suggestion that the City is bound by the Commenter’s opinion that any change in an unacceptable MOE or LOS gives rise to a significant effect requiring mitigation under CEQA. As CEQA lead agency, the City, rather than any commenter, has the responsibility for determining the significance of impacts on the affected environment, including state highway facilities. This division of labor is evident from a number of CEQA statutes and CEQA Guidelines. For example, Public Resources Code section 21080.1, subdivision (a), states that the *lead agency* shall be responsible for determining whether an EIR or negative declaration shall be required for a particular project. Implicit in the decision of *whether* to prepare an EIR is the question of whether the particular impacts of a project may be or are significant.

Similarly, section 21082.2, subdivision (a), states that “the lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record.” Here, too, it is implicit that the lead agency has the legal authority to decide whether particular impacts are significant. Section 21100 commands lead agencies to prepare EIRs when they are required, and to include in such documents “[a]ll significant effects on the environment of the proposed project.” Again, this statute implicitly assumes that lead agencies possess the authority to decide whether impacts are significant. Subdivisions (b) and (f) of CEQA Guidelines section 15064 support the same conclusion. A further indication in the law of a lead agency’s discretion in this context is found in CEQA Guidelines Section 15064.7 (Thresholds of Significance), which not only authorizes but *encourages* each public agency to develop and publish its own thresholds of significance. Here, while the City was permitted to consider thresholds of significance recommended by other public agencies (see CEQA Guidelines Section 15064.7, subd. (c)), there is nothing in the law that mandates the approach suggested in the Caltrans Guide.

A second issue raised by the comment is the statement that “if a facility is currently operating at an unacceptable LOS then at the very least, fair share contributions must be made....”. This statement assumes that, as a matter of law, *any* addition of new traffic to a facility already operating an “an unacceptable LOS” is a significant environmental effect requiring mitigation as determined by Caltrans. This type of approach to assessing significance has been rejected by the courts in other contexts, even though the environmental harms at issue in those contexts (e.g., air pollution) were greater than whatever “environmental” impacts are endured by temporarily inconvenienced users of freeways during peak conditions. As the Court of Appeal stated in *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 120, “the ‘one [additional] molecule rule’ is not the law.” (Brackets in original.) Here, it could be said that “the ‘one additional car rule’ is not the law.” In fact, the reasons why the City believes that a “one additional unit” approach applied to roads and freeways is especially problematic are laid out in detail on pages 4.2-7 and 4.2-8 of the SPRDEIR:

Although some individuals in California have argued that, under CEQA, “one car” added to an already impacted roadway or intersection must per se be treated as a significant effect on the environment, the City disagrees. The City does not subscribe to the notion that, where existing conditions or projected cumulative conditions are already bad or will be bad even without the project, *any* additional traffic from the project represents a significant impact or a cumulatively considerable contribution to a significant cumulative traffic impact. The City’s rejection of this notion reflects the nature of traffic impacts, compared with other categories of environmental impact, which often involve public health or ecological concerns. Worsened congestion might cause irritation or inconvenience to people, but not any adverse effects on public health or ecosystems.

Thus, while the addition of relatively small amounts of air pollution in a polluted air basin might worsen the adverse health effects of air pollution, no similar health effects result from additional traffic congestion. Similarly, while the loss of relatively small amounts of the habitat of an endangered or threatened species might cause ecological consequences of note, worsened traffic congestion has no such consequences to biological resources. In fact, “mitigation” for traffic impacts often has its own adverse consequences on biological resources (i.e., road widenings often wipe out habitat areas). In short, the City does not believe that a “one car” threshold of significance for traffic impacts on already-congested transportation facilities is either practical or desirable from a policy standpoint. Nor is such an approach mandated by CEQA or CEQA case law. While the 0.05 threshold, by allowing small amounts of traffic without triggering additional mitigation, might require drivers to

endure minor additional delays during peak periods, this purely human inconvenience is not, in the City's view, a "significant effect on the environment."

Notably, very similar language was included in the original EIR that was challenged in court, and the court rejected arguments by the Town of Loomis attacking the use of the 5 percent threshold on surface roads as being inconsistent with CEQA. The City therefore believes that this particular threshold now enjoys the blessing of the superior court.

A third point to make in response to comment 4-3 is that the City, exercising its discretion as lead agency, has employed a more pragmatic threshold, which is commonly used in many areas within the greater Sacramento Metropolitan area and other areas. As noted in the SPRDEIR, the traffic analysis for the Project uses LOS E as the upper limit of capacity (volume to capacity ratio of 1.0) for all its freeway mainline facilities. When facilities are already operating at capacity, however, the traffic analysis looks at whether the Project would increase traffic by 5 percent above the baseline volumes. The City considers an increase of 5 percent in traffic volumes to be significant, as such an increase reflects what would be considered a measurable worsening of the intersection or roadway operations and therefore would constitute a significant project impact. In other words, regardless of whether the existing LOS is E or F, unless there is an increase of at least five percent, the increase would generally go unnoticed, and therefore would not be significant. The City, therefore, does not subscribe to the suggestion of the commenter that mitigation is required or that "fair share contributions must be made by the project proponent" regardless of the project's percent contribution to the unacceptable LOS.

A final important point to make is that, even if the City agreed with the Commenter that the addition of any traffic to a freeway already operating at an unacceptable level of service would cause a significant environmental effect, the City could not accept that the appropriate mitigation would be a "fair share" contribution from the applicant. To the City's knowledge, Caltrans has no "reasonable mitigation plan" (a term from CEQA case law) by which any such contribution would be matched by other contributions so that, at some point in the foreseeable future, enough money would have accumulated to fund the construction of identified improvements that will mitigate the Project's effects on state highways. As the Court of Appeal explained in *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, 938, where a commenting agency seeks a fair share contribution for impacts to a transportation facility under its control but does not have any sort of existing plan or program that can accept such a contribution and ensure that it will be spent on its intended purpose, a lead agency may opt not to require a project applicant to make such a contribution. Here, if the City of Rocklin had found a significant effect as the Commenter suggests, the City still would not require the payment of fees by the applicant, as the City knows of no enforceable mitigation plan by which Caltrans could take money from applicants in Rocklin for use in helping to fund construction of freeway mainline improvements necessitated in part by the Rocklin Crossings project. Given that the affected facility is a freeway, the costs of any meaningful improvements could be extremely expensive. If one applicant were expected to fund such improvements with little or no help from other benefitting parties, the result would be mitigation that is *not* "roughly proportional," as required not only by CEQA (see CEQA Guidelines, § 15126.4, subd. (a)(4)(B)), but also by constitutional principles.

Notably, where an impact is triggered by a project's contribution of traffic on a Caltrans facility, the City does require a project to participate in or contribute to *existing* funding programs supporting Caltrans facilities. For instance, the City of Rocklin 2004 Traffic Impact Fee and Capital Improvement Program Update (May 23, 2007) identifies the Rocklin Road/Interstate 80 interchange for needed improvements. A total of \$30 million is programmed for these improvements, with \$10 million to be funded by the City's impact fees, \$10 million by Caltrans, and \$10 million by the South Placer Regional Transportation Authority (SPRTA) fees. This is just one of several examples of mitigation fee collection efforts by the City of Rocklin related to Caltrans facilities. (See SPRDEIR,

pp. 4.2-87 through 4.2-89.) Thus, where appropriate, the City does require the participation of this Project (and others) in all applicable mitigation and fee collection programs for funding improvements to Caltrans facilities. In light of the above discussions, however, the City finds it would be contrary to CEQA and to constitutional principles to require the Project to contribute fair share mitigation fees where no significant impact is triggered and where no reasonable mitigation plan exists.

- 4-4** The Commenter quotes the “applicant” as stating that, for the “existing plus project scenario,” the segment of I-80 between Atlantic Street and State Route 65 was analyzed as a future ten lane freeway and the segment of I-80 between SR 65 and Horseshoe Bar Road was analyzed as a future six lane freeway. The Commenter goes on to state that “[t]he existing plus project facilities should be analyzed as the actual existing facilities and not as future planned facilities.” The premise of this comment is mistaken. The future planned facilities mentioned by the Commenter were not analyzed in the “Existing plus Project” scenario, as documented on page 4.2-126 of the SPRDEIR, first paragraph, top of page. Rather, these facilities are analyzed under the “Existing plus Approved Projects” conditions. The SPRDEIR analyzes the Project’s traffic contribution under two existing conditions, the “Existing” and the “Existing plus Approved Projects” scenarios. CEQA requires lead agencies to include an “Existing Plus Baseline” scenario. Although this requirement is often satisfied through the use of an Existing Plus Project scenario, both the City and the preparers of the traffic analysis consider the “Existing plus Approved Projects” scenario to be a more realistic baseline for adding Project related traffic, as such a scenario identifies and considers the traffic generated by those projects that are currently approved and have the potential to be completed at the time of the Project’s opening. (See SPRDEIR, p. 4.2-45.) In the SPRDEIR, the last paragraph on page 4.2-125 and the first paragraph on page 4.2-126 of the SPRDEIR explain that the I-80 improvement (widening) project is an approved and funded project that will be completed (by winter 2011) before the construction of the development project. Hence, for the Existing plus Approved Projects (Baseline) conditions, the I-80 mainline between Atlantic Street and SR-65 was analyzed as a ten lane (mainline) freeway, and the freeway (I-80) mainline segment between SR-65 and Horseshoe Bar Road interchange was analyzed as a future six lane freeway. As documented in “Table 4.2-31: Freeway Segment Level of Service Summary,” however, the segment of I-80 between Atlantic Street and State Route 65 was also analyzed for the “Existing plus Project” condition, where the I-80 mainline between Atlantic Street and SR-65 was analyzed as a eight lane (mainline) freeway, and the freeway (I-80) mainline segment between SR-65 and Horseshoe Bar Road interchange was analyzed as a six lane freeway.
- 4-5** The Commenter claims that, because the project will contribute traffic to two freeway segments that are already operating at unacceptable LOS in the baseline conditions, the Project applicant should be required to contribute fair share traffic impact fees to mitigate the unacceptable LOS at these segments, even though the Project’s contribution of traffic does not exceed 5 percent of the total traffic on these segments. As noted in the response to Comment 4-3, although some individuals and groups in California have argued that, under CEQA, “one car” added to an already impacted roadway or intersection must per se be treated as a significant effect on the environment, the City disagrees. The City has therefore relied on the expert opinions of its traffic consultants and engineering staff, who advised that if an intersection or roadway segment is already operating at an unsatisfactory LOS, an increase of 5 percent of the total traffic would constitute a significant project impact. Given that traffic volumes can typically fluctuate by 10% or more from day to day, the recognition that a significant impact would occur when the volume increases by 5% (or 0.05) is reasonable, because such a change would typically represent less than half of the normal daily (weekday) fluctuation in traffic volumes. This degree of change also represents a threshold that would be noticeable to the average driver. Thus, an increase of 5% or more of the total traffic that already exists on a facility is significant, as it reflects what would be considered a measurable worsening of the intersection or roadway operations and therefore would constitute a significant project impact. In other words,

regardless of whether the existing LOS is E or F, unless there is an increase of at least 5% traffic, the increase would generally go unnoticed, and therefore would not be significant.

- 4-6** The Commenter claims that because the project will contribute traffic to the northbound segment of SR-65 between I-80 and Galleria Blvd./Stanford Ranch Road, a segment that is already operating at unacceptable LOS in the 2030 baseline condition, the Project applicant should be required to make a fair share fee contribution to mitigate the Project's significant environmental impact. As discussed above, the City does not share the view that the Project's traffic constitutes a significant impact in this case. Even though the segment may now operate at an unacceptable LOS, the Project's contribution of traffic is only 1.2 percent of the total traffic on this segment. Pursuant to the City's authority and policy and because the Project does not contribute more than 5 percent of the total traffic on this segment under 2030 conditions, no significant impact is caused by the Project and no mitigation or fair share contributions by the project proponent are required. Further, the City is aware of no program that exists to fund said improvement. See Responses to Comments 4-3 and 4-5.
- 4-7** This comment is noted; however, as indicated in the Responses to Comments 4-1 through 4-6, no further action in response to these comments is required.

Exhibits 1 (California Natural Resources Agency, Final Statement of Reasons for Regulatory Action, December 2009) and 2 (Natural Resources Agency, CEQA Guideline Amendments, December 30, 2009) of Letter 5 are Attached as Appendix E. These exhibits were reviewed and considered as part of the response to comments effort, but have been placed in the appendices because they contained no direct comments and therefore did not require direct responses. Letter 5, Exhibit 3 follows the letter below

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LETTER 5

Thomas N. Lippe
Brian Gaffney
Keith G. Wagner
Kelly A. Franger
Erin C. Ganahl

January 31, 2011

David Mohlenbrok
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677

Re: Comments Regarding / Objections to Second Partially Recirculated Draft Environmental Impact Report for Rocklin Crossings Project (SCH# 2006112097).

Dear Mr. Mohlenbrok:

On behalf of our client, Rocklin Residents for Responsible Growth (RRRG), I have reviewed the City's Second Partially Recirculated Draft Environmental Impact Report (SPRDEIR) for the proposed Rocklin Crossings project. My client objects to the SPRDEIR as inadequate to meet CEQA's procedural or substantive informed decisionmaking and environmental protection mandates. RRRG also objects to the SPRDEIR because the City has failed to correct the procedural defects and informational deficiencies identified by the Sacramento County Superior Court's decision in *Rocklin Residents for Responsible Growth v. City of Rocklin* (Case No. 34-2008-80000236).

5-1

As set forth in greater detail below, the City's uncertified EIR, as augmented by the SPRDEIR, remains, to this day, so fundamentally and basically inadequate and conclusory in nature that the City has precluded the opportunity for meaningful public review and comment regarding the project's potentially significant, adverse environmental impacts or potentially feasible alternatives and mitigation measures that could avoid such impacts or reduce them to less-than-significant levels. Accordingly, the City is precluded by CEQA's mandatory procedures from proceeding with preparing a revised final EIR or reapproving the project. Rather, the City is procedurally required to prepare and recirculate for public review and comment an informationally adequate revised DEIR meeting CEQA's procedural and substantive requirements, and the Court's rulings and directives. (CEQA Guidelines, § 15088.5, subd. (a).)

I. The SPRDEIR Misinforms the Public and the City's Decisionmakers Regarding the City's Affirmative Duty to Circulate An Informationally Adequate DEIR Addressing All Environmental Topics Before Approving the Rocklin Crossings Project.

5-2

The SPRDEIR is informationally inadequate and misleading to the public and the City's decisionmakers, because it asserts that the City's previous Draft EIR ("DEIR") for the project must be deemed informationally adequate in all respects other than the specific grounds upon which the Sacramento County Superior Court invalidated that document. As a matter of fact, the Sacramento

Comments/Objections re Rocklin Crossings SPRDEIR

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County Superior Court ordered the City to rescind its entire EIR certification for the project, which the City has done. As a result no part of the EIR is certified at this time.

Under CEQA’s procedures, if “significant new information” on any environmental topic comes to light 1) after the lead agency’s DEIR was circulated for public review, but 2) before the DEIR’s certification (as is the case here), the CEQA lead agency owes a mandatory procedural duty to prepare and recirculate revised environmental analysis addressing such significant new information. (CEQA Guidelines, § 15088.5.) Accordingly, contrary to the DEIR’s assertions, if “significant new information” is presented to the City on any environmental topic before the City certifies its EIR (not just those topics covered in the SPRDEIR), the City must prepare and recirculate a revised DEIR addressing such “significant new information” to comply with CEQA’s public participation and informed decisionmaking mandates.

5-2
Cont'd

The SPRDEIR is fundamentally misleading because it invokes CEQA’s different procedures regarding the City’s ability to limit the scope of topics to which it must respond in its upcoming revised Final EIR to assert that no aspect of the City’s presently uncertified DEIR, other than those limited issues addressed in the SPRDEIR, are required to comply with CEQA’s public participation and informed decisionmaking requirements. The SPRDEIR must be revised and recirculated to state the correct legal standards that require recirculation if “significant new information” is presented to the City on any environmental topic, regardless of the City’s distinct and separate procedural ability to decide that it will only respond in its upcoming FEIR to public or responsible or trustee agency comments directed to the traffic and urban decay issues specifically addressed in the SPRDEIR.

II. The City Must Prepare and Circulate a Revised Draft EIR Addressing The Project’s Climate Change Impacts In A Manner Consistent With the CEQA Guidelines’ Mandatory Procedural and Substantive Requirements.

“Significant new information” requiring recirculation of a Draft EIR exists whenever the DEIR that was circulated for public review was so fundamentally and basically inadequate that a meaningful opportunity for public review and comment was precluded. (CEQA Guidelines, § 15088.5, subd. (a)(4); *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal. 4th 1112, 1130 (“*Laurel Heights II*”); *Mountain Lion Coalition v. California Fish and Game Comm.* (1989) 214 Cal.App.3d 1043, 1052.)

5-3

In this case, “significant new information” requiring recirculation exists because the SPRDEIR makes no mention at all of, let alone provides any analysis or information regarding how the project complies with, newly adopted CEQA Guidelines regarding the disclosure and analysis of climate change and greenhouse gas emissions. A copy of the Resources Agency’s Final Statement of Reasons for Regulatory Action and CEQA Guidelines regarding disclosure and analysis of greenhouse gas emission (adopted December 20, 2009, effective March 18, 2010) are included as Exhibits 1 and 2 to this comment letter.

CEQA’s public participation and informed decisionmaking mandates affirmatively require lead agencies to investigate and disclose all that they reasonably can regarding a proposed project’s impacts, their potential significance under applicable legal standards, and the availability of

Comments/Objections re Rocklin Crossings SPRDEIR

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alternatives or mitigation measures that could potentially reduce such identified and disclosed impacts to less than significant levels. (CEQA Guidelines, § 15144.)

The City’s DEIR as a “whole” (including the SPRDEIR in combination with the City’s previously released draft environmental documents) cannot be certified as having been completed in compliance with CEQA’s procedural and substantive requirements. This is because the City has not disclosed the existence of the CEQA Guidelines regarding greenhouse emissions nor provided any discussion or analysis as to whether the project’s impacts should be considered significant under the Guidelines’ provisions. Accordingly “significant new information” requiring recirculation of a revised EIR addressing these issues exists, because the City’s complete failure to address the new CEQA Guidelines has rendered it impossible for the public to meaningfully consider or comment on whether the DEIR’s analysis and conclusions regarding greenhouse gas emissions and climate change are, or are not, consistent with the Guidelines’ requirements. (CEQA Guidelines, § 15088.5, subd. (a)(4).)

To the extent the City may respond that it owes no duty to conduct such analysis due to the Sacramento County Superior Court’s ruling upholding the EIR’s adequacy except for those matters addressed in the SPRDEIR, the City would be wrong for two reasons: first, as explained above, no part of the EIR is certified at this time. Accordingly, the City’s failure to publicly disclose the existence or implications of the new CEQA Guidelines regarding greenhouse gas emissions constitutes a mandatory, procedural trigger requiring recirculation of a Draft EIR addressing such matters, regardless of the Sacramento County Superior Court’s ruling. Second, any assertion that the Sacramento Superior Court’s ruling must be viewed as summarily “validating” the EIR’s greenhouse gas emissions disclosure and analysis as consistent with the Resources Agency’s new CEQA Guidelines has no merit because no aspect of the litigation or the Court’s decision touches on the EIR’s compliance with these new CEQA Guidelines. Indeed, this would not have been possible, given that the case was argued and submitted for the Court’s decision on October 23, 2009, two months before the Guidelines in question were adopted.

5-3
Cont'd

The City would also be wrong, to the extent that it may seek to assert that the duty is on Petitioners to present “substantial evidence” demonstrating that the project’s greenhouse gas/climate change impacts may be significant, before the City owes any duty to consider or analyze the potential for such impacts. This is because RRRG objection goes to the City’s fundamental, procedural violation of CEQA in failing to present required disclosure and analysis in the SPRDEIR, not whether the EIR’s ultimate conclusions regarding greenhouse gas emissions and climate change impacts are supported by “substantial evidence.” CEQA’s procedural duty to conduct a “thorough investigation” and to “disclose all that it reasonably can” is on the CEQA lead agency, not the public. (CEQA Guidelines, § 15144.)

In sum, absent any disclosure or analysis of the project’s consistency with the Resources Agency’s CEQA Guidelines regarding greenhouse gas emissions and climate change, the EIR is procedurally incomplete, and cannot be certified unless and until the missing analysis is prepared and presented for public review and comment in a revised, recirculated Draft EIR.

III. The SPRDEIR’s Analysis of Traffic Impacts Is Incomplete and Misleading.

The SPRDEIR is also inadequate because its revised analysis of traffic impacts is informationally incomplete and misleading to the public and the City’s decisionmakers. With regard to this comment and objection, RRRG has commissioned a review of the City’s revised traffic analysis by Mr. Daniel T. Smith, P.E., with Smith Engineering and Management. Mr. Smith is the traffic consultant who identified the irreconcilable inconsistencies in the City’s prior traffic and urban decay analysis that led to the Sacramento County Superior Court invalidating the EIR and ordering the City to set its certification of its EIR and project approvals aside.

5-4

Mr. Smith’s review of the SPRDEIR’s omissions, unsupported assumptions and misleading statements regarding the project’s traffic impacts is included as Exhibit 3 to this letter. RRRG hereby incorporates Mr. Smith’s report as if set forth in full in this letter as its own objections to EIR certification or approval of the project, unless and until a revised traffic analysis that corrects the omissions and misrepresentations identified by Mr. Smith is prepared and presented to the public for review and comment in a revised, recirculated Draft EIR.

The objections raised in Mr. Smith’s review, and thus by RRRG through its incorporation here by reference, include, but are not limited to, the following points:

- The SPRDEIR’s revised traffic study inappropriately manipulates its underlying data to mask disclosure of the total amount of the project’s traffic (market share) that will be attracted from south of the Rocklin City limit in defiance of the Superior Court’s directive that the City harmonize its traffic and urban decay impacts analysis.

5-5

- The SPRDEIR’s traffic study adjusts the portion of total traffic assumed to be associated with passer-by traffic in a manner that is unsupported by “substantial evidence” in the record, and is otherwise illogical, because it increases the number of passer-by shoppers who would have to actually travel past and ignore other, existing regional discount, supercenter and home improvement warehouse stores to arrive at the project site.

5-6

- The SPRDEIR traffic study fails to clearly show how many diverted passers-by will be attracted from each sub-area of the region.

5-7

- The SPRDEIR’s distribution of trips through the City’s traffic model appears to reflect the arbitrary substitution of assumed passer-by trips for model-distributed trips south of Rocklin in the invalidated EIR, in order to reach the same, predetermined conclusions that were reached in the invalidated EIR, rather than being based on a reasoned consideration of the market area for the project that relies on “substantial evidence” to match the actual sources of shoppers that will visit the site with the anticipated traffic patterns the project will actually generate.

5-8

- The SPRDEIR summarily assumes that 7 percent of the traffic that patronizes one establishment in the project will also patronize another establishment in order to

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create an “internal discount” on the traffic the project will generate, but contains no documentation or other “substantial evidence” from which the public can determine whether the presumed 7 percent is accurate or valid. 5-9
Cont'd

- The SPRDEIR fails to fully disclose project related traffic that will be attracted from locations south of the Rocklin City limit. The SPRDEIR should add a figure showing detail of the sources of this traffic south of Rocklin Road similar to that provided for the I-80 corridor, and the consultants who prepared the revised SPRDEIR economic studies should consider such information in their analysis and findings. 5-10

- The SPRDEIR fails to include diverted passer-by trips in computations of LOS at relevant intersections. 5-11

- The SPRDEIR fails to adjust its newly developed 2010 baseline for traffic to account for depressed economic conditions. 5-12

- The SPRDEIR fails to disclose or consider in its analysis a significant CalTrans project on I-80 that will result in significant changes to traffic patterns due to the closure of the Taylor Road ramps. 5-13

- The SPRDEIR relies on an obsolete Level of Service (“LOS”) computation method. 5-14

In summarizing the foregoing points, RRRG is not relieving the City of its mandatory duty under CEQA to consider and respond directly to Mr. Smith’s separate and more detailed set of comments in his report, which constitutes an integral part of RRRG comments on and objections to the SPRDEIR’s informational gaps and misrepresentations. Any failure to respond to both this letter and Mr. Smith’s report would constitute a violation of CEQA’s mandatory procedures, which require the preparation and recirculation of a revised Draft EIR (requested by RRRG in this case to cure the SPRDEIR’s informational errors and omissions) or a Final EIR to respond to all comments received. (CEQA Guidelines, § 15088.) 5-15

The City cannot lawfully certify its EIR or approve the project, unless and until it prepares a revised traffic analysis, and recirculates that analysis in a revised Draft EIR to address the numerous errors, omissions, unsupported assumptions and misrepresentations in the SPRDEIR’s current traffic analysis.

IV. The SPRDEIR’s Analysis of Urban Decay Impacts Is Incomplete and Misleading.

The SPRDEIR’s revised analysis and conclusions regarding urban decay impacts is also incomplete and misleading, and must be revised and recirculated for public review before the EIR can be certified or the project approved. On this point, RRRG notes the following fundamental informational gaps and misrepresentations in the SPRDEIR’s current analysis and conclusions: 5-16

First, the SPRDEIR estimates that the retail vacancy rate in Roseville/Rocklin is 17% and quotes a broker who estimates that the vacancy rate is even higher (23%). However, it is unclear whether or how this information was actually taken into account or addressed in the City’s economic impact/urban decay analysis. This information regarding retail vacancy rates in Roseville/Rocklin raises significant questions that do not appear to be addressed or answered in the SPRDEIR including, but not limited to: did the EIR take into account this substantial (17%) vacancy rate in its analysis? Is it the opinion of the consultants who prepared the SPRDEIR that one can ignore this high vacancy rate when conducting such an analysis? If not, how exactly was this reported vacancy rate incorporated into the analysis (besides just mentioning it)? What does the City consider to be the vacancy rate at which urban decay impacts are less than significant? What “substantial evidence” supports the undisclosed, threshold vacancy rate that the City would consider to be significant in relation to urban decay impacts? Given the current economic climate, how many years would it take for this area to reach the undisclosed vacancy rate at which the City would consider project specific or cumulative urban decay impacts to be less than significant?

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Second, Roseville/Rocklin also have a very high commercial office vacancy rate. Some of this property is already being used for retail purposes or other businesses which could potentially compete with current vacant retail space as well as the vacancies that could/would be created by the Rocklin Crossings center. The SPRDEIR appears to lack any discussion of commercial office space and high vacancy rates in Roseville/Rocklin. Did the City’s consultant provide any such analysis of urban decay associated with high commercial office vacancy rates in the Roseville/Rocklin area, and, if so, where is it located in the SPRDEIR or its Appendices? Or is it the City’s consultants’ position that commercial office space and commercial retail space are completely different and a high vacancy rate in commercial office space has no impact on commercial retail?

5-19

Third, the SPRDEIR acknowledges that there are a number of existing, community shopping centers in Rocklin just a few minutes north of the SPRDEIR’s designated “trade area.” Because they are so close to the border of the project’s trade area boundary, it appears that the trade areas for these (community) shopping areas would, in fact, overlap with the proposed center’s trade area. Moreover, it is clear from the SPRDEIR that much of the retail space in the proposed Rocklin Crossings Shopping Center (e.g., grocery, pharmacy, general merchandise, banking, restaurants, etc.) would, in fact, compete with existing or potential retail in these nearby community shopping centers. The SPRDEIR also acknowledges that shopping centers with high vacancy rates, especially those with vacant anchor tenants, will have the toughest time finding new tenants. Yet the EIR summarily dismisses the potential for the Rocklin Crossings project to have significant adverse direct or cumulative urban decay impacts on these vacant shopping centers just a few minutes outside of the project’s defined trade area. The lack of such analysis not only constitutes a procedural violation of CEQA, but also renders the SPRDEIR’s implied conclusion that the project has no potential to result in urban decay at these locations unsupported by substantial evidence. The only rationale provided for the SPRDEIR’s conclusory presumption that the project has no potential for urban decay impacts at these nearby community shopping centers consists of undocumented assertions from unnamed brokers that such impacts would be minimal. What evidence exists that any brokers made such statements? What are the qualifications of these brokers to make such a statement? What information were these brokers provided about anticipated mix of retail occupancy/uses associated with the Rocklin Crossings project before rendering such opinions? Why did the consultants who

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Comments/Objections re Rocklin Crossings SPRDEIR

January 31, 2011

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prepared the City's economic analysis for the project, which is over 100 pages long, not perform some kind of analysis of this important issue? Why would the SPRDEIR assume that the retail uses at these community shopping centers are completely different from those anticipated at the Rocklin Crossings project, which is intended to provide grocery, general merchandise, banking, pharmacy, casual dining, and many other retail functions that are typical of community shopping centers, not regional or power centers.

5-22
Cont'd

Fourth, the SPRDEIR asserts that retail shopping opportunities provided in downtown Loomis are somehow separate from the retail shopping opportunities that would be provided at Rocklin Crossings. However, downtown Loomis retail provides many of the same retail opportunities (e.g., banking, casual dining, pharmacy, apparel) that would also be expected at Rocklin Crossings. Was any direct or cumulative urban decay impacts analysis conducted that considered retail in downtown Loomis competing with the proposed Rocklin Crossings center? Was an analysis conducted of the anchor stores in downtown Loomis and whether these stores will compete with Rocklin Crossings?

5-23

Fifth, the SPRDEIR refers to the stretch of Pacific Avenue east of the proposed Rocklin Crossings project as a "no mans land." However, as the SPRDEIR indicate, there actually are many retailers and businesses in the area. Many of these same retailers and businesses would potentially compete directly with Rocklin Crossings. The SPRDEIR acknowledges that this "no mans land" is already in a run down condition, yet summarily dismisses any possibility that the already high vacancy rate and the already low general appearance of these buildings would deteriorate after Rocklin Crossings is built. What analysis was conducted to support the SPRDEIR's assertion that businesses in this area would not close? What is the "substantial evidence" that supports this opinion in the SPRDEIR?

5-24

Sixth, there are a number of vacant retail centers in north Auburn that are in the EIR's designated secondary trade area, which suggests that a significant amount of sales at the Rocklin Crossings center will be to shoppers who travel come from this area. Was any analysis conducted of the impact of Rocklin Crossings on north Auburn's already high vacancy rate? If not, why not?

5-25

Seventh, the SPRDEIR indicates that a K-Mart store is the only remaining anchor store in a community-serving shopping center located in Rocklin on Pacific Street, approximately 2.7 miles southwest of the proposed project, and that the other anchor space at this shopping center, a former Albertson's grocery store, closed in 2006 and has been vacant ever since. The SPRDEIR also acknowledges that this K-Mart could close if the Rocklin Crossings project is built. It appears evident that if the K-Mart store closes, this will leave no anchor store at all at this shopping center, while concurrently adding to the already serious vacancy rate in the "no mans land" that this shopping center is located in. Yet, the SPRDEIR appears to contain no meaningful analysis or consideration of how K-Mart's closure may lead to urban decay, other than to state, "[i]n order to compete effectively with Walmart, K-Mart will have to reassess its current store and make appropriate changes to meet customer demand." Was any analysis conducted of the potential urban decay impacts of a closed K-Mart at this location, if K-Mart is not able to formulate such unspecified and undescribed "appropriate" changes? If not, what is the "substantial evidence" that supports the SPRDEIR's conclusion that there is no potential for urban decay to result at this shopping center, if K-Mart is unable to compete with the Rocklin Crossings project?

5-26

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As the foregoing comments and questions demonstrate, the SPRDEIR contains a broad range of informational and analytical gaps that have rendered it impossible for the public to meaningfully consider or respond to the SPRDEIR's conclusory and unsupported assertions that the Rocklin Crossings project has no potential to result in either direct or cumulative urban decay impacts within the project's primary or secondary trade areas, or to other shopping centers in the region whose trade areas overlap with the designated trade area for the Rocklin Crossings project. Again, the City must prepare and recirculate a revised Draft EIR addressing these matters so that the public will have a meaningful opportunity to comment on the project's potentially significant urban decay impacts. (CEQA Guidelines, § 15088.5, subd. (a)(4).)

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The preparation and recirculation of a revised Draft EIR is also required, so that the City's urban decay consultants can coordinate their analysis and conclusions with the City's traffic analysis as ordered by the Superior Court. This is especially the case in light of Mr. Smith's observation in his report (attached Exhibit 3) that it would not be possible for the City's urban decay consultants to prepare a meaningful analysis of regional urban decay impacts, due to the lack of adequate, factually based information in the EIR or its traffic study about how much of the project's patronage is actually expected to travel from areas south and southwest of the Rocklin city limits. (See discussion at Part III, *supra*.)

5-28

V. RRRG Objects To Any Attempt the City May Make, After Circulating the SPRDEIR for Public Review, to Insert New Information Into Its Final EIR or Record of Proceedings In Order To Avoid Recirculating A Procedurally and Substantively Adequate Draft EIR For Public Review and Comment.

As the foregoing comments demonstrate, the City has failed to prepare or circulate an informationally adequate, revised Draft EIR that would allow the public a meaningful opportunity to comment on a broad range of project impacts, including 1) greenhouse gas emissions/climate change impacts; 2) traffic impacts, and 3) urban decay impacts, in violation of CEQA's mandatory procedures. (CEQA Guidelines, § 15088.5, subd. (a)(4).)

In *Mountain Lion Coalition, supra*, cited with approval by the Supreme Court in *Laurel Heights II, supra*, and subsequently codified by the Resources Agency at CEQA Guidelines section 15088.4, subdivision (a)(4), the California Department of Fish and Game added belated information to its final environmental document in an effort to bolster its foregone conclusion that authorizing the sport hunting of mountain lions would not result in cumulatively significant adverse impacts on mountain lion populations in the state. The Department's actions were summarily overturned by the Court of Appeal precisely because the Department had failed to present the documents and analysis that purportedly supported its position and conclusions for public consideration or comment as required by CEQA's mandatory public participation and informed decisionmaking procedures. (*Mountain Lion Coalition, supra*, 214 Cal.App.3d at p. 1052 ["If we were to allow the deficient analysis in the draft EI[R] to be bolstered by a document that was never circulated for public comment...we would be subverting the important public purposes of CEQA. Only at the stage when the draft EI[R] is circulated can the public and outside agencies have the opportunity to analyze a proposal and submit comment"].)

5-29

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To the extent the City may similarly attempt to cure the SPRDEIR's fundamental informational gaps and deficiencies by simply inserting the required, missing information into a Final EIR and then approving the project, RRRG strongly objects. Such tactics would be fundamentally inconsistent with CEQA's most basic public participation and informed decisionmaking mandates, and a violation of the City's procedural duties as the CEQA lead agency for the Rocklin Crossings project.

5-29
Cont'd

VI. CONCLUSION.

For the foregoing reasons, RRRG objects to the City's SPRDEIR for the Rocklin Crossings project. RRRG requests that the City prepare and circulate a revised Draft EIR that complies with the Superior Court's ruling, and CEQA's public participation and informed decisionmaking mandates.

5-30

Sincerely,


Keith G. Wagner

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SMITH ENGINEERING & MANAGEMENT



January 28, 2011

Mr. David Mohlenbrok
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677

Subject: Rocklin Crossings Project Second Partially Recirculated Draft Environmental Impact Report (SCH# 2006112097)

P08008

Dear Mr. Mohlenbrok:

I have been retained by Rocklin Residents for Responsible Growth to review the Second Partially Recirculated Draft Environmental Impact Report (hereinafter "the SPRDEIR") and its supporting documentation for the proposed Rocklin Crossings Project (hereinafter "the Project") in the City of Rocklin (hereinafter "the City"). I previously commented in November of 2008 on the then-proposed Final Environmental Impact Report for the same Project. As was the case then, the focus of my review is in regard to matters involving traffic and circulation and the relationship of the traffic and circulation studies to the economic market and urban decay studies therein. My qualifications to perform this review include registration as both a Civil and Traffic Engineer in California and over 40 years professional consulting practice in these fields. I have both prepared and reviewed and commented on the traffic and circulation components of numerous environmental impact documents under the California Environmental Quality Act (hereinafter "CEQA"). I am familiar with transportation and circulation conditions and development plans in the Rocklin vicinity. My professional resume is attached. My comments follow.

5-31

Overview

The reason that this SPRDEIR has been prepared is that, as the result of litigation brought by Rocklin Residents for Responsible Growth, the Superior Court of California in the County of Sacramento ruled that the previous EIR on the City of Rocklin had adopted was based on traffic and economic market/urban decay studies that have irreconcilable inconsistencies that render the EIR inadequate as an informational document. The inconsistency was that the EIR traffic study indicated the Project would attract significant numbers of shopper trips from trip production sources south of Rocklin while the EIR's economic study denied there would be any such trips attracted from south of the City¹. While declining to rule specifically

5-32

¹ I-80 runs generally northeast/southwest through Rocklin and vicinity. Caltrans practice is to name the

LETTER 5 Exhibit 3

Mr. David Mohlenbrok
January 28, 2011
Page 2

on which of the traffic study or the economic study was correct, the Court did opine that *“it appears to this Court that the economic analysis is supported by substantial evidence whereas the traffic analysis is not”*.

5-33

Given this, it is the reasonable expectation that, in order to remedy the EIR’s inadequacy, a revised traffic study would be prepared that had a traffic distribution which was more consistent with the economic market analysis. However, instead, in a series of sophisticated manipulations, the SPRDEIR’s revised traffic study has succeeded in masking disclosure of the total amount of the Project’s traffic (market share) that is attracted from south of the Rocklin City limit and documented the dispersal of the origins of that portion of the Project’s trips that it does disclose travel on the I-80 corridor to/from origins south of Rocklin. This enables the SPRDEIR’s revised economic market and urban decay analysis to conclude that the Project would have some aggregate negative economic effect on the retail market south of Rocklin but that, because of the purportedly lesser volume of traffic drawn from the south and the dispersal origins of travelers from the south to the Rocklin Project, no single retail establishment or retail center would be significantly impacted and hence there would be no urban decay.

5-34

This is how the SPRDEIR’s revised traffic study enables the SPRDEIR’s revised economic market and urban decay analysis to reach conclusions that the Project would not have economic market effects south of Rocklin of such significance and concentration as to cause urban decay, despite acknowledging the shopper trips to the Project that the SPRDEIR’s revised traffic study now discloses would be drawn from that area.

The SPRDEIR traffic study doubles the portion of total Project traffic assumed to be attracted from existing traffic passing by the site from 10 percent in the earlier studies to 20 percent in the current traffic analysis. While the new percentage of passer-by attraction is clearly within the range of documented precedent for such shopping centers, the manner in which this has been performed undermines the validity of the analysis:

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The SPRDEIR traffic study essentially erases attracted passer-by traffic from the analysis at the trip generation stage. All trace of attracted passers-by is eliminated within the trip generation table, Table 4.2-4. The procedure of eliminating attracted passer-by traffic at the trip generation stage is improper in a traffic impact analysis because it tends to understate traffic impacts, particularly where the attracted passers-by are being diverted from an adjacent freeway². Moreover, where the number of passer-by trips attracted from points

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directions on its highways based on their overall orientation as they run over their entire length in the state, so in Caltrans parlance, I-80 runs east-west through Rocklin. This document refers to Rocklin being north of Roseville rather than east or northeast of it, and Roseville being south rather than southwest or west of Rocklin. Hence, when this document refers to areas as being 'south of Rocklin City limit' it means areas to the southwest, or in Caltrans parlance, west along I-80 toward Roseville and Sacramento. In one instance there is explicit reference to areas south of Rocklin along Sierra College Boulevard which does run in a north-south direction.

² When attracted passers-by are eliminated from the analysis at the trip generation stage, the traffic analysis fails to account for them in compiling Level of Service (LOS) on all of the road segments and intersections they pass through between the route they were diverted from and the Project site. In this case, where most of the attracted passer-by traffic is from trips on the I-80 freeway, that traffic would be additive to traffic on

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south of Rocklin is a matter of issue for the public and in the economic studies, it is insufficient to simply indicate that a certain number of passers-by are attracted of the freeway and other roads immediately adjacent to the site, and then cease tracking them at the bottom of the trip generation table. It is imperative that the traffic study clearly show where and how many diverted passers-by are attracted from each sub-area of the region.

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The need for a clear documentation of how many diverted passer-by trips are produced in each sub-area of the region is reinforced by narrative in the SPRDEIR that indicates the reason for increasing the assumed percentage of diverted passer-by trips is to substitute passer-by trips (which are untracked) for trips distributed in the traffic model to areas south of Rocklin (which are tracked and which made evident the inconsistency between the traffic and economic studies in the discredited EIR). The statements on page 1-7 in the SPRDEIR that,

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“Because the court, in its Ruling, perceived a conflict between the conclusions of the earlier TIA and economic study, the City consulted with DKS and then instructed LSA to reconsider that passby rate, in that it might have had the effect of inflating the number of trips coming to the site from the direction of Roseville.”

And

“LSA, with City and DKS concurrence, has therefore applied a conservative, 20 percent passby reduction rate to the total project trip generation. This rate may have the effect of overstating the true traffic-related impacts of the project, but avoids the distortions that occurred with the previously used 10 percent rate, which tended to artificially exacerbate the differences between the conclusions of the original traffic study and the original economic impact and urban decay analysis.”

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clearly indicate an intent and action to substitute increased numbers passer-by trips that are written-off and untracked past the trip generation table for some of the trips from south of Rocklin predicted through the model that are tracked and evident.

The substitution of passer-by trips for south-produced traffic model distributed trips is an action inadequate under the California Environmental Quality Act (CEQA) because the SPDEIR has failed to include sufficient information for those who did not participate in its preparation to understand and meaningfully consider the environmental issues raised by the Project. Moreover, the assumption that the added passer-by trips would be trips primarily

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the freeway exits, the intersections of the freeway ramps and Sierra College Boulevard and the segments of Sierra College between the freeway and the Project site access. If most of the attracted passer-by traffic is diverted off the I-80 freeway, the extra 387 weekday pm peak hour trips that would pass through the intersection of Sierra College Boulevard and the I-80 eastbound ramps but were not accounted-for would certainly change the LOS findings for that intersection as would the roughly half that number of unaccounted-for trips that would pass through the intersection of Sierra College Boulevard and the I-80 westbound ramps.

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produced south of Rocklin is simply illogical. It is far less likely that people residing to the south of Rocklin, where there are several Home Depots, WalMarts and competing stores like Lowes and Costco close to home, would divert on their occasional trips to/from the northeast along I-80 to the Project in Rocklin than it is for, on their occasional trips to the Sacramento region and beyond, people resident to the north and northeast along the I-80 corridor where there are few Home Depots, WalMarts, Lowes and Costcos and similar stores to stop off at the Rocklin Crossroads Project.

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The issue of whether most of the added attracted passer-by trips come from the south or from the northeast is a critical one, since the SPRDIER's economic study now says there is insufficient diversion of primary market trips from the south to cause market impact and urban decay. Again, the SPDEIR has failed to include sufficient information for those who did not participate in its preparation to understand and meaningfully consider the environmental issues raised by the Project.

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The distribution of trips that are tracked through the City's traffic model in the SPRDEIR is remarkably similar to that in the previous EIR and appears to reflect simply the substitution of assumed passer-by trips for model-distributed trips south of Rocklin.

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The distribution of Project trips that were assigned through the City's traffic model is presented in SPRDEIR Exhibits 4.2-5 and 4.2-6. Exhibit 4.2-5 indicates a broad directional distribution of Project model-assigned trips. Exhibit 4.2-6 indicates a far more detailed distribution of those model-distributed trips that go south of or near-to Rocklin's south City Limit along the I-80 corridor. However, although it is incomplete as documented in a section below, it apparently influenced to conclude that the trips attracted from south of the Rocklin City Limit were few enough and dispersed enough to cause the Project to create urban decay in the area south of Rocklin.

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SPRDEIR Exhibit 4.2-5 shows 35 percent of model-assigned Project traffic traveling along I-80 southwest of Sierra College Boulevard; the previous traffic study showed 40 percent. SPRDEIR Exhibit 4.2-6 shows 27 percent of model-assigned Project traffic traveling along I-80 southwest of Rocklin Road; computations from the previous traffic study showed 36 percent. Exhibit 4.2-5 shows 19 percent of model-assigned Project trips traveling to/from the south along Sierra College Boulevard approaching Rocklin Road; the previous traffic study showed an identical percentage. SPRDEIR Exhibit 4.2-6 shows 22 percent of model-assigned Project traffic traveling to/from the north along Sierra College Boulevard north of Granite Avenue and another 3 percent traveling to/from the south along Granite Avenue from that point. The respective percentages in the prior traffic study were 21 percent along Sierra College and an identical 3 percent along Granite. SPRDEIR Exhibit 4.2-6 shows 14 percent of model-assigned Project traffic traveling to/from the northeast along I-80; the previous traffic study indicated 10 percent. These differences appear characteristic of a selective substitution of south-oriented passer-by traffic for model-assigned traffic rather than any real redistribution of traffic assigned through the traffic model. However, because the locations of the production traffic analysis zones from which the assumed diverted passer-by trips come and go are not disclosed in the SPRDEIR, the SPDEIR has failed to include sufficient information for those who did not participate in its preparation to understand and meaningfully consider the environmental issues raised by the Project.

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We also note that both the SPRDEIR traffic study and its predecessor both assumed that 7 percent of Project traffic is internal to the Project or its traffic analysis zone. That is to say, there is an assumption that 7 percent of the traffic that patronizes one establishment in the Project will also patronize another establishment, creating an internal discount, or would originate or be destined or call at another site immediately nearby. This is not documented in the SPRDEIR's narrative nor in its trip generation table (Table 4.2-4); instead, it is only disclosed in an obscure symbol on Exhibit 4.2-5. Again, the SPDEIR has failed to include sufficient information for those who did not participate in its preparation to understand and meaningfully consider the environmental issues raised by the Project.

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The Project traffic that will be attracted from locations south of the Rocklin City Limit is not fully disclosed in the SPRDEIR

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The attraction of increased numbers of 'attracted passer-by' trips produced south of City limits is not the only way that the SPRDEIR masks the traffic and consequent economic market activity that the Project would divert from south of Rocklin City Limits.

Project trips distributed through the City's traffic model that emanate from south of Rocklin's south city limits are not limited to the traffic along I-80. SPDEIR 4.2-5 discloses that 19 percent of the Project's traffic model-distributed traffic would be oriented south along Sierra College Boulevard near Rocklin Road. Sierra College Boulevard is a major arterial having continuity, though the name changes to Hazel Avenue at the Sacramento County line, through Orangevale and all the way south to U.S. Highway 50. Based on the turning movements displayed in the SPRDEIR's exhibits for the traffic movements at the intersection of Sierra College Boulevard and Rocklin Road, it is probable that a considerable portion of this 19 percent of model-distributed traffic is generated by people coming from south of Rocklin City Limits. This subtlety is likely unperceived by the public as well as those who prepared the SPRDEIR's economic analysis. Again, the SPDEIR has failed to include sufficient information for those who did not participate in its preparation to understand and meaningfully consider the environmental issues raised by the Project. The SPRDIER should add a figure showing detail of the sources of this traffic south of Rocklin Road similar to that provided for the I-80 corridor presented in Exhibit 4.2-4 and the consultants who prepared the revised SPRDEIR economic studies should consider it in their findings.

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Beyond issues that remain central to the fatal inconsistency between the traffic and economic study conclusions, the SPRDEIR traffic study has other flaws. These include failure to include diverted passer-by trips in computations of LOS at relevant intersections, failure to adjust the 2010 baseline traffic for depressed economic conditions, failure to consider a significant Caltrans project on I-80 and use of an obsolete LOS computation method.

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We have already noted that the failure to track and include in the computations of LOS (hence impact) the portion of Project traffic that is assumed passers-by attracted from another ordinary trip to the Project from the point of those trips diversion from their ordinary path to the Project's entrances understates the Project's traffic impacts. The passerby-traffic

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should be included in the LOS computations to/from the point of diversion to the Project entrances.

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The 'existing conditions' baseline in the SPRDEIR is changed to 2010 instead of 2006 in the previous EIR traffic study. However, the 2010 baseline traffic counts reflect traffic corresponding to a temporarily depressed economic environment. This is unreasonably favorable to the Project because it temporarily creates more apparent available capacity for Project traffic to be accommodated without crossing significant impact thresholds. As an example of how much the economy has primarily temporarily depressed traffic, for the 20 road segments that are analyzed in both the SPRDIER and the previous traffic studies, 13 experienced decreases in daily traffic between 2006 and 2010 while only 7 experienced increases. Total daily traffic on the 20 road segments was 195,149 trips in 2006; in 2010 it was 182,799, a 6.33 percent decrease. A similar pattern, with more radical divergence from the average, is evident in peak hour movements at key intersections. In *Sunnyvale West Neighborhood Association v. City of Sunnyvale City Council* the Court recognized that there are circumstances when, if the physical conditions at the time of consideration of a project may not be representative of existing conditions, an agency may exercise its discretion to use a different baseline. One of those conditions is if traffic congestion and vehicular traffic has temporarily decreased due to an unusually poor economy so that traffic conditions at the time are inconsistent with the usual historic conditions. Clearly, in this case, in order to discharge the good faith effort to disclose impact as required by CEQA, the City should have adjusted the traffic baseline values to account for the temporarily economically-depressed existing traffic conditions.

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In changing to a baseline of 2010, the SPRDEIR traffic study performed new traffic counts and updated its "approved projects" list. However, the traffic study apparently failed to take into account a Caltrans project for which a Project Study Report was completed in 2009. That project, which would create a new flyover ramp between I-80 and SR 65, would eliminate ramps between I-80 and Taylor Road (the name by which the continuation of Pacific Street in Rocklin is known in Roseville). Elimination of these ramps could significantly alter the routes by which local traffic crossing the border between the two cities would approach and depart the Rocklin Crossings Project and how non-Project traffic would move through the area, consequently altering traffic impacts. The Caltrans project should have been considered in the SPRDEIR study and its' omission is a critical flaw.

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In the SPRDEIR's update of the traffic study, the SPRDEIR has changed from using NCHRP Circular 212 LOS evaluation methods to Highway Capacity Manual methods for evaluating LOS at signalized intersections under the jurisdiction of Caltrans or the Town of Loomis. What is disquieting is not that the SPRDEIR has made the changes to accommodate the preferences of Caltrans and the Town of Loomis, but that it has continued to rely on the 3-decades old, thrice obsolete Circular 212 LOS method instead of joining Caltrans and Loomis in the 21st century.

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Conclusion

Based on the above considerations, we are convinced the SPRDEIR analysis likely understates the Project's traffic impacts, fails to include sufficient information for those who did not participate in its preparation to understand and meaningfully consider the environmental issues raised by the Project, and fails to include sufficient information for the SPRDEIR to have an estimate of the Project's economic market area and urban decay impacts that will be based on a fully consistent understanding between the traffic and economic consultants of where those who patronize the Project come from. For these reasons, I believe the SPRDEIR must be completely revised and again recirculated in "draft" status.

5-60

Sincerely,

Smith Engineering & Management
A California Corporation



Daniel T. Smith Jr., P.E.

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President

EDUCATION

Bachelor of Science, Engineering and Applied Science, Yale University, 1967
Master of Science, Transportation Planning, University of California, Berkeley, 1968

PROFESSIONAL REGISTRATION

California No. 21913 (Civil) Nevada No. 7969 (Civil) Washington No. 29337 (Civil)
California No. 938 (Traffic) Arizona No. 22131 (Civil)

PROFESSIONAL EXPERIENCE

Smith Engineering & Management, 1993 to present. President.
DKS Associates, 1979 to 1993. Founder, Vice President, Principal Transportation Engineer.
De Leuw, Cather & Company, 1968 to 1979. Senior Transportation Planner.
Personal specialties and project experience include:

Litigation Consulting. Provides consultation, investigations and expert witness testimony in highway design, transit design and traffic engineering matters including condemnations involving transportation access issues; traffic accidents involving highway design or traffic engineering factors; land use and development matters involving access and transportation impacts; parking and other traffic and transportation matters.

Urban Corridor Studies/Alternatives Analysis. Principal-in-charge for State Route (SR) 102 Feasibility Study, a 35-mile freeway alignment study north of Sacramento. Consultant on I-280 Interstate Transfer Concept Program, San Francisco, an AA/EIS for completion of I-280, demolition of Embarcadero freeway, substitute light rail and commuter rail projects. Principal-in-charge, SR 238 corridor freeway/expressway design/environmental study, Hayward (Calif.) Project manager, Sacramento Northeast Area multi-modal transportation corridor study. Transportation planner for I-80N West Terminal Study, and Harbor Drive Traffic Study, Portland, Oregon. Project manager for design of surface segment of Woodward Corridor LRT, Detroit, Michigan. Directed staff on I-80 National Strategic Corridor Study (Sacramento-San Francisco), US 101-Sonoma freeway operations study, SR 92 freeway operations study, I-880 freeway operations study, SR 152 alignment studies, Sacramento RTD light rail systems study, Tasman Corridor LRT AA/EIS, Fremont-Warm Springs BART extension plan/EIR, SRs 70/99 freeway alternatives study, and Richmond Parkway (SR 93) design study.

Area Transportation Plans. Principal-in charge for transportation element of City of Los Angeles General Plan Framework, shaping nations largest city two decades into 21st century. Project manager for the transportation element of 300-acre Mission Bay development in downtown San Francisco. Mission Bay involves 7 million gsf office/commercial space, 8,500 dwelling units, and community facilities. Transportation features include relocation of commuter rail station; extension of MUNI-Metro LRT; a multi-modal terminal for LRT, commuter rail and local bus; removal of a quarter mile elevated freeway; replacement by new ramps and a boulevard; an internal roadway network overcoming constraints imposed by an internal tidal basin; freeway structures and rail facilities; and concept plans for 20,000 structured parking spaces. Principal-in-charge for circulation plan to accommodate 9 million gsf of office/commercial growth in downtown Bellevue (Wash.). Principal-in-charge for 64 acre, 2 million gsf multi-use complex for FMC adjacent to San Jose International Airport. Project manager for transportation element of Sacramento Capitol Area Plan for the state governmental complex, and for Downtown Sacramento Redevelopment Plan. Project manager for Napa (Calif.) General Plan Circulation Element and Downtown Riverfront Redevelopment Plan, on parking program for downtown Walnut Creek, on downtown transportation plan for San Mateo and redevelopment plan for downtown Mountain View (Calif.), for traffic circulation and safety plans for California cities of Davis, Pleasant Hill and Hayward, and for Salem, Oregon.

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Transportation Centers. Project manager for Daly City Intermodal Study which developed a \$7 million surface bus terminal, traffic access, parking and pedestrian circulation improvements at the Daly City BART station plus development of functional plans for a new BART station at Colma. Project manager for design of multi-modal terminal (commuter rail, light rail, bus) at Mission Bay, San Francisco. In Santa Clarita Long Range Transit Development Program, responsible for plan to relocate system's existing timed-transfer hub and development of three satellite transfer hubs. Performed airport ground transportation system evaluations for San Francisco International, Oakland International, Sea-Tac International, Oakland International, Los Angeles International, and San Diego Lindberg.

Campus Transportation. Campus transportation planning assignments for UC Davis, UC Berkeley, UC Santa Cruz and UC San Francisco Medical Center campuses; San Francisco State University; University of San Francisco; and the University of Alaska and others. Also developed master plans for institutional campuses including medical centers, headquarters complexes and research & development facilities.

Special Event Facilities. Evaluations and design studies for football/baseball stadiums, indoor sports arenas, horse and motor racing facilities, theme parks, fairgrounds and convention centers, ski complexes and destination resorts throughout western United States.

Parking. Parking programs and facilities for large area plans and individual sites including downtowns, special event facilities, university and institutional campuses and other large site developments; numerous parking feasibility and operations studies for parking structures and surface facilities; also, resident preferential parking .

Transportation System Management & Traffic Restraint. Project manager on FHWA program to develop techniques and guidelines for neighborhood street traffic limitation. Project manager for Berkeley, (Calif.), Neighborhood Traffic Study, pioneered application of traffic restraint techniques in the U.S. Developed residential traffic plans for Menlo Park, Santa Monica, Santa Cruz, Mill Valley, Oakland, Palo Alto, Piedmont, San Mateo County, Pasadena, Santa Ana and others. Participated in development of photo/radar speed enforcement device and experimented with speed humps. Co-author of Institute of Transportation Engineers reference publication on neighborhood traffic control.

Bicycle Facilities. Project manager to develop an FHWA manual for bicycle facility design and planning, on bikeway plans for Del Mar, (Calif.), the UC Davis and the City of Davis. Consultant to bikeway plans for Eugene, Oregon, Washington, D.C., Buffalo, New York, and Skokie, Illinois. Consultant to U.S. Bureau of Reclamation for development of hydraulically efficient, bicycle safe drainage inlets. Consultant on FHWA research on effective retrofits of undercrossing and overcrossing structures for bicyclists, pedestrians, and handicapped.

MEMBERSHIPS

Institute of Transportation Engineers Transportation Research Board

PUBLICATIONS AND AWARDS

Residential Street Design and Traffic Control, with W. Homburger *et al.* Prentice Hall, 1989.

Co-recipient, Progressive Architecture Citation, *Mission Bay Master Plan*, with I.M. Pei WRT Associated, 1984.

Residential Traffic Management, State of the Art Report, U.S. Department of Transportation, 1979.

Improving The Residential Street Environment, with Donald Appleyard *et al.*, U.S. Department of Transportation, 1979.

Strategic Concepts in Residential Neighborhood Traffic Control, International Symposium on Traffic Control Systems, Berkeley, California, 1979.

Planning and Design of Bicycle Facilities: Pitfalls and New Directions, Transportation Research Board, Research Record 570, 1976.

Co-recipient, Progressive Architecture Award, *Livable Urban Streets, San Francisco Bay Area and London*, with Donald Appleyard, 1979.

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- 5-1 The Commenter's objection to the SPRDEIR is noted. As explained in detail below, the City has complied with all applicable procedural and substantive requirements in preparing the SPRDEIR. Furthermore, as explained in detail below, under the law, the City is not procedurally required to prepare and recirculate a revised DEIR for public review and comment.
- 5-2 The Commenter, which challenged the adequacy of the original EIR for the Project but won on only a single issue, claims that the SPRDEIR is "fundamentally misleading" insofar as the document indicates that, because the Sacramento Superior Court found only one problem with the original EIR, all other aspects of that original EIR should be treated as legally adequate, and readers should therefore focus their comments only on what is new in the SPRDEIR. The Commenter claims that, because the EIR for the Project has been decertified, the Commenter and others may comment on *any* environmental topic that, for an EIR that had never been certified, would trigger "recirculation" under CEQA Guidelines section 15088.5 due to "significant new information." The Commenter reasons that because "no part of the EIR is certified at this time," he may raise issues wholly unrelated to the single issue identified by the Superior Court. For reasons explained below and in the response to comment 5-3, the Commenter is incorrect; the SPRDEIR sets forth the appropriate legal standard under CEQA. The City is not "fundamentally misleading" anybody.

Although it is true that the court directed the Rocklin City Council to set aside its various actions certifying the EIR and approving the Project, the court found fault with *only one* area of the 2008 FEIR: the facial inconsistency between the traffic analysis and the economic analysis. (February 19, 2010, Sacramento Superior Court Consolidated Ruling After Hearing ("Ruling") in Case No. 34-2008-80000236, *Rocklin Residents for Responsible Growth v. City of Rocklin, et al.*, consolidated with Case No. 34-2009-00043599, *Town of Loomis v. City of Rocklin, et al.*, pp. 12-13.) The court gave no indication that, on remand, Rocklin Residents or any other commenter could raise issues beyond those related to the flaw the court found in the original EIR. Thus, although the status of the City's environmental review process for the Project on remand is *analogous* to that of a lead agency that has circulated a full draft EIR but has determined that a partial recirculation is necessary to deal with one set of issues,¹ in fact, the two situations are materially different. The situation at hand is subject to statutory limitations on the relief that courts can impose in CEQA cases, as well as principles of res judicata and collateral estoppel (explained below in Response to Comment 5-3). Thus, while the situation facing the City, in preparing and circulating the SPRDEIR, is *similar* to that of an agency facing a limited recirculation of a document that had never been through litigation, the fact that the City's EIR has already been through litigation makes this situation different in key respects.

As explained in the Introduction chapter to the SPRDEIR, because the Sacramento Superior Court, in its writ, ordered only limited relief, the City was not required to start the entire EIR process anew. Rather, consistent with the long-standing CEQA statute governing judicial remedies, the City simply had to fix what the court found to be wrong with the EIR. (See Pub. Resources Code, § 21168.9, subd. (b) [a writ should "only include those mandates which are necessary to achieve compliance with" CEQA]; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1112 (*Protect Historic Amador Waterways*) [court notes that the respondent

¹ See Pub. Resources Code, § 21092.1 [when "significant new information" is added to an EIR after release of a draft EIR but "prior to certification," the public agency shall undertake additional public review of such new significant new information "before certifying the [EIR]"]; CEQA Guidelines, § 15088.5, subd. (c), [{"i}f the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified"].

agency need only correct the deficiencies in the EIR identified by the court before considering recertification of the EIR].) Because the court only took issue with the FEIR with respect to the perceived inconsistency between the traffic analysis and urban decay analysis, the law presumes that the FEIR is adequate in all other respects. (See Pub. Resources Code, § 21005, subd. (c) [directing court to address each alleged ground of non-compliance]; *Friends of the Santa Clara River v. Castaic Lake Water Agency* (2002) 95 Cal.App.4th 1373, 1387 [interpreting Public Resources Code section 21005, subdivision (c), as requiring a court to only describe the deficiencies in a respondent’s environmental document]; see also *Federation of Hillside and Canyon Assns v. City of Los Angeles* (2004) 126 Cal.App.4th 1180, 1204 (*Federation II*) [where appellate court directed superior court to order limited relief, city had no obligation to update analysis of impacts in its adequate EIR].)

Case law clearly supports the approach taken by the City. For instance, in *Protect the Historic Amador Waterways, supra*, 116 Cal.App.4th 1099, the Court of Appeal held that an EIR was defective with respect to the water resources section. The court ordered that the agency set aside certification of the EIR and take action to bring the water resources section of the EIR into compliance with CEQA, but that the agency need not completely start the EIR process over. The court wrote:

*This conclusion does not mean the Agency is required to start the EIR process anew. Rather, the Agency need only correct the deficiency in the EIR that we have identified before considering recertification of the EIR. The form of that correction is a matter for the Agency to determine in the first instance. (See CEQA, § 21168.9, subd. (c) [“Nothing in this section authorizes a court to direct any public agency to exercise its discretion in any particular way”].) Likewise, whether the correction requires recirculation of the EIR, in whole or in part, is for the Agency to decide in the first instance in light of the legal standards governing recirculation of an EIR prior to certification. (See CEQA, § 21092.1; Guidelines, § 15088.5; *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1129-1130)*

(*Id.* at p. 1112 (emphasis added).)

Taking a similar approach here, the City appropriately prepared the SPRDEIR to address the one area for which the court found revision to the EIR was necessary – the need to demonstrate proper coordination between the authors of the traffic and urban decay analyses. The City has used the analogy of recirculation because, in one key respect, the analogy is very apt. When, as here, an EIR is only revised and recirculated in part, CEQA allows the lead agency to limit comments to the revised portion of the recirculated EIR. (See CEQA Guidelines, § 15088.5, subd. (f)(2).) Given the limited nature of the relief granted by the court, the City properly employed a similar approach here, cautioning commenters not to raise issues related to chapters of the EIR that either (i) have been expressly upheld by the superior court or (ii) were never challenged in court despite ample opportunity to do so. (See also Response 5-3 below on the subjects of res judicata and collateral estoppel.)

5-3 *The City is Not Required to Revise or Recirculate the EIR’s Climate Change Analysis*

RES JUDICATA PRECLUDES CHALLENGE TO THE ORIGINAL EIR

The Commenter takes issue with the climate change analysis in the DEIR. Given the fact that the Superior Court upheld the City’s climate change analysis against an attack launched by the Town of Loomis (which is no longer a litigant, having settled with the project applicant), this new attack is barred by the doctrine of res judicata. This comment is based on information contained in the 2007 DEIR, not the 2010 SPRDEIR, which did not address climate change. The NOA for the 2010

SPRDEIR noted that pursuant to procedures set forth in Section 15088.5, subdivision (f)(2) of the State CEQA Guidelines, reviewers should limit their comments to the materials contained in the 2010 SPRDEIR. The NOA further noted that the City would respond only to comments received during the recirculation period that relate to the 2010 SPRDEIR. Therefore, this comment is outside the scope of the documents identified in the NOA of the 2010 SPRDEIR for which comments were invited. (CEQA Guidelines, § 15088.5, subd. (f)(2).)

More importantly, the commenter is precluded from raising these issues by the doctrine of res judicata. The doctrine of res judicata, or claim preclusion, describes the preclusive effect of a final judgment on the merits, and prevents re-litigation of the same cause of action in a second suit between the same parties or parties in privity with them. (*Planning & Conservation League v. Castaic Lake Water Agency* (2009) 180 Cal.App.4th 210, 226 (*PCL*).) A judgment on the merits of a petition for a peremptory writ of mandate, determining that the writ should issue, is res judicata in later proceedings. (See *Price v. Sixth Dist. Agricultural Assn.* (1927) 201 Cal. 502 [res judicata applies to judgments in mandamus proceedings, if rendered on the merits]; *Federation II, supra*, 126 Cal.App.4th at pp. 1204-1205.) Thus, a party in a subsequent action is precluded from raising issues determined in the prior action, as well as issues which might properly have been litigated in the previous action. (*Federation II, supra*, 126 Cal.App.4th at pp. 1204-1205; *PCL, supra* 180 Cal.App.4th 229 [approving but distinguishing *Federation II* because the two writ proceedings at issue in that case addressed “materially different EIRs and therefore involve[d] distinct” causes of action]; *Basore v. Metropolitan Trust Co.* (1951) 105 Cal.App.2d 834, 837-839 [judgment estops plaintiff in subsequent action against same parties as to issues raised and to other issues that might properly have been litigated].)

More specifically, where an EIR has been revised pursuant to a court’s order, a party in a subsequent action is precluded by res judicata from raising issues that are unrelated to the revised portions of the EIR. (See *PCL, supra*, 180 Cal.App.4th at p. 228 [only the portions of the revised EIR that are materially different from EIR previously challenged involve distinct causes of action and are subject new challenge].) As discussed in Response to Comment 5-2, the entire EIR is not re-opened for further challenge. (See *Federation II, supra*, 126 Cal.App.4th 1180; *Protect the Historic Amador Waterways, supra*, 116 Cal.App.4th 1099.)

The court in *Federation II, supra*, discussed principles of res judicata in the context of successive challenges to an EIR. There, the trial court held in the prior writ proceeding that the EIR certified for the city’s General Plan was inadequate solely with respect to its traffic analysis. The trial court rejected all other challenges to the General Plan’s EIR. On remand, the city revised the traffic analysis and adopted a new set of findings that was substantially the same as the original set of findings. Petitioners, however, then challenged the analysis of water, waste water, solid waste, open space and utilities. With respect to previously un-raised or previously *unsuccessful* claims relating to water, waste water, solid waste, open space and utilities, the court held that the challenges were barred by res judicata, either because the issues had already been decided against the petitioners or because the issues could have been, but were not, raised in the first challenge to the EIR. (*Id.* at p. 1205.)

In this case, the adequacy of the FEIR (consisting of the 2007 Draft EIR, the 2008 Final EIR, the 2008 Partially Recirculated Draft EIR (“PRDEIR”) and the 2008 Supplement to the Final EIR) for the Project was challenged by two Petitions for Writ of Mandate, one filed by Rocklin Residents for Responsible Growth (“Rocklin Residents”) and another filed by the Town of Loomis (“Loomis”). The FEIR was challenged on a number of issues, including the adequacy of the climate change analysis. But the Sacramento Superior Court found fault with *only one* area of the EIR: the facial inconsistency between the traffic analysis and the economic analysis. Despite the myriad of other claims made by Rocklin Residents and Loomis, the court found that the EIR complied with CEQA in all other respects, including that the FEIR adequately analyzed cumulative global warming impacts

and the threshold of significance employed was appropriate and supported by substantial evidence. (Ruling, pp. 14-15.) While the global climate change issue was briefed by Loomis and not Rocklin Residents, *res judicata* still applies to the Commenter Rocklin Residents, for two reasons. First, Loomis and Rocklin Residents are in privity. (See *PCL, supra*, 180 Cal.App.4th at p. 230 [although party in the suit which is asserted to have a preclusive effect alleged different causes of action than party to be precluded, privity is established for purposes of *res judicata* because zealous pursuit of these claims by both parties is sufficient to show a “common interest” in the enforcement of CEQA].) Second, by incorporating by reference and adopting the arguments made by Loomis, Rocklin Residents essentially made the same climate arguments on its own, and would thus be subject to *res judicata* even if Loomis and Rocklin Residents were not in privity.

Furthermore, the commenter’s claims regarding the adequacy of the global climate change analysis are barred by the principle of collateral estoppel. Collateral estoppel, known in modern terminology as issue preclusion, is a common law estoppel doctrine that prevents a person from relitigating an issue actually litigated and finally decided in a prior proceeding. (*United States Golf Assn. v. Arroyo Software Corp.* (1999) 69 Cal.App.4th 607, 615.) The court in *Federation II, supra*, discussed principles of collateral estoppel in the context of successive challenges to an EIR. There, the trial court held in the prior writ proceeding that the EIR certified for the respondent city’s General Plan was inadequate solely with respect to its traffic analysis. The trial court rejected all other challenges to the General Plan’s EIR. On remand, the city revised the traffic analysis and adopted a new set of findings that was substantially the same as the original set of findings. Petitioners, however, then challenged the analysis of alternatives, among other issues. The court, noting it had previously determined that the range of alternatives discussed in the EIR was reasonable in *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1265 (*Federation I*), found that, under the doctrine of collateral estoppel, this determination was binding on the petitioners, who therefore could not raise new claims regarding inadequate alternatives analysis. (*Federation II, supra*, 126 Cal.App.4th at p. 1202 citing *Lucido v. Superior Court* (1990) 51 Cal.3d 335, 341-342.)

The Commenter’s claim challenging the sufficiency of the original DEIR’s analysis of global warming impacts in light of recent amendments to the CEQA Guidelines regarding the disclosure and analysis of climate change and greenhouse gas emissions, therefore, is precluded pursuant to the doctrines of *res judicata* and collateral estoppel because Loomis has already challenged the climate change analysis and the Court has already ruled the analysis is sufficient and supported by substantial evidence. (Ruling, pp. 14-15.) If the Commenter’s apparent view on the matter were accepted, a project opponent could attempt to forestall a project in perpetuity by consistently raising “new” issues for analysis, thwarting the legislative policy of prompt resolution of CEQA challenges. (See *Citizens for a Megaplex-Free Alameda v. City of Alameda* (2007) 149 Cal.App.4th 91, 111.) In short, these claims are barred.

EVEN IF RES JUDICATA OR COLLATERAL ESTOPPEL DID NOT APPLY, THE CITY IS NOT REQUIRED TO UPDATE ITS GHG ANALYSIS TO ADDRESS THE NEW CEQA GUIDELINES REGARDING GREENHOUSE GAS EMISSIONS

Furthermore, even if *res judicata* or collateral estoppel did not apply to bar the Commenter’s challenge on the 2008 FEIR, there is no support for Commenter’s claim that, because the FEIR has been decertified, the City is procedurally required to update and recirculate the EIR’s climate change analysis in light of CEQA Guidelines that took effect after the Court’s February 19, 2010 decision. The omission of information in an EIR does not constitute a failure to proceed “in a manner required by law” unless petitioner can point to an express legal duty that the agency has violated. (See *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435 (*Vineyard*); Pub. Resources Code, § 21168.5 [“[a]buse of discretion is established if the agency has not proceeded in a manner *required by law*”] (*italics added*)). As the Supreme Court explained in

Laurel Heights I, “[a] project opponent or reviewing court can always imagine some additional study or analysis that might provide helpful information. It is not for them to design the EIR. That further study . . . might be helpful does not make it necessary.” (47 Cal 3d. 376, 415; see also *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2007) 157 Cal.App.4th 149, 163 (*SCOPE II*) [rejecting argument that EIR is deficient for failing to discuss funding for mitigation measures, in part because petitioners could cite to no authority that an EIR is required to discuss funding for mitigation measures]; CEQA Guidelines, § 15204.)

The existence of new CEQA Guidelines regarding greenhouse gas emissions does not constitute “significant new information,” as that statutory term (see Pub. Resources Code, § 21092.1) has been construed by the courts and in the CEQA Guidelines, requiring recirculation. (CEQA Guidelines, § 15088.5, subd. (a).) As noted in CEQA Guidelines section 15007, subdivision (b), “amendments to the CEQA Guidelines apply prospectively only.” (See also *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123 (*Laurel Heights II*) [“changes to the Guidelines act prospectively only”].) Here, the ostensible effective date of the new CEQA Guidelines revisions was March 18, 2010. According to CEQA Guidelines section 15007, subdivision (d), public agencies are not required to comply with new CEQA Guidelines requirements until the earlier of two dates: (i) the “effective date of the agency’s procedures amended to conform to the new guideline amendments” or (ii) the “120th day after the effective date of the guidelines amendments.” Because the City has not amended its own local CEQA procedures, the new CEQA Guidelines requirements became effective within the City on July 16, 2010. Notably, the City’s original climate change analysis for the project was part of the original Draft EIR published in December 2007, approximately two and one-half years earlier. “New requirements in amendments will apply to steps in the CEQA process not yet undertaken by the date when agencies must comply with the amendments.” (CEQA Guidelines, § 15007, subd. (b).) Moreover, “[i]f a document meets the content requirements in effect when the document is sent out for public review [here, in December 2007], the document shall not need to be revised to conform to any new content requirements in guidelines amendments taking effect before the document is finally approved.” (CEQA Guidelines, § 15007, subd. (c).) Thus, even if the new CEQA Guidelines requirements had come down in early 2008, shortly after the original Draft EIR was released for the Rocklin Crossings Project, the City would not have been required to reissue the Draft EIR or to address the new requirements in the Final EIR. Furthermore, though the City was not required to recirculate it, the climate change analysis was included as part of the cumulative impacts chapter in the PRDEIR circulated in August of 2008. The climate change analysis still met the content requirements in effect at that time.

Case law also holds that sections of the Guidelines not in effect at the time of the document preparation do not apply to the consideration of the adequacy of those documents. (See *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1378.) As explained by the Court of Appeal in *Fairbanks v. City of Mill Valley* (1999) 75 Cal.App.4th 1243, “[t]he underlying rationale for this ‘rule of reason’ is that ‘[f]airness and the need for finality’ require that the propriety of agency action be determined under the regulations in effect on the date on which the document is presented for public review.” (75 Cal.App. 4th at p. 1257, fn. 12 (quoting *Long Beach Savings & Loan Association v. Long Beach Redevelopment Agency* (1986) 188 Cal.App.3d 249, 261).)

In short, because the new Guidelines do not apply retroactively and were not in effect when the analysis in the 2007 DEIR was prepared, the new CEQA Guidelines do not constitute “significant new information” in the context of the 2007 DEIR’s greenhouse gas emissions analysis. No mandatory requirement of recirculation is triggered, therefore, because the City has no duty to publicly disclose “whether the DEIR’s analysis and conclusions regarding greenhouse gas emissions and climate change are, or are not, consistent with the Guidelines’ requirements,” as claimed by the Commenter, citing CEQA Guidelines Section 15088.5, subdivision (a)(4). (See Pub. Resources Code,

§ 21083.1 [neither CEQA nor its implementing guidelines shall be interpreted “in a manner which imposes procedural or substantive requirements beyond those explicitly stated”].)

Furthermore, because the new CEQA Guidelines regarding greenhouse gas emissions do not apply retroactively, the City has no need to establish, as the Commenter suggests, that the Superior Court’s decision upholding the 2007 DEIR’s greenhouse gas emissions amounts to some sort of validation that the analysis satisfied new requirements that were not in existence at that time. As discussed above, the court’s Ruling *did* uphold the greenhouse gas analysis in the 2007 DEIR prepared consistent with CEQA’s statutory and regulatory mandates in effect at that time. The court found that the FEIR adequately analyzed cumulative global warming impacts and the threshold of significance employed was appropriate and supported by substantial evidence. (Ruling, pp. 14-15.)

THE COMMENTER FAILED TO POINT TO ANY SPECIFIC INSTANCE IN WHICH THE 2007 DEIR’S GHG ANALYSIS VIOLATED ANY SPECIFIC NEW CEQA GUIDELINE. IN FACT, THE ANALYSIS DOES COMPLY WITH THE NEW GUIDELINES, THOUGH IT WAS NOT REQUIRED TO DO SO.

Because the City has no procedural duty under CEQA to address the new CEQA Guidelines regarding greenhouse gas emissions that took effect after the EIR’s greenhouse gas analysis was prepared and circulated in 2007, the failure to include information addressing the new CEQA Guidelines in the EIR would only violate CEQA if such information has an effect on the adequacy of the EIR. (See *City of Fremont v. San Francisco Bay Area Rapid Transit Dist.* (1995) 34 Cal.App.4th 1780, 1790 [in determining whether an agency has prejudicially abused its discretion, the court distinguishes “between a failure to comply with CEQA which results in an omission of information, and a failure which has no effect on the information in the EIR”].) In addition to ignoring the limited nature of the remand from the Superior Court and the principles of *res judicata*, as well as the fact the new CEQA Guidelines requirements are prospective only, the Commenter has also failed to identify any specific ways in which the 2007 DEIR’s greenhouse gas emissions analysis is allegedly inconsistent with the new CEQA Guidelines, such that revision and recirculation is required.

The Commenter claims that it does not have to present “substantial evidence” demonstrating that the Project’s greenhouse gas/climate change impacts may be significant in light of the new CEQA Guidelines before the City has a duty to consider or analyze the potential for such impacts. The Commenter is incorrect. At a minimum, CEQA requires commenters to “explain the basis for their comments” and “submit data or references offering facts, reasonable assumptions based on facts or expert opinion supported by facts” in support of their comments. (CEQA Guidelines, § 15204, subd. (c).) More importantly, because, as discussed above, CEQA does not require that the EIR address the new CEQA Guidelines that took effect after the greenhouse gas analysis was prepared and circulated in 2007, the substantial evidence test applies as to the adequacy of the EIR’s analysis. Under the substantial evidence standard, an EIR is presumed adequate (Pub. Resources Code, § 21167.3) and “the party challenging the EIR has the burden of showing otherwise.” (*Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2007) 157 Cal.App.4th 149, 158.)

Furthermore, the recirculation process is designed to respond to environmental “bad news” and not simply to generate additional rounds of public review to analyze suggestions by commenters. By limiting the recirculation process to circumstances in which *significant new* information is added to an EIR, the Legislature intended to advance “the goal of meaningful public participation in the CEQA review process” without at the same time causing “endless rounds of revision and recirculation of EIRs.” (*Laurel Heights II, supra*, 6 Cal.4th at p. 1132.) “Recirculation [is] intended to be an exception, rather than the general rule.” (*Ibid.*) Thus, unless the Commenter can present evidence that the EIR’s greenhouse gas analysis is inadequate because it violates any of the new CEQA Guidelines, the City has no duty to revise and recirculate the EIR, as claimed by the Commenter.

In fact, although the new CEQA Guidelines went into effect long after the DEIR's greenhouse gas emissions analysis was prepared and circulated in 2007, the analysis is consistent with the Guidelines' requirements for greenhouse gas emissions. For instance, the DEIR's analysis is consistent with CEQA Guidelines Section 15064.4, subdivision (a), which states that "[a] lead agency should make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project." The DEIR includes 13 (counting pages 6-55 through 6-64, and pages 6-48 through 6-50) pages of scientific and factual data regarding global climate change, as well as, 14 (counting pages 6-65 through 6-78) pages of analysis estimating the Project's greenhouse gas emissions. (DEIR, pp. 6-48 through 6-50 and 6-55 through 6-78.)

Section 15064.4, subdivisions (a)(1) and (a)(2), also state that the lead agency has discretion to select the model or methodology used to quantify greenhouse gas emissions, as long as such method is supported by substantial evidence, and/or that the agency may rely on a qualitative analysis. In this case, the DEIR did both: it set forth a quantification of the Project's GHG emissions, the method of which was supported by substantial evidence, but also used a qualitative threshold of significance. With respect to the threshold, the City determined that Project's potential for creating an impact on global warming was based on a comparative analysis of the Project against the emission reduction strategies contained in the California Climate Action Team's Report to the Governor regarding the steps needed to comply with AB 32 and Executive Order S-3-05. The City determined that, if the Project was compatible or consistent with the applicable CAT strategies, the Project's cumulative contribution to global climate change would be less than significant. On the other hand, if the Project was not consistent with those strategies that the City deemed feasible, then the Project could potentially be deemed to have a significant impact on global climate change.

Finally, in assessing the significance of the Project's impacts from greenhouse gas emissions on the environment, the DEIR analyzed all of the following as required by Section 15064.4, subdivision (b):

- (1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting; (See DEIR, pp. 6-68.)
- (2) Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project. (See DEIR, pp. 6-77 and 6-78.)
- (3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. (See DEIR, pp. 6-69 through 6-78.)

5-4

The SPRDEIR is not inadequate because, as explained in Responses to Comments 5-5 through 5-15 and 5-31 through 5-60, the revised traffic analysis is not informationally incomplete and misleading. The Commenter notes that Daniel T. Smith, P.E., with Smith Engineering and Management, has reviewed the SPRDEIR and has provided comments included as Exhibit 3 to the Commenter's letter. Responses to the comments in Exhibit 3 are included below as Responses to Comments 5-31 through 5-60. As these responses indicate, no recirculation of the SPRDEIR is necessitated by Mr. Smith's comments. Public Resources Code section 21092.1 and CEQA Guidelines section 15088.5 require a lead agency to recirculate an EIR only when "significant new information" is added to an EIR after public review but before certification. According to section 15088.5, new information is not significant unless the "EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect." "Significant new information" that would require circulation according to this section of CEQA Guidelines include:

- ▶ A new significant environmental impact resulting from the project or from new mitigation measures.
- ▶ A substantial increase in the severity of an environmental impact unless mitigation measures are adopted to reduce the impact to a level of insignificance.
- ▶ A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impact of the project, but the project proponents decline to adopt it.
- ▶ The DEIR was so fundamentally inadequate that meaningful public review and comment were precluded.

The responses and clarifications provided in response to comments 5-31 through 5-43 do not result in any of the above conditions that would warrant recirculation. None of the revisions to the SPRDEIR in light of these comments results in or indicates a new significant impact or a substantial increase in the severity of an impact associated with the Project. Contrary to the Commenter's claim, moreover, as the responses throughout this Second Supplement to the Final EIR demonstrate, the SPRDEIR has not "failed to include sufficient information," thereby rendering it impossible for the public to consider the SPRDEIR's traffic generation or distribution analysis or the traffic impact analysis. No recirculation is required pursuant to CEQA Guidelines, section 15088.5, subdivision (a).

5-5 The City vehemently disagrees with the Commenter's contention that the new traffic study in the SPRDEIR "manipulated" its underlying data to "mask disclosure" of the total amount of traffic originating in the I-80 corridor south of the Rocklin City limits. The traffic analysis employs a standard methodology based on appropriate, but conservative, assumptions for determining Project trip generation and trip distribution. (See Master Response and Responses to Comments 5-32 through 5-44.)

5-6 The adjustment to the pass-by traffic is supported by substantial evidence. The SPRDEIR explains that the City re-evaluated the 10 percent pass-by reduction rate employed in the PRDEIR traffic analysis and determined it was too conservative and likely understated the number of pass-by trips for the project. (SPRDEIR, p. 1-7.) In other words, because many of the trips generated by a shopping center such as the project would be pass-by trips, the PRDEIR overstated the project's trip generation by only reducing the gross trip generation by 10 percent to account for the pass-by trips. Thus, the pass-by reduction rate was increased to an appropriate, yet still conservative 20 percent, which was also more consistent with published empirical data for pass-by trips for this type of project. (See SPRDEIR, pp. 1-7, 4.2-29 citing ITE Trip Generation Handbook (2004) for the use of a 28 percent rate for pass-by trips for a Free Standing Discount Superstore, a 48% rate for a Home Improvement Store, and a 34 percent rate for a Shopping Center.) In the original Draft EIR for the Project, the earlier economic analysis did not consider pass-by trips at all, though the economic analysis in the SPRDEIR, in demarcating the Tertiary Market Area, did assume some pass-by trips originating in Roseville. At the same time, the earlier Traffic Study for the PRDEIR, by using what in retrospect was probably an unduly high (overly conservative) pass-by rate, artificially inflated the number of pass-by trips coming from Roseville to the Project site via the I-80 corridor.

Notably, Mr. Smith, the Commenter's traffic consultant, validates the new pass-by trip reduction rate of 20 percent used in the SPRDEIR, stating that it is "clearly within the range of documented precedent for such shopping centers" (see Comment 5-35). On this basis, increasing the pass-by reduction rate does not "increase the number of pass-by shoppers who would actually have to travel past and ignore other, existing retail to arrive at the project site," as claimed by the Commenter. The total traffic in the vicinity of the project remains the same regardless of the pass-by reduction rate employed. Rather, by increasing the pass-by reduction rate, the traffic consultant is able to adjust the

Project trip generation to count fewer pass-by trips as Project trips and more accurately account for only those trips generated by the Project. (See Master Response.)

Furthermore, the City disagrees with the Commenter's claim that it is "illogical" that pass-by shoppers would have to travel past and ignore other existing regional discount, supercenter, and home improvement stores to arrive at the Project site. The traffic analysis does not, nor is it required to, consider the origins of pass-by trips or the "logic" of why a pass-by trip driver chooses to divert from its primary route to visit the Project site. (See Master Response and Response to Comment 5-42 for a detailed explanation of why the Commenter's claim is without merit.)

In any event, while the Commenter may take issue with the "logic" of the treatment and consideration of pass-by trips in the traffic analysis, the Commenter's opinion does not undermine the substantial evidence in support of the traffic analysis. (See Master Response and Responses to Comments 5-35, 5-42 and 5-56.)

- 5-7** The traffic study is not required to show the origins of the pass-by trips, as such information is not germane to the analysis of traffic generated by the Project. The traffic analysis is concerned with determining the impact of traffic caused by the Project on the circulation network and pass-by trips are trips that derive from traffic already using the adjacent roadway that enter the site as an intermediate stop on the way to or from another destination. (See Master Response and Responses to Comments 5-35 through 5-41.)
- 5-8** The SPRDEIR's distribution of trips through the City's traffic model does not reflect an "arbitrary substitution" of assumed pass-by trips for model-distributed trips south of Rocklin. Rather, the City determined that because the PRDEIR employed only a 10 percent pass-by reduction rate, the trip generation analysis in the PRDEIR overstated the number of trips generated by the Project from all directions. In other words, because the pass-by reduction rate employed in the PRDEIR was so conservative, some of the project trips applied to the circulation network in the PRDEIR (including some from south of Rocklin) were not trips generated by the Project, but were, in fact, pass-by trips. The effect of increasing the pass-by reduction rate to 20 percent is that when the trip generation is distributed over the circulation network, some pass-by trips (including some from south of Rocklin) are no longer considered Project trips, except at the points at which the pass-by trips are diverted to the Project. The increased pass-by reduction rate does not have the effect of only reducing project trips from areas south of Rocklin. As explained in Response to Comment 5-39, when the net Project trips are added to the circulation network through the trip distribution modeling, the Project trips are proportionately reduced at all intersections and roadways in the traffic study area and at all directional orientations. (See Master Response and Responses to Comments 5-35 through 5-44.)

Furthermore, contrary to the Commenter's assumption, market area was considered in the SPRDEIR's trip distribution for the Project. Project trips were distributed throughout the study area using information from the City's current travel demand model. Using the travel demand model, a process known as "select zone assignment" is applied to distribute and assign trips from a specific zone (the project) through the highway network to an origin. LSA applied this "select zone assignment" process based in part on information obtained from CBRE Consulting with respect to the primary and secondary market areas for the "big box" components of the Project. But given the nature of their respective disciplines and their own ethical obligations to be as accurate and consistent as possible, it was not possible to have a perfect convergence of assumptions between the economic analysis and traffic analysis when preparing either study. Rather, it is appropriate from a CEQA perspective, and reasonable from a practical perspective as well, that experts in differing disciplines employ different assumptions in preparing individual impact analyses or technical studies for particular issue areas. LSA was not required to "match" exactly the traffic distribution patterns to the sources of shoppers predicted in the economic analysis, as claimed by the Commenter. (See Master Response.)

- 5-9** The SPRDEIR does not assume a 7 percent “internal discount” on Project traffic. The 7 percent identified by the Commenter, which is noted on Exhibit 4.2-5 of SPRDEIR page 4.2-31, refers to the percent of project traffic that “would have destinations within close proximity to the project site.” (See SPRDEIR, p. 4.2-31.). The 7% trip distribution to the uses in the proximity of the project is based on the City’s traffic model which was used to develop the trip distribution for the project. (See also Response to Comment 5-50.)
- 5-10** The text related to trip distribution and Exhibit 4.2-6 has been revised in Chapter 3 of this Second Supplement to the Final EIR to show details of the sources of traffic on Sierra College Boulevard south of Rocklin City limits. See Responses to Comments 5-51 through 5-55. Nothing in the revised Exhibit alters the conclusions of the Economic Study.
- 5-11** Diverted pass-by trips were included in calculations of LOS at relevant intersections. (See Master Response and Responses to Comments 5-35 and 5-56.)
- 5-12** The SPRDEIR was not required to adjust its 2010 baseline to account for what the Commenter claims are “depressed economic conditions.” The baseline employed in the SPRDEIR appropriately reflects the physical conditions that existed at the time the analysis was commenced pursuant to CEQA Guidelines section 15125. (See Response to Comment 5-57.)
- 5-13** The SPRDEIR does not fail to include the Caltrans 1-80/SR-65 flyover ramp (and the closure of Taylor Road ramps) in its approved projects list considered in the analysis for the “existing plus approved projects” baseline conditions because it is not an approved project. (See Response to Comment 5-58.)
- 5-14** The LOS methodology used in analyzing the traffic impacts at intersections controlled by the City of Rocklin is Circular 212, which provides a planning-level assessment of the traffic volume at an intersection. This methodology is currently used by many cities and agencies in California for the purposes of traffic impact analysis, including Placer County, West Sacramento, Fairfield, Roseville, Union City, San Carlos, the Contra Costa Transportation Authority, and the City/County Associations of Governments of San Mateo County. (See Response to Comment 5-59.)
- 5-15** Responses to Mr. Smith’s comments are provided in Responses to Comments 5-31 through 5-60. Thus, the City has provided full responses to all the Commenter’s comments, including those in Exhibit 3 to this comment letter, consistent with CEQA Guidelines section 15088.
- The responses and clarifications provided in Responses to Comments 5-5 through 5-15 and 5-31 through 5-60 do not result in any of the conditions described in CEQA Guidelines section 15088.5, subdivision (a) that would warrant recirculation of the SPRDEIR. None of the revisions to the SPRDEIR in light of these comments results in or indicates a new significant impact or a substantial increase in the severity of an impact associated with the Project. No recirculation of the SPRDEIR or its traffic analysis is required pursuant to CEQA Guidelines section 15088.5, subdivision (a).
- 5-16** The Commenter claims the SPRDEIR’s revised analysis and conclusions regarding urban decay impacts are “incomplete and misleading” and must be revised and recirculated for public review before the EIR can be certified. The Commenter’s specific issues with the SPRDEIR’s urban decay analysis are addressed in Responses to Comments 5-17 through 5-28. As an initial matter, however, it is notable that none of the comments from the Commenter were made or informed by an economist or other real estate professional with expertise in the field of retail markets and/or urban decay analysis and impacts. Rather, comments 5-17 through 5-28 represent unsupported opinions, questions and comments from a lawyer. This sort of attorney argument and speculation is not substantial evidence under CEQA. In *Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 580, for instance, the court emphasized that the comments and opinions of an attorney representing

project opponents do not constitute substantial evidence, and such unsubstantiated opinions cannot form the basis of a decision to require an EIR for a project. (See also *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1417 [in the absence of a specific factual foundation in the record, dire predictions by non experts regarding the consequences of a project do not constitute substantial evidence].) The point is clear: the City has provided a substantial and well informed analysis by an industry expert in support of the conclusions reached in the SPRDEIR. Questions raised by counsel do not constitute substantial evidence contrary to the City’s conclusions. “Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence.” Rather, “[s]ubstantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.” (CEQA Guidelines, § 15064, subd. (f)(5).)

5-17 The Commenter asks three specific questions concerning the information on vacancy rates cited in the Revised and Updated Economic Impact and Urban Decay Analysis (the Urban Decay Analysis)² and questions whether or how this information was taken into account in the urban decay analysis. The 17% Roseville/Rocklin retail vacancy rate (provided by CoStar Group and CB Richard Ellis) was taken into account in the Urban Decay Analysis and was one of several considerations discussed in Chapter VII, Urban Decay Determination. (See SPRDEIR, pp. 5-84 to 5-89.) It is not the opinion of the City or its expert that the vacancy rate should be ignored when preparing a study such as this.

The currently high vacancy rate was one of many pieces of information used to inform the urban decay analysis (and the conclusions of the City and its expert) along with other appropriate considerations, including findings regarding the magnitude of diverted sales and backfilling (retenanting) potential. (See SPRDEIR, pp. 5-83 to 5-89.) Further, vacancy rates and likely market movements were considered as a part of the CBRE Consulting’s urban decay analysis. As acknowledged in the Urban Decay Analysis, “The current retail market is clearly depressed, experiencing very high vacancy rates by historical standards. It is taking unusually long to backfill vacant space but this condition is expected to improve over the next few years as the area recovers from the recession. While forecasters may disagree on how long recovery will take, as we have seen in the past following every recession, conditions will eventually improve and retail demand will increase to support new businesses.” (See SPRDEIR, pp. 5-88 to 5-89; App. C, p. 51.) CBRE believes this demonstrates that the vacancy rate was given due consideration in the assessment of urban decay potential.

5-18 The Commenter queries what the City considers to be “the vacancy rate at which urban decay impacts are less than significant?” The City does not believe there is any single vacancy rate threshold that one could properly or logically apply as a standard of significance for purposes of analyzing urban decay impacts. Nor is there such a standard acknowledged among real estate economists. In fact, it would be an oversimplification to suggest that the vacancy rate drive a conclusion regarding the potential for urban decay, and that some particular rate necessarily translates into urban decay. There are far too many variables involved. (See, e.g., SPRDEIR, pp. 5-83 to 5-89; App. C, p. 46-52.) Further, this comment obscures the proper focus on the primary questions pertinent to urban decay impacts, namely, whether the development of Rocklin Crossings and the cumulative projects will cause or significantly contribute to urban decay. CEQA is only concerned with a project’s economic effects when such effects may lead to *reasonably foreseeable adverse physical changes to the environment*. (CEQA Guidelines, § 15131, subd. (a) (“[e]conomic or social effects of a project shall not be treated as significant effects on the environment”); accord Pub. Resources Code, § 21082.2, subd. (c); CEQA Guidelines, § 15382; *Anderson First Coalition v. City of Anderson* (2005)130 Cal.App.4th 1173, 1182; *Maintain Our Desert Environment v. Town of Apple Valley* (2004) 124 Cal.App.4th 430, 446 (*Maintain Our Desert*).) It is crucial to keep this definition in mind. The fact

² CBRE Consulting, “Rocklin Crossings Revised and Updated Economic Impact and Urban Decay Analysis, Rocklin California,” August 2010. This report is included in the SPRDEIR as Appendix C.

that a project may contribute to vacancies in the market area, does not, by itself, constitute urban decay under the law. For this reason, the relevant CEQA issue is not whether the project will have economic impacts or lead to vacant buildings. Rather, the relevant issue is whether any economic impacts of the project are so great that they are likely to cause urban decay and the deterioration and other physical impacts associated with such urban decay. A method that found the existence of urban decay using a threshold of significance based solely on the existence of healthy retail market would not comply with CEQA, which is concerned not with the optimal functioning of markets but rather with adverse changes in the physical environment.

Stated another way, evaluating a project relative to how it does or does not compare to a purported standard for a healthy retail market is not germane to the analysis of whether a project will be considered to result in urban decay pursuant to CEQA case law. A retail market could be somewhat “unhealthy” (the Commenter’s term) and still not lead to the kind of vacancies and physical deterioration associated with urban decay. Instead, the true issue boils down to the question of whether development of Rocklin Crossings and other reasonably foreseeable retail projects would cause an adverse physical environmental change. As further background, it is useful to focus on what does not constitute urban decay. For example, a vacant building is not urban decay, even if the building were to be vacant over a relatively long time. Similarly, even a number of empty storefronts will not, by themselves, constitute urban decay. The leading court case on the subject, *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1204, described the phenomenon of urban decay as “a chain reaction of store closures and long-term vacancies, ultimately destroying existing neighborhoods and leaving decaying shells in their wake.” The court also discussed prior case law that addressed the potential for large retail projects to cause “physical deterioration of [a] downtown area” or “a general deterioration of [a] downtown area.” (*Id.* at pp. 1206, 1207.)

While the currently high retail vacancy is a variable to consider, there are many other factors that offset the likelihood the development of Rocklin Crossings will lead to urban decay. Such factors include the tendency of real estate markets to return to equilibrium through market-based adjustments following a recession, the projected potential to backfill vacant space with either retail or service uses, and the potential to redevelop large vacant space with other uses (e.g., gyms, movie theaters, schools, government offices, etc.). All of these factors are addressed in the Urban Decay Analysis.³ (See SPRDEIR, pp. 5-83 to 5-89; App. C, p. 46-52.)

Examples of retail property reuse include:

- ▶ a closed K-Mart store in Porterville, California, which in 2001 was remodeled and reoccupied for a South County government complex providing Health and Human Services, Probation, Workforce Investment Department, Employment Development Department, and private, non-profit training providers within 71,000± square feet of space;
- ▶ the conversion of a large Bally’s Fitness Center in Clovis, California, which was vacant for about five years before the Celebration Church took occupancy in 2005;
- ▶ plans to convert a former K-Mart store in Delano to a new police headquarters;
- ▶ the lease of the former Gottschalk’s space at the Auburn Town Center to McCaulou’s, a 16-store family-owned department store chain, planning to open in a mid-summer 2011;
- ▶ the conversion of a former Shoe Pavilion store in the Blue Oaks Town Center (in Rocklin, on Highway 65) into a Crunch Fitness center; and

³ CBRE Consulting, *Ibid.*, pp. 46-52.

- ▶ finally, the successful adaptation of the old Mervyn's space located in Blue Oaks Town Center into the Blue Oaks 16 movie theatre complex.

5-19 The Commenter claims that there is a high commercial office vacancy rate in Roseville/Rocklin and asks if the City's consultant provided any analysis of urban decay with high commercial office vacancies or whether City's consultant believes office and retail spaces are completely different and the high vacancy rate in office space would have no impact on retail. CBRE Consulting did not analyze office market vacancy in the Urban Decay Analysis because (in its expert opinion) such a factor is not directly relevant to an urban decay study of the potential effect of the development of a regional retail center such as Rocklin Crossings. This is true because office developments do not generally compete directly with retail centers for major tenants and there are generally land use entitlement constraints involved in converting office to retail use. The development of new retail space is unlikely to affect the status of vacant office developments or vice versa. Obviously both property segments, over time, will benefit from the success in the marketplace of neighboring or nearby developments. For instance, the proximity to a center such as the Project is an attraction for office users as it provides goods and services that are convenient to the office tenants. That said, however, the development of any one retail center is unlikely to affect office vacancies. With these considerations in mind, the City's expert did consider the long term health of the overall Rocklin/Roseville marketplace. Most experts (including the City's) believe the long term prognosis for the region is still strong.

5-20 The Commenter claims that the SPRDEIR identified a number of community shopping centers "located just a 'few minutes' north of the study's designated 'trade area.'" It is worth noting neither the Urban Decay Analysis nor the SPRDEIR utilize the term 'trade area' in this manner. The City assumes that the Commenter intends to use the term interchangeably with the term "market area" as used in the SPRDEIR. For a response to the Commenter's claim that the "trade areas" for these shopping areas would overlap with the Project's "trade area," please see Responses to Comments 5-21 and 5-22.

5-21 The Commenter claims that these existing community shopping centers outside, and close to the border of, the market areas (primary and secondary) as defined in the Urban Decay Analysis would compete with the Project and the effect of the Project on these community shopping centers was not considered in the SPRDEIR. This issue, however, was considered in the Urban Decay Analysis and the SPRDEIR. The Urban Decay Analysis states on page 48, paragraph 5, that "[b]rokers believe that the Rocklin Crossings development would not impact existing retail in the Whitney Ranch/Stanford Ranch/Sunset West area because that retail is relatively new and draws on residents of neighboring Roseville, Lincoln, and areas of unincorporated Placer County, as well as residents of Rocklin outside of Rocklin Crossings' market area." It is CBRE Consulting's professional opinion (based in part on broker input and in part on other similar circumstances) that grocery anchored community centers located these distances from Rocklin Crossings will not suffer consequences resulting in urban decay from the development of this project. These properties are more accurately defined as neighborhood shopping centers (grocery anchored and not of the size or multiple large anchor format that Crossings follows). Therefore, they have a smaller primary market area. While their market areas do overlap with the southwestern portion of the Rocklin Crossings market area, Rocklin Crossings is three to five miles away from the "overlap" area, making it less convenient for residents of the overlap area. As a result, it is likely residents in the "overlap" area will primarily continue to shop for convenience goods at the existing centers.

Further, it is worth noting that in a setting such as this portion of Rocklin (and the greater Placer County area), one will almost always be able to identify some overlap in shopping opportunities and market area, as well as retail projects proximate to or near the edges (but outside) of any defined market area. Seldom, however, will this overlap result in anything close to urban decay as defined

under CEQA. Therefore, this does not usually represent a flaw or error in the market area but rather the reality of analyzing this type of site.

- 5-22** The Commenter questions the source and validity of broker opinions presented in Chapter VII of the Urban Decay Analysis. The conclusions in the economic and urban decay analyses reflect the professional expert judgment of economist Elliot Stein of CBRE consulting, who, like most experts in his field and similar fields, formulates his opinions based on input from a variety of sources. The identities of the individual brokers he contacted are less important than the extent to which Mr. Stein, based on his own very considerable experience, found them to be qualified to answer the questions he posed to them and the extent to which he found their answers to be credible and consistent with his own past experience in similar situations. The City is not directly relying on the input of Mr. Stein's sources as much as it is relying on his expert judgment reached after he sought and obtained input from multiple sources and then subjected all such data to analysis. As part of its research in conducting the Urban Decay Analysis, Mr. Stein contacted several sources with many years of retail experience in the market area regarding the health of the Rocklin/Loomis retail market and the depth of prospective demand for retail space. Specifically, he conducted telephone interviews with four real estate brokers and one real estate investor experienced in the Rocklin, Loomis, and Roseville retail market. The brokers represented a mix of independent commercial brokerage houses and investors. All of the brokers have experience working with tenants and landlords in the market areas. In the course of the interviews, Mr. Stein described the proposed Rocklin Crossings project, including the developer's concept for the center and the anticipated tenant mix; and, in turn, the real estate brokers shared their professional opinions. This approach is a generally accepted one among real estate economic consulting firms as an effective method for soliciting the professional opinion of individuals qualified to comment on market conditions, both past/present and anticipated future. Ultimately, as noted above, Mr. Stein reached his own expert conclusions based on all of this input. The study does not assume completely different uses at these centers, as the Commenter asserts. Rather, the study assumes some overlap but quite different market areas. This distinction is an important and correct one, especially given the distance between the proposed project and these established properties.
- 5-23** The Commenter states that downtown Loomis currently provides many of the same retail opportunities that are planned for Rocklin Crossings and questions whether the urban decay analysis addressed potential impacts on downtown Loomis. The Urban Decay Analysis identified two downtown shopping districts in the primary market area, one of which is downtown Loomis extending along Horseshoe Bar Road and Taylor Road. (See SPRDEIR, p. 5-59.) It is a district made up primarily of one-story buildings, some of which are deemed architecturally significant. Current uses include small independent businesses as well as restaurants, coffee shops, and fast food. The small scale of downtown Loomis, combined with the Town of Loomis' stated intentions for the area as described in the *Loomis Town Center Implementation Plan, Phase 1*, indicate this district is likely to continue to attract small businesses catering primarily to residents of Loomis and nearby neighborhoods. In contrast, Rocklin Crossings will be anchored by a Superstore and Home Improvement store (totaling 372,000 square feet and comprising 69% of the center [see SPRDEIR, Appendix B, Exhibit 1]) that will draw customers from a much larger market area. While downtown Loomis and Rocklin Crossings may both include some of the same types of smaller tenants (e.g., restaurants, banks, stationary store), tenants at these two locations will be focused on different customer segments. Businesses locating in downtown Loomis will be attracted to the district's historical "main street" character, pedestrian orientation, and ease of access. Many businesses choose this type of setting over a large shopping center for the very reason that they know their customers prefer a low-key, less congested setting as compared to a center like Rocklin Crossings. This phenomenon can be found in many locations in California, including, for example, in Santa Clara County where retailers in downtown Mountain View and Los Altos operate viable businesses within a few miles of community and regional shopping centers. Therefore, Rocklin Crossings is not expected to compete directly with downtown Loomis property owners for most tenants. (SPRDEIR, 5-59 to 5-

60.) Furthermore, the City is not aware of any “anchor stores” in downtown Loomis for which analysis was required, as suggested by the Commenter. The only anchor centered shopping center in Loomis of which the City is aware is the Loomis Town Center, anchored by the Raley’s Supermarket, which was included as part of the economic/urban decay analysis. The analysis concludes that the Raley’s is one of the stores to more likely experience sales impacts from Rocklin Crossings, but that Raley’s would remain open and competitive with Rocklin Crossings. It is worth noting, moreover, that the proponents of the Rocklin Crossings project have reached a settlement agreement with the Town of Loomis that includes a requirement, among others, that the proponents work to support Loomis’s goals for its downtown district by providing certain on-site advertising opportunities informing people passing by of various commercial and other activities occurring within Loomis.

5-24

The Commenter wonders what analysis was conducted to support the SPRDEIR’s assertion that businesses in “the stretch of Pacific Avenue east of the proposed Rocklin Crossings” would not close as a result of the development of Rocklin Crossings. It appears the Commenter is actually referring to the area along Pacific Street southwest of Rocklin Crossings. The Pacific Street corridor referred to in the Urban Decay Analysis is comprised of a mix of uses including automotive (tires, auto parts, oil change/tune up), paint store, independent restaurants, and K-Mart. Notably, only one of several brokers interviewed referred to this area as “no-man’s land” and, contrary to the Commenter’s assertion, the SPRDEIR does not state that this area is “already in a run down condition.” Rather, the study indicates that this area is in a transition from retail to auto services and light industrial uses, with new leases signed between March 2009 and May 2010 for approximately 25,000 square feet of industrial and retail space. Furthermore, contrary to the statement in the comment that many of the retailers and businesses along Pacific Street “would potentially compete directly with Rocklin Crossings,” with the exception of K-Mart, very few of these businesses are likely to compete directly with proposed tenants at Rocklin Crossings for the reason that most of the uses are different. The situation with K-Mart is addressed in detail in the SPRDEIR on page 5-60 and repeated below for ease of reference:

“Given that K-Mart is the only major general merchandise store in the primary market area, it would be the most likely to experience negative sales impacts, if any, from the new Center, and especially if a Walmart was built because their product lines overlap. K-Mart is located in a center that lost its other anchor, Albertsons. If Albertsons is not replaced, that may have negative impacts on the K-Mart store and could contribute to store closure. However, the leakage analysis shows that K-Mart is not currently serving all the demand for general merchandise products in the primary market area. In fact, there is more than enough demand in the general merchandise category to support the currently operating K-Mart store and the projected sales of a Walmart at Rocklin Crossings. K-Mart is apparently not providing potential customers in the area with the kinds of shopping opportunities they want. This is not surprising, however, as the K-Mart brand has lost consumer loyalty in recent years, and can be expected to continue to struggle unless it finds a way to adapt to changing consumer preferences. In order to compete effectively with Walmart, K-Mart will have to reassess its current store and make appropriate changes to meet customer demand. Such changes would be advisable even in the absence of Rocklin Crossings.”

Despite the current high vacancy rate at the commercial area along Pacific Street, according to brokers interviewed, the Project is not anticipated to compete with or impact this area. It is quite easy to differentiate this corridor from the project location by virtue of the area’s non-anchored developments, its older storefronts, its lesser traffic counts, and different accessibility. The City intends to support this area in the coming years and is developing a downtown plan. (SPRDEIR, pp. 5-86 to 5-87.) Further, despite diminishing market share in recent years, K-Mart is a major company with the financial resources and know-how to modify its strategy for competing with other discount

stores. The company may simply have to adapt its strategies in order to remain competitive in today's retail environment.

Even if the K-Mart store closes, however, such closure is unlikely to result in urban decay. As noted in the SPRDEIR, retail spaces such as the K-Mart store on Pacific Street have the potential to be backfilled if a store closes. Even if such spaces cannot be timely backfilled, the closure of the K-Mart is unlikely to lead urban decay which is physical deterioration so prevalent and substantial that it impairs the proper utilization of affected real estate or the health, safety, and welfare of the surrounding community. (SPRDEIR, pp. 5-86 to 5-89.)

In short, the SPRDEIR concludes the development of Rocklin Crossings will not lead to urban decay. It does not state that no businesses may close as the commenter suggests. The commenter is confusing these potential outcomes.

5-25

The Commenter claims that there are a number of “vacant centers” in north Auburn and asks if any analysis was conducted of the impact of Rocklin Crossings on what the Commenter calls north Auburn’s “already high vacancy rate.” The vacancy at Auburn’s community serving shopping centers was identified during the Spring of 2010, at the time the Urban Decay Analysis was conducted. Rock Creek Plaza in North Auburn (342,380 square feet gross leasable area, anchored by K-Mart and Rite-Aid) had no visible vacancy. (SPRDEIR, p. 5-58.) Auburn Town Center (146,350 square feet gross leasable area, anchored by Save-Mart and CVS) had a vacant former Gottschalk’s store (44,600 square feet, vacant since July 2009 due to bankruptcy). (SPRDEIR, p. 5-58.)

To respond to this comment, CBRE Consulting checked the most current vacancy rates for Auburn. CBRE’s Sacramento office combines Auburn and Loomis into a single submarket and reports data accordingly. As of year-end 2011, retail vacancy was 11.7% in the Auburn/Loomis submarket compared to 14.2% in the overall Sacramento market. In other words, vacancy in the Auburn/Loomis submarket is actually comparatively low at this time. CBRE Consulting also checked current vacancy at the two above-mentioned shopping centers and found that Rock Creek Plaza is 99% occupied and Auburn Town Center is 97% occupied. The former Gottschalk’s space at Auburn Town Center was recently leased to McCaulou’s, a 16-store family-owned department store chain, and a mid-summer 2011 opening is planned.

As noted in the Urban Decay Analysis, although some stores in the secondary market area—including Auburn—may experience negative sales impacts due to stores at Rocklin Crossings, their distance (10+ miles) from Rocklin Crossings should help keep them viable, as they are located much closer to their core customers than the new Center will be. (SPRDEIR, p. 5-59.)

5-26

The Commenter claims that the SPRDEIR contains no meaningful analysis or consideration of how K-Mart’s closure may lead to urban decay and asks “what is the ‘substantial evidence’ that supports the SPRDEIR’s conclusion that there is no potential for urban decay to result at this shopping center, if K-Mart is unable to compete with the Rocklin Crossings project?” The Urban Decay Analysis found that there is substantial leakage in the general merchandise category for the combined primary and secondary market area and that, as a result, new general merchandise sales generated by Rocklin Crossings should be satisfied entirely by the recapture of existing leakage. (SPRDEIR, pp. 5-55 to 5-56.) That is, from an overall supply/demand perspective, Rocklin Crossings is not expected to have a negative impact on existing market area general merchandise retailers (the category that includes K-Mart).

Please refer to the response to Comment 5-24 for further discussion of K-Mart. Should the K-Mart store close, the owner of the center will most likely either attempt to find another retail tenant(s) to occupy the building, or look for an opportunity to redevelop the site to another use. (See response to

Comment 5-18 for examples; also see the discussion of Backfilling Potential in the Urban Decay Analysis, SPRDEIR, pp. 5-87 to 5-88.)

In conclusion, given current conditions in the market area and the fundamentals of the retail market in Rocklin, there is no substantial evidence that would support a conclusion that urban decay would result at the K-Mart shopping center due to the development of Rocklin Crossings. Further, as discussed above, the closure of any one (or more) stores does not constitute urban decay.

5-27

Under CEQA, the bottom-line question is whether the Project will cause the physical phenomenon of urban decay, not whether a project will be an effective economic competitor. (CEQA Guidelines, § 15131, subd. (a); *Friends of Davis v. City of Davis* (2000) 83 Cal.App.4th 1004, 1019; *Anderson First, supra*, 130 Cal.App.4th 1173, 1183.) As demonstrated by the analysis in the SPRDEIR, the Project is unlikely to result in urban decay, which is physical deterioration so prevalent and substantial that it impairs the proper utilization of affected real estate or the health, safety, and welfare of the surrounding community. (SPRDEIR, pp. 5-86 to 5-89.) As discussed in Response to Comment 5-16, the Commenter's unsupported comments and questions of a lawyer do not constitute substantial evidence under CEQA. (See *Pala Band, supra*, 68 Cal.App.4th at p. 580.) Regardless, the responses to these comments demonstrate that no recirculation of the SPRDEIR is necessary. CEQA Guidelines section 15088.5 requires a lead agency to recirculate an EIR when "significant new information" is added to an EIR after public review but before certification. New information is not significant unless the "EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect." "Significant new information" that would require circulation according to this section of CEQA Guidelines include:

- ▶ A new significant environmental effect resulting from the project or from a new mitigation measures.
- ▶ A substantial increase in the severity of an environmental impact unless mitigation measures are adopted to reduce the impact to a level of insignificance.
- ▶ A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impact of the project, but the project proponents decline to adopt it.
- ▶ The DEIR was so fundamentally inadequate that meaningful public review and comment were precluded.

The responses and clarifications provided in response to comments 5-16 through 5-26 do not result in any of the above conditions that would warrant recirculation. None of the revisions result in or indicate a new significant impact or a substantial increase in the severity of an impact associated with the Project. Contrary to the Commenter's claim, moreover, as the responses above demonstrate, the SPRDEIR does not contain "informational and analytical gaps" that have rendered it impossible for the public to consider the SPRDEIR's conclusion that the Project will not result in urban decay impacts. No recirculation is required pursuant to CEQA Guidelines, section 15088.5, subdivision (a)(4), as claimed by the Commenter.

5-28

No recirculation is necessary, as the economic consultant and traffic consultant coordinated their analyses as ordered by the Superior Court. (See SPRDEIR, pp. 4.2-10, 4.2-30, 5-4 to 5-5.) The extent of that coordination is also described in both the underlying traffic and economic/urban decay studies. While Mr. Smith's opinion regarding whether the economic consultants would prepare an appropriate analysis in light of his concerns with the traffic analysis is noted, Mr. Smith is not an expert in the field of economic studies; rather, his claimed specialty is traffic. On that basis, Mr. Smith's opinion

regarding the adequacy of the economic analysis does not constitute substantial evidence under CEQA. (See *Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal. App. 4th 866, 884 [finding the opinion of an engineer did not constitute substantial evidence regarding the economic infeasibility of an alternative to an open air composting facility where there were no facts or information to indicate the engineer had any expertise in matters of composting facility financing].)

5-29

The responses and clarifications provided in Responses to Comments 5-1 through 5-60 with respect to (1) greenhouse gas emissions, (2) traffic impacts, and (3) urban decay impacts do not require recirculation of the SPRDEIR. While Response to Comment 5-3 included some additional information supporting the adequacy of the 2007 DEIR's greenhouse gas emissions analysis, Response to Comment 5-56 included some additional traffic analysis at the Sierra College Boulevard/I-80 Westbound Ramps (intersection 10) to address pass-by trips, and Responses to Comments 5-53 and 5-55 provided additional trip distribution detail on Sierra College Boulevard south of Rocklin Road, the additional analysis had no effect on the impact conclusions in the 2007 DEIR or the SPRDEIR.

The Commenter's reliance on *Mountain Lion Coalition v. Fish and Game Commission* (1989) 214 Cal.App.3d 1043 is, therefore, misplaced. That case involved the respondent agency's failure to adequately analyze certain very key issues in a draft environmental document and its decision instead to hold back on such analysis until it appeared in the final environmental document, which was not subject to further formal public comment and agency response. While the agency argued that any flaws of the draft document were cured in the final environmental document, the court found such action was not sufficient under CEQA because the draft document had "hedge[d] on important environmental issues while deferring more detailed analysis to the final [environmental document] that [was] insulated from public review." (*Id.* at p. 1052.) This case suggests that, in some instances, adding very important information to a final environmental document is not a substitute for including the information in a draft document. This one case, though, does not alter the California Supreme Court's rejection of "the proposition that the addition of *any* new information triggers recirculation. A contrary conclusion indeed would have been at odds with the statutory scheme, which did not (and does not) generally require that a final EIR be recirculated even though that document by definition contains information not found in the draft EIR in the form of public comments and responses thereto." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1128-1129 (*Laurel Heights II*) (emphasis in original).) In that same case, the California Supreme Court characterized the environmental document at issue in *Mountain Lion Coalition* as having been so "woefully inadequate" that it "was found to have deprived the public of its opportunity to comment upon the resumption of sport hunting of mountain lions." (*Id.* at p. 1131.) The court explained that, by creating the statutory recirculation requirement, "the Legislature did not intend to promote endless rounds of revision and recirculation of EIR's. Recirculation was intended to be the exception, rather than the general rule." (*Id.* at p. 1132.)

In this case, the 2007 DEIR fully analyzed greenhouse gas emissions consistent with CEQA's statutory and regulatory mandates in effect at that time, and the SPRDEIR fully analyzes the traffic impacts and includes all evidence supporting the conclusions contained in the SPRDEIR. Any additional information added to the Final EIR in response to comments received, "merely clarifies or amplifies... or makes insignificant modifications in... an adequate EIR," which is appropriate under CEQA. (*Laurel Heights II, supra*, 6 Cal. 4th at pp. 1129-1130.) As such, this additional information does not result in any of the conditions described in CEQA Guidelines, section 15088.5, subdivision (a) that would warrant recirculation of the SPRDEIR.

In short, the additional greenhouse gas emissions information, the additional traffic analysis at the Sierra College Boulevard/I-80 Westbound Ramps (intersection 10) to address pass-by trips, and the additional trip distribution detail on Sierra College Boulevard south of Rocklin Road merely supplement the existing project analysis. This does not constitute "significant new information"

triggering recirculation because the changes do not result in any new significant environmental effects, any substantial increase in the severity of any previously identified significant effects, nor in any other circumstance that would otherwise trigger recirculation.

- 5-30** The Commenter's objection to the SPRDEIR is noted. As discussed in Response to Comments 5-1 through 5-60, the Draft EIR and SPRDEIR comply with CEQA and the Superior Court's ruling. As discussed in Response to Comments 5-3 and 5-29, no recirculation of the 2007 DEIR or the SPRDEIR is required.
- 5-31** The Commenter notes that he has been retained by Rocklin Residents for Responsible Growth to review the SPRDEIR and that he previously commented on the November 2008 proposed FEIR for the Project. He states that the focus of his review is on matters involving traffic and circulation and the relationship of the traffic and circulation studies to the economic and urban decay studies. The Commenter notes that his qualifications for this review include registration as a Civil and Traffic Engineer and 40 years of professional consulting practice in these fields. Notably, the Commenter does not indicate any experience in the field of economic analysis. A review of the Commenter's Curriculum Vitae attached to his comment letter confirms he is not a practicing economist; nor does he have any experience in economic analysis or urban decay analysis. Quite simply, he is not qualified to opine as an expert on the substance of the Urban Decay Analysis prepared by the City's eminently qualified expert. On that basis, the various opinions the Commenter offers regarding the adequacy of the economic analysis or the relationship between the traffic analysis and economic analysis do not constitute substantial evidence under CEQA. (See *Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal. App. 4th 866, 884 [finding the opinion of an engineer did not constitute substantial evidence regarding the economic infeasibility of an alternative to an open air composting facility where there were no facts or information to indicate the engineer had any expertise in matters of composting facility financing].)
- 5-32** The Commenter is correct in that the SPRDEIR was prepared to address the February 19, 2010, ruling by the Sacramento Superior Court, which found that based on the evidence available in the record at that time, that the traffic distribution analysis in the SPRDEIR was inconsistent with the market area study used in the economic analysis so as to render them irreconcilable. The Commenter does not, however, accurately characterize all aspects of the Court's ruling. It is an overstatement to say that "the EIR's economic study denied there would be any [shopper] trips attracted from south of the City [of Rocklin]." As explained in the SPRDEIR, the economic analysis in the 2007 Draft EIR excluded the City of Roseville from the primary and secondary market areas, but it identified travelers passing through Rocklin on Interstate 80 as the tertiary market and it assumed the tertiary market area represented 5 percent of sales. (SPRDEIR, p. 5-20.)
- 5-33** The Commenter concludes (with no evidentiary support or proof) that "in order to remedy the EIR's inadequacy, a revised traffic study would be prepared that had a traffic distribution pattern which was more consistent with the economic market analysis." He then proceeds to assign inappropriate motives to the City and its experts, and to their well-reasoned effort to better coordinate (and importantly) to better explain their actions and conclusions. The City takes strong issue with this unwarranted allegation. The City does not employ any "sophisticated manipulations" as the Commenter accuses. Rather, the City and its experts endeavored to be as technically proper and fully transparent as they can be in working to describe and explain their efforts to reconcile two different sets of analytical tools used by two different professional disciplines. The City stands behind the conclusions drawn by its very qualified and well respected experts as well as the efforts of its own staff in evaluating all of the information presented in the original EIR and comments thereto as well as this SPRDEIR, comments thereto and responses to same.

As discussed in the Master Response, the revised analysis in the SPRDEIR complies with the Sacramento Superior Court's Ruling requiring the City to revisit and reconcile the traffic and

economic analyses and conclusions with respect to the percentage of traffic traveling to the Project on I-80 from origins southwest of Rocklin Road. Just because the Commenter raises questions or refers to what he regards as possible flaws in this report does nothing to contradict the veracity of the consultants' coordination while preparing their updated reports and the City's quite robust effort to satisfy the Court.

- 5-34** The Commenter offers his opinion and draws conclusions regarding the adequacy of the conclusions in the urban decay analysis. As stated above, Mr. Smith is not qualified to opine as an expert on the adequacy of the Urban Decay Analysis. Any implication in the Commenter's remarks to the effect that the City and its consultants sought to manipulate the traffic analysis or economic data in order to minimize the chances of finding urban decay is simply inaccurate.
- 5-35** The Commenter acknowledges the validity of the pass-by trip reduction rate of 20 percent used in the SPRDEIR, stating that it is "clearly within the range of documented precedent for such shopping centers." The Commenter takes issue, however, with how the pass-by trips are taken into account in the SPRDEIR traffic analysis. The Commenter claims that the SPRDEIR "essentially erases passer-by traffic from the analysis at the trip generation stage." The Commenter is partially correct in stating that the application of a pass-by reduction rate to the gross project trip generation does eliminate some, but not all, of the pass-by trips at the trip generation stage. As a result, these pass-by trips are not added to the distribution network. This procedure is not inappropriate, however. The purpose of a traffic analysis in an EIR is to identify the traffic caused by a project (the "project trip generation") and to distribute that traffic onto the circulation network in order to determine whether that project trip generation traffic will result in any impacts at various roadways and intersections in a defined traffic study area. These pass-by trips, however, are not "new trips" generated by the project. They are trips that are already on the roadway network that would make a stopover at the proposed shopping center en route to some other destination(s). Thus, these pass-by trips are already included in the baseline traffic volumes. They are not required to be added to the distribution network as to add them in again would be to double count them, which would lead to inaccurate forecasting results. The approach employed by LSA and the City is consistent with industry standards and was confirmed not only by LSA but also by peer review of LSA's work conducted by experienced transportation engineers at DKS Associates (completed on the City's behalf). (See Master Response and Appendix C of this Second Supplement to the Final EIR.)

Though the pass-by trips are not required to be distributed to the circulation network as part of the project trip distribution analysis, the trips are properly included in the analysis of the Level of Service (LOS) at the intersections and roadway segments where the pass-by trips divert from the distribution system or enter/leave the Project site. (See Response to Comment 5-56.)

- 5-36** As discussed above, in Response to Comment 5-56, and the Master Response, the SPRDEIR considers pass-by trips in LOS analysis at the intersections and roadway segments where the pass-by trips divert from the distribution system or enter/leave the Project site. Contrary to the Commenter's claim, this procedure is not improper. It is actually a logical and intuitive approach that is a standard practice used in traffic impact analyses to eliminate pass-by traffic at the trip generation stage and to analyze the majority of the intersections within the study area (aside from those at the project's access locations) using net project trips (without pass-by trips). Such a practice does not tend to understate impacts, as claimed by the Commenter. Rather, as discussed above, because pass-by trips do not originate or end at the project site, these trips are already included in the existing traffic generation baseline. If these pass-by trips are not subtracted from the total site gross trip generation trips, the analysis would actually be double counting trips, which would result in overstating the traffic attributed to the Project. In general, while experts conducting analyses for EIRs should be conservative in the sense of using methods intended to avoid understating environmental impacts, nothing in CEQA require agencies to go out of their way, for no good reason, to overstate environmental impacts. CEQA favors the development of the best information reasonably available.

Inaccurate information misleads both decision-makers and members of the public. As explained in the Master Response, the City's use of a 20 percent pass-by reduction rate in the new traffic analysis remains conservative, but this modified approach does not rely on illogical conclusions.

- 5-37** The Commenter is incorrect in his claim that the traffic analysis does not consider pass-by trips in the analysis of the freeway exits, the intersections of the freeway ramps and Sierra College Boulevard, and the segments of Sierra College between the freeway and the Project site access. As discussed in Response to Comment 5-56, the SPRDEIR traffic study does include the pass-by trips in the LOS analysis for the Sierra College Boulevard/ I-80 Eastbound Ramp (intersection 11), for the future extension of Dominguez Road over I-80 (intersection 12), and for the roadway segment for Sierra College Boulevard between I-80 and Dominguez Road. While the intersection of Sierra College Boulevard/I-80 Westbound Ramps (intersection 10) mistakenly did not include pass-by trips in the LOS analysis in the SPRDEIR, such analysis has been performed, as discussed in Response to Comment 5-56.
- 5-38** It is noteworthy that the commenter asserts that “the number of pass by trips attracted from south of Rocklin is a matter of issue.....in the economic study.” As the City has explained throughout the SPRDEIR and in the responses above, this statement is not completely accurate. The 20 percent of pass-by trips subtracted from the gross project trip generation are not relevant for either the economic analysis or the traffic analysis. CBRE's *economic* analysis takes pass-by trips into account only with respect to the *tertiary* market for Rocklin Crossings, and not with respect to the primary and secondary markets. In general, there are no reliable tools by which economists can predict the impulsive behavior and specific needs of the tens of thousands of persons traveling along the I-80 corridor through Rocklin every day. Traffic engineers develop pass-by rates based on empirical information such as traffic counts; but this information does not include data regarding the subjective intentions of the persons who engage in pass-by trips at specific locations within large regional contexts. In other words, traffic engineers can predict that pass-by trips will occur based on decades of verified empirical data, but they cannot explain *why* particular individuals make particular pass-by trips. In formulating the primary and secondary markets for the Project, CBRE Consulting considered making use of the empirically-based pass-by rates assumed in the traffic study, but ultimately concluded that such data had no place either in an analysis of how to demarcate the primary and secondary market areas for a project such as Rocklin Crossings or in an assessment of whether the Project could lead to urban decay. CBRE's task was to try to predict how consumer choices to do business with certain retailers over others, based on factors such as location, the price of goods, and the quality of service, could lead to adverse economic impacts on some retailers that might in turn lead to reasonably foreseeable adverse environmental impacts. Given not only the nature of this task, but also the nature of the tools used by economists, CBRE concluded that reliance on pass-by rates used in LSA's traffic study, except for very limited purposes, would create the illusion of rigorous analysis when in truth speculation was all that would really be possible under the circumstances. CBRE Consulting thus concluded that it would be misleading to proceed on such a basis in identifying the primary and secondary market areas and in predicting urban decay. Again, as described herein, the two consultants worked hard to coordinate their efforts and consider each other's work as they completed their own. Where each consultant concluded that an artificial degree of coordination – even if facially responsive to the court – would undermine the integrity of his enterprise, the consultant chose to be true instead to the accepted standards of his own discipline. Even so, here CBRE Consulting did feel comfortable recognizing some market share as being attributable to the concept of pass-by trips from the *tertiary* market area in light of conclusions of the TIA. Because LSA's work showed a certain number of Rocklin Crossings customers coming from certain areas of Roseville, not all of which were likely to be trips made by employees or vendors, CBRE Consulting concluded that some of the pass-by trips for the Project must begin or end there. Because existence of a relatively small number of pass-by trips from areas within Roseville would not change the thrust of the economic analysis, which focuses on consumer choice in light of factors such as location, travel time, convenience, and price competition, CBRE Consulting believed it could

acknowledge pass-by trips from the tertiary market without sacrificing the integrity or professionalism of its study.

As discussed above, by definition, pass-by trips are trips that are already on the roadway network with origins and destinations that are not the Project site, but that are diverted temporarily to the Project site. For purposes of determining the traffic impacts caused by the Project, the effect of the addition of pass-by trips to the project trip generation is only relevant at those intersections and roadway segments where those pass-by trips are diverted to the project (i.e., where the project causes a trip already on the roadway network to exit and enter the freeway to go to and from the project site on their way somewhere else). From their point of origin to the point where the trips are diverted to the Project site, the pass-by trips are considered part of the existing traffic on the roadway network and therefore are already included in the baseline traffic analysis. Therefore, tracking the origins of these pass-by trips (whether from south of Rocklin or elsewhere) is not necessary, as it is not relevant for the purposes of analyzing the Project's impacts.

5-39 The Commenter claims it is “imperative” for the traffic study to clearly show from where and how many diverted pass-by trips are attracted from each sub-area of the region. As described in the Master Response and Responses to Comments 5-35 through 5-38 and 5-56, however, the pass-by trips are only relevant to the analysis of the intersections and roadways segment where the pass-by trips divert from their primary route to visit the project and do not affect or influence the Project traffic impact analysis for *any* other locations. The Commenter is trying to argue that one must have this information for some purpose within the economic analysis and not for any purpose relevant to the traffic study. Once again, while the City has instructed its experts to work diligently in coordination of their efforts consistent with the Court's ruling, these same experts have been clear that one cannot rely on the other's discipline in all instances in reaching sound conclusions. Therefore, it is not necessary to trace the distribution paths of pass-by trips beyond the project access locations for any technical purpose with the traffic study and it is inappropriate as a tool of the economic analysis. In the Project's traffic impact analysis, the assignment of pass-by trips at the project access locations is consistent with the distribution used to distribute the new project trips. The Commenter is incorrect in asserting improper motives to the change in the pass-by reduction rate. The reason for increasing the pass-by reduction rate in the SPRDEIR analysis was not to substitute pass-by trips (which are untracked) for trips distributed in the traffic model to areas south of Rocklin. Increasing the pass-by reduction rate reduced the overall trip generation for the Project, but did not and could not specifically affect the Project's percentage trip distribution in any location, including the distribution of traffic coming to the project from areas south of Rocklin (as trip distribution percentages are not altered by changes in the pass-by trips reduction rate applied). (See Master Response.)

5-40 The Commenter is correct that the SPRDEIR states that, in light of the Sacramento Superior Court's Ruling, the City and the traffic consultants decided to reconsider the pass-by reduction rate, as it might have had the effect of inflating trips coming to the site from areas south of Rocklin. The Commenter, however, misconstrues and misrepresents the intent of the City and its traffic engineers in increasing the pass-by reduction rate, when he claims that the only purpose for increasing the pass-by reduction rate was to “substitute” “tracked” project trips from south of Rocklin predicted through the traffic model with “untracked” pass-by trips. Rather, the reason the City and its consultants revisited the issue of the proper pass-by rate resulted from the fact that, because the PRDEIR employed only a 10 percent pass-by reduction rate, the trip generation analysis in the PRDEIR overstated the number of trips generated by the project. In other words, because the pass-by reduction rate employed in the PRDEIR was so conservative, many of the project trips applied to the circulation network in the PRDEIR (including some from south of Rocklin) were not trips generated by the Project; they were, in fact, pass-by trips. Increasing the pass-by reduction rate to a *still conservative* 20 percent, therefore, appropriately adjusted the trip generation for the Project. The effect of increasing the pass-by reduction rate to 20 percent is that when the trip generation is distributed over the circulation network, some of the pass-by trips from south of Rocklin, which were considered to be

Project trips in the very conservative PRDEIR analysis, are no longer considered project trips. But the increased pass-by reduction rate does not have the effect of reducing project trips only from areas south of Rocklin; instead, the project trips are proportionately reduced at all intersections and roadways in the traffic study area, and at all directional orientations. Clearly, what the City and its consultants have done is to offer a somewhat less conservative (but still conservative) assumption in order to better address, and importantly, to better explain for the public's benefit, the particular relationship between the two disciplines, as the Court determined should be done. See the Master Response, which explains why tracking pass-by trips is not necessary or relevant to the project's traffic impact analysis.

5-41 As discussed in the Master Response and Responses to Comments 5-39 and 5-40, the SPRDEIR analysis does not “substitute” pass-by trips for south-produced traffic model distribution trips. Rather, the City re-evaluated the assumptions in the PRDEIR and determined that because many of the trips generated by a shopping center such as the Project would be pass-by trips, the PRDEIR overstated the Project's trip generation by only reducing the gross trip generation by 10 percent to account for the pass-by trips. Thus, the pass-by reduction rate was increased to an appropriate, yet still conservative 20 percent, which is also more consistent with published empirical data for pass-by trips for this type of project. (See SPRDEIR, pp. 1-7, 4.2-29 [citing ITE Trip Generation Handbook (2004) as support for a 28 percent pass-by trips for Free Standing Discount Superstore, a 48 percent rate for a Home Improvement Store, and a 34 percent rate pass-by trips for Shopping Center].) Because this information is discussed in the SPRDEIR, so that someone who did not participate in the preparation of the SPRDEIR *could* understand how it reached its conclusion, the SPRDEIR is not inadequate under CEQA, as claimed by the Commenter.

5-42 The SPRDEIR does not assume that the pass-by trips eliminated from the trip generation by increasing the pass-by reduction rate to 20 percent would come primarily from south of Rocklin. As discussed in the Master Response and Responses to Comments 5-38, 5-39 and 5-40, changes in pass-by rate do not influence the percent traffic distribution in any particular direction more than any other, including south (towards Roseville).

Furthermore, for a number of reasons, the City disagrees with the Commenter's claim that it is “illogical” that pass-by shoppers would have to travel past and ignore other existing regional discount, supercenter, and home improvement stores such as Home Depots, Wal-Marts, Lowes, and Costco to arrive at the Project site. As mentioned previously, because pass-by trips are not considered to be “caused” by the Project and are not distributed to the traffic study area, it is not germane to the traffic analysis where these pass-by trips originate or what other retail the pass-by trips travel past to reach the Project site. (See Master Response.)

To address the substance of the comment, however, even if the pass-by trips were distributed to the traffic study area, which they are not, in light of the standard methodology employed to determine trip distribution, the prevalence of other *specific brands* of regional discount, supercenter, and home improvement stores along the trip's route is not relevant to the traffic distribution in the context of the traffic study. Project trips are distributed throughout the study area using information from the City's current travel demand model applying a process known as “select zone assignment” to distribute and assign trips from a specific zone through the highway network to an origin. The travel demand model goes through several iterations to develop the most likely distribution pattern that takes into account several factors, such as the shortest distance between origin and destination, availability of capacity, type of uses, etc. before assigning the project trips. The select zone assignment process, however, does not recognize specific brands of retail (Walmart, Home Depot, etc.). Rather, it applies generic land uses such as retail, industrial or office. From a traffic engineering standpoint, this is the superior methodology, as over time, brands come and go and move, while use categories offer greater stability. A manual trip distribution process would be required to consider specific retail brands. A manual process, however, would not reflect the migration of such businesses over time; nor would it

be compatible with other travel demand model applications (such as 2030 cumulative conditions). Businesses migrate from one location to another with no changes to zoning or general plan land uses. It is the zoning and general plan land uses that are reflected in the travel demand model data base, and therefore, represent a more accurate and sustained approach toward analysis of resultant trip making characteristics.

Finally, there are reasons, which are neither considered nor required to be considered in a traffic analysis, for why a pass-by trip may pass other similar retail centers before deciding to divert from its primary travel route and visit the Project site. Perhaps the pass-by trip driver's route is long and the Project site is the halfway point. Perhaps the Project site, compared with other possible shopping stops, is more conveniently located by the pass-by trip driver's destination. Perhaps the pass-by trip driver decided it was more inconvenient to divert from its primary route to visit the other retail opportunities it passed on the way than it would be to visit the Project site. The Commenter continues to point out trips focused toward the Wal-Mart and Home Depot uses and similar big box uses like Lowes and Costco. It is critical to also consider, however, that about one-third of the project's trip generation is a result of specialty retail uses, restaurants, and other unique stores that are not necessarily duplicated in near-by shopping centers. In other words, there is direct attraction to uses in the project not duplicated in near-by centers. This unique mix of stores attracts both pass-by and direct trips from the overall region. Notably, the Commenter did not offer any empirical evidence or cite to any expert studies in offering his opinion on this particular comment.

5-43

The Commenter claims that “the issue of whether most of the added attracted passer-by trips come from the south or from the northeast is a critical one, since the SPRDEIR’s economic study says there is insufficient diversion of primary market trips from the south to cause market impact and urban decay.” The Commenter offers no evidence to support his assertion. The Commenter is not qualified to provide expert criticism of the Economic Study or on the question of the validity of the City’s economic expert’s conclusions. Further, the Commenter fails to inform any reader as to where this conclusion is drawn from in the economic analysis (on the basis of the traffic study). CBRE’s conclusions concerning market impacts and the potential for urban decay are not solely or primarily predicated on the traffic study, regardless of what the Commenter suggests. This distinction is critical.

The Commenter claims that there is a critical issue (“critical one”) regarding whether the pass-by trips subtracted from the gross project trips come from the south or the northeast. The Commenter is incorrect. The effect of increasing the pass-by reduction rate to 20 percent is that when the trip generation is distributed over the circulation network, some trips from south of Rocklin are no longer considered project trips. But the increased pass-by reduction rate does not have the effect of only reducing project trips from areas south of Rocklin; the project trips are proportionately reduced at all intersections and roadways in the traffic study area and at all directional orientations. This adjustment does not misstate anything.

The Commenter claims that whether the reduced pass-by trips originate from the south is relevant because the “SPRDEIR’s economic study now says there is insufficient diversion of primary market trips from the south to cause market impact and urban decay.” The City discerns at least two problems with this assertion. First, the Commenter, Mr. Smith, is not an expert in the economic field; his specialty is traffic. Thus, his predictions about consumer behavior do not rise to the level of substantial evidence, and, as a result, are not information relevant to the conclusions in the SPRDEIR’s economic analysis. (See Response to Comment 5-31.)

Next, although the Commenter claims that there are fewer big box stores northeast of the Project site to compete for pass-by trips than there are southwest of the site, he has offered no empirical or statistical support for his asserted conclusion. Moreover, as discussed in Response to Comment 5-42, there could be many reasons why someone traveling along I-80 through the Sacramento metropolitan

area towards Placer County might stop at Rocklin Crossings and not at some other retail center southwest of the Project, despite opportunities to do so. For example, the City is unaware of any such major retail center in the South Placer region that will be more conveniently located immediately adjacent to an I-80 freeway interchange than Rocklin Crossings will be. Thus, a traveler might well choose to avoid having to deal with surface streets in, say, other locations in the South Placer region in order to only have to negotiate freeway off- and on-ramps in order to shop at Rocklin Crossings.

- 5-44** As evidenced by the information in the responses set forth above, the SPDEIR did not fail to include sufficient information for those who did not participate in its preparation to understand and meaningfully consider the environmental issues raised by the project.
- 5-45** See Response to Comment 5-49.
- 5-46** The Commenter is correct in his assessment of what Exhibits 4.2-5 and 4.2-6 illustrate.
- 5-47** The City cannot make sense of this comment, which appears to be missing key words, thus making a response impossible. In particular, the City does not understand the apparent contention that a small number of dispersed trips from areas south of Rocklin could be indicative of urban decay in those areas. To the extent that the Commenter is again opining on the potential for the Project to cause urban decay, the City notes, as it has in earlier responses, that neither economics nor urban decay are subjects within the Commenter's area of expertise, meaning that his views on the subject do not constitute substantial evidence under CEQA. (See Response to Comment 5-31.) The City also notes the absence of any specific evidence or study to support the Commenter's contention. Moreover, to the extent that the Commenter is intending to argue that the Project will create urban decay in the area south of Rocklin, the SPRDEIR's Economic Impact and Urban Decay Analysis has reached the opposite conclusion. Specifically, the analysis concludes that
- “while it is expected that the Rocklin Crossings project would result in some diverted sales and that some closures of market area stores may occur, these events are not expected or likely to lead to physical deterioration so prevalent and substantial that it impairs the proper utilization of affected real estate or the health, safety, and welfare of the surrounding community. Therefore, although development of the Rocklin Crossings center has some potential to contribute to further retail vacancies in the market area, those vacancies are *unlikely to result in urban decay* and this impact would be considered less than significant.” (SPRDEIR, p. 5-89 (emphasis added).)
- 5-48** The Commenter is correct in his recitation of the project traffic distribution percentages in Exhibits 4.2-5 and 4.2-6 and a comparison to the project traffic distribution percentages identified in the SPRDEIR. Note, however, that Exhibit 4.2-6 has been revised to provide additional traffic distribution detail on Sierra College Boulevard. (See Response to Comment 5-53 and Chapter 3 of this Second Supplement to the Final EIR.)
- 5-49** The Commenter is incorrect in his claim that the south-oriented pass-by traffic was simply “selectively” substituted for model-assigned traffic. (For the record, the Commenter writes about a “selective substitution.” The City interprets this to mean: “selective substitution.”) As discussed in the Master Response and Response to Comment 5-39, increasing the pass-by reduction rate reduced the *overall* trip generation for the Project, but did not and could not specifically affect the Project's trip distribution percentages, including the distribution of traffic coming to the project from areas south of Rocklin. Furthermore, as discussed in the Master Response and Responses to Comments 5-35 through 5-41, and 5-56, it is not necessary to disclose or determine the production traffic analysis zones from which the assumed diverted pass-by traffic trips come and go because such information is not relevant to the analysis of traffic caused by the Project. By definition, the pass-by trips have destinations other than the Project site; therefore, other than the points at which the pass-by trips are

diverted to the Project, the routes traveled by the pass-by trips are irrelevant to the analysis of traffic *caused* by the Project.

- 5-50** The Commenter claims that “the SPRDEIR traffic study.... assumed 7% of Project traffic is internal to the Project or its traffic analysis zone.” Mr. Smith goes on to claim that “[t]his (the 7% figure) is not documented in the SPRDEIR’s narrative nor in its trip generation table (Table 4.2-4), instead it is only disclosed in an obscure symbol on Exhibit 4.2-5.” This is factually not true. The 7% traffic internal to the Project’s Zone (not just to the Project) is disclosed in the narrative in the last paragraph at the bottom of page 26 of the actual Traffic Study. Further, this issue is also discussed in the text of the SPRDEIR (see pg. 4-2.33, 2nd paragraph). The percentage is disclosed in the text in two different locations. The Commenter is correct in that there is a symbolic reference in exhibit 4.2-5, thus confirming three distinct references where the Commenter found none. By way of additional explanation, the 7% is not ‘an internal discount’; rather, it represents the share of traffic originating from a traffic analysis zone located directly adjacent to the project. The zone includes residential uses directly south and east of the Project. Significantly, these trips would not have to use either Sierra College Boulevard or the freeway to access the Project. The 7% trip distribution to these uses in the proximity of the project is derived from the City’s traffic model.
- 5-51** The Project traffic attracted from locations south of Rocklin is disclosed in the SPRDEIR. As discussed in the Master Response, Responses to Comments 5-39 and 5-49 and elsewhere above, it is not necessary for the SPRDEIR to identify the origins of or the routes traveled by the pass-by trips because such information is not relevant to the analysis of traffic *caused* by the Project. The Commenter’s use of the phrase “attracted passer-by” trips is a misnomer because, by definition, pass-by trips are trips in which neither the origin nor ultimate destination is the Project site. Thus, unlike the “total site trip generation” Project trips analyzed in the SPRDEIR traffic analysis (which assumes the Project is the primary destination for these trips), pass-by trips cannot be considered to have been “attracted” to the Project from anywhere other than where these pass-by trips divert temporarily (e.g., exiting I-80) on their route to their primary destination.
- The Commenter is simply wrong to assume (or argue) that the SPRDEIR “masks the traffic and consequent economic market activity that the Project would divert...” First, as stated above, the Commenter is not qualified to offer expert testimony or to opine as an expert on the veracity of CBRE’s Economic Analysis. (See Response to Comment 5-31.) Next, while CBRE Consulting gave due consideration to the information generated by the Traffic Study, the conclusions CBRE Consulting reached cannot honestly and accurately be predicated on any singular piece of data produced by the Traffic Study. Finally, throughout the SPRDEIR, the City and its experts endeavor and succeed in making as much information available as possible regarding highly technical and complicated discussions. (See Master Response.)
- 5-52** The Commenter is correct that SPRDEIR Exhibit 4.2-5 shows that 19 percent of the Project’s traffic model-distributed traffic would be oriented south along Sierra College Boulevard. The Commenter is also correct that Sierra College Boulevard continues through Sacramento County where its name changes to Hazel Avenue.
- 5-53** The Commenter is correct in pointing out that some of the 19% of model distributed traffic oriented southward on Sierra College Boulevard would be destined south of the Rocklin City limits. The City has revised the text related to trip distribution and Exhibit 4.2-6 to show details of the sources of this traffic south of Rocklin City limits (included in Chapter 3 of this Second Supplement to the Final EIR). As can be seen from the revised exhibit, some of the trips coming to the Project site directly northward on Sierra College Boulevard originate from those portions of Roseville south of the Project site and west of Sierra College Boulevard that would not access the Project via I-80. In responding to the Superior Court’s concern about traffic traveling to/from the Project site *along the I-80 corridor* from points south of Rocklin Road the SPRDEIR, the SPRDEIR stated that 10 percent of those trips

would most likely end or originate in the City of Roseville. (See SPRDEIR, p. 4.2-33 [squares on Exhibit 4.2-6].) Since Rocklin Residents for Responsible Growth had focused on trips coming to the Project site from I-80 in the direction of Roseville, the focus of the SPRDEIR on that corridor reflected not only the Court’s directive, but also the original concerns articulated by Rocklin Residents. In response to the Commenter’s new focus on an entirely different route for accessing the Project site, LSA determined, as shown in a revised version of Exhibit 4.2-6, that some of the trips reaching the Project site by traveling straight north along Sierra College Boulevard do originate in Roseville. As the modified exhibit shows, a total of 6 percent of project trips will originate in that portion of Roseville that would access the Project site via Sierra College Boulevard rather than I-80. When this figure (6 percent) is added to the 10 percent of project trips coming from portions of Roseville that would access the project site from the I-80 corridor, the resulting *total* number of project trips coming from *anywhere* in Roseville is 16 percent.

This clarification does not alter the conclusions of the Economic/Urban Decay analysis. CBRE Consulting has seen the revision to Exhibit 4.2-6 and has determined that the relative handful of trips coming from Roseville from Sierra College Boulevard does not change any of CBRE’s conclusions, as set forth in the SPRDEIR (Appendix B of this Second Supplement to the Final EIR).

5-54 The City disagrees with the Commenter’s contention that the SPRDEIR lacks sufficient information for people who did not participate in the preparation of the document to understand and meaningfully consider the environmental issues associated with the Project. See response to comment 5-53.

5-55 See response to comment 5-53.

5-56 The Commenter claims that the pass-by traffic should be included in the LOS computations to/from the point of diversion to the Project entrances. Such analysis has already been performed. SPRDEIR Table 4.2-4 shows the total site trip generation without the pass-by trips, reflecting the fact that almost all of the intersections and roadway segments within the study area are analyzed using the *net* project trip generation (without pass-by trips). The analysis of the LOS at the project driveways (entrances) and roadway segment adjacent to the project site, however, included both the pass-by trips and the new trips generated by the project.

As discussed in the Project Description portion of the traffic impact analysis, the Project has three access locations. (SPRDEIR, Appendix B, p. 2.) Two of these intersections were analyzed using traffic volumes that included pass-by trips: the northernmost project access, which forms the east leg of the Sierra College Boulevard/ I-80 Eastbound Ramp (intersection 11); and the southernmost access, which will align with the future extension of Dominguez Road over I-80 (intersection 12). The third access (Sierra College Boulevard/Black Willow Street) was not analyzed, as it is a right-in/right-out access and does not have any conflicting movements. Additionally, the roadway segment adjacent to the project site (Sierra College Boulevard between I-80 and Dominguez Road) was analyzed using volumes that included pass-by trips.

The pass-by trips for each intersection movement to/from the point of diversion to the Project Entrances can be isolated through the following steps:

1. Select an access location (e.g., intersection 11 or 12) and subtract the “without project” traffic (see Appendix E of Appendix B of SPRDEIR) from the “with project” traffic for each turning movement entering or leaving the project site (see Appendix F of Appendix B of SPRDEIR). This calculation yields the Project related traffic volume, which includes both project trips plus the pass-by trips at that location.

2. Then subtract the Project trips shown in Exhibit 4.2-7 (AM and PM peak hour project trips) or Exhibit 4.2-8 (Saturday Peak hour project trips) included in the SPRDEIR from the traffic volume obtained in the first step. The resulting volume is the pass-by trips.

Following these steps, the weekday peak hour pass-by trips and the Saturday peak hour pass-by trips at project access locations are shown in Figure RTC1 and Figure RTC2, respectively (included in Chapter 3 of this Second Supplement to the Final EIR).

For example, the pass-by trips for the intersection of Sierra College Boulevard/I-80 Eastbound Ramps (intersection 11) can be determined as follows:

STEP1: In the “existing plus approved projects plus project” condition for the intersection of Sierra College Boulevard/I-80 Eastbound Ramps (intersection 11) for the p.m. peak hour (page 33 of Appendix F of the traffic study), the eastbound through volume entering the project site is 407 in the “with project” condition. Similarly, in “existing plus approved projects” condition for intersection 11 in the p.m. peak hour (page 33 of Appendix E of the traffic study), the eastbound through volume entering the project site is 1 in the “without project” condition. Subtracting 1 (without project) from 407 (with project) results in 406 vehicles, which is the gross project trips at this intersection (new trips plus pass-by trips).

STEP2: Exhibit 4.2-7 (AM and PM peak hour project trips) shows that the project traffic (new trips) for the p.m. peak hour at the intersection of Sierra College Boulevard/I-80 Eastbound ramps (intersection 11) in the eastbound through direction is 325. Hence the total number of pass-by trips at intersection 11 in the eastbound through direction for p.m. peak hour is 81 (406 minus 325). This pass-by volume is shown in Figure RTC1 for the p.m. peak hour.

Additionally, the roadway segment adjacent to the project site (Sierra College Boulevard between I-80 and Dominguez Road) was analyzed using volumes that included pass-by trips. The daily project traffic volume for each roadway segment was calculated using the peak hour (p.m.) link volumes. Generally, the p.m. peak hour volume is 10 percent of the daily traffic along a facility. This rule of thumb was applied to the peak hour link volumes to estimate the daily traffic along each roadway segment. The peak hour link volumes were calculated by estimating the average between the intersection volumes at each end of the roadway segment under consideration. For the roadway segment between I-80 and Dominguez Road, the average p.m. peak hour volume at the intersection of Sierra College Boulevard/ I-80 Eastbound Ramps and Sierra College Boulevard/Dominguez Road was used to estimate the daily traffic.

An example of the calculation is as follows:

Step 1: For the intersection of Sierra College Boulevard/I-80 Eastbound Ramps, the bi-directional volume for the south leg was calculated. The p.m. peak hour project trips (new trips) traveling in the northbound direction are 55 (NB through) and 91(NB right), which were added to the p.m. peak hour project trips (new trips) traveling southbound, which are 60 (SB through) and 64 (WB left) (see Exhibit 4.2-7 in the SPRDEIR). The total (both directions) new project trips (without pass-by) at the south leg of the intersection of Sierra College Boulevard/I-80 Eastbound Ramps are 270 (55+91+60+64).

Then the p.m. peak hour pass-by trips were calculated. For the intersection of Sierra College Boulevard/I-80 Eastbound Ramps, the pass-by p.m. peak hour trips traveling in the northbound direction are 14 (NB through) and 22(NB right), which were added to the pass-by p.m. peak hour trips traveling southbound which are 16 (SB through) and 15 (WB left) (see Figure RTC1). The total (both directions) pass-by trips at the south leg of the intersection of Sierra College Boulevard/I-80 Eastbound Ramps are 67 (14+22+16+15).

The total (bi-directional) project trips can be calculated by adding the new project trips to the pass-by trips. Hence, the total (bi-directional) p.m. peak hour project trips at the south leg of the intersection of Sierra College Boulevard/I-80 Eastbound Ramps are 337.

Step 2: Similarly, the project trips at the intersection of Sierra College Boulevard/Dominguez Road can be calculated. For the intersection of Sierra College Boulevard/Dominguez Road, the bi-directional volume for the north leg was calculated. The p.m. peak hour project trips (new trips) traveling in the northbound direction are 98 (NB through) and 16 (WB right) were added to the p.m. peak hour project trips (new trips) traveling southbound, which are 64 (SB through) and 60 (SB left) (see Exhibit 4.2-7 in the SPRDEIR). The total (both directions) new project trips (without pass-by) at the north leg of the intersection of Sierra College Boulevard/I-80 Eastbound Ramps are 238 (98+16+64+60).

Then the p.m. peak hour pass-by trips were calculated. For the intersection of Sierra College Boulevard/Dominguez Road, the pass-by p.m. peak hour trips traveling in the northbound direction are 25 (NB through) and 4 (WB right), which were added to the pass-by p.m. peak hour trips traveling southbound, which are 15 (SB through) and 16 (SB left) (see Figure RTC1). The total (both directions) pass-by trips at the north leg of the intersection of Sierra College Boulevard/Dominguez Road are 60 (25+4+15+16).

The total (bi-directional) project trips can be calculated by adding the new project trips to the pass-by trips. Hence, the total (bi-directional) p.m. peak hour project trips at the north leg of the intersection of Sierra College Boulevard/Dominguez Road are 298.

Step 3: Calculate the average of p.m. peak hour traffic between the traffic at the south leg of the intersection of Sierra College Boulevard/I-80 Eastbound Ramps and the north leg of the intersection of Sierra College Boulevard/Dominguez Road (intersections at both ends of the roadway segment). The average of 337 and 298 is 317.5. This average p.m. peak hour project traffic was adjusted (multiplied by 10) to calculate the total daily project traffic along Sierra College Road between I-80 and Dominguez Road. Hence the average daily project traffic along Sierra College between I-80 and Dominguez Road is 3,175 trips.

Step 4: This daily project traffic (3,175) can be added to the ‘no project’ daily traffic volume to determine total traffic in the ‘plus project’ traffic volumes. For example, as depicted on Table 4.2-14 - Existing Plus Approved Projects (Baseline) plus Project Daily Roadway Segment Level of Service Summary of the SPRDEIR, the daily traffic volume along Sierra College Boulevard between I-80 and Dominguez Road in the Existing Plus Approved (no project) condition is 24,470 trips, while the daily traffic volume in the Existing Plus Approved Plus Project condition is 27,645 trips. Based on these daily volumes, the total project traffic along Sierra College Boulevard between I-80 and Dominguez Road is 3,175 trips (27,645-24,470), which is same as the total project trips (including pass-by) calculated in the previous step.

It should be noted that the intersection of Sierra College Boulevard/I-80 Westbound Ramps (intersection 10) mistakenly did not include pass-by trips in the LOS analysis in the SPRDEIR. Hence, this intersection was reanalyzed to include pass-by trips (or diverted trips in this case) and the revised LOS worksheets are included in Appendix D of this Second Supplement to the Final EIR. The revised results for the “Existing Plus Project,” “Existing plus Approved Projects Plus Project” scenario, the “2030 without Dominguez plus project” scenario, and the “2030 with Dominguez plus project” scenario did not change the LOS or show any significant impacts to the intersection in the a.m. weekday, p.m. weekday, or Saturday peak hour analysis. For the “Existing plus project” scenario for the Saturday peak hour, the LOS changed from LOS A to B, which is still well within acceptable LOS range. Thus, the revised analysis does not change the conclusions of the SPRDEIR and no new significant impacts result.

The “existing conditions” baseline has been updated in the SPRDEIR to 2010 conditions from the 2006 conditions analyzed as the baseline in the PRDEIR. Rather than expressing appreciation to the City and the project applicant for taking the time and bearing the expense needed to prepare an up-to-date analysis, the Commenter erroneously claims that the act of updating the SPRDEIR baseline to 2010 conditions was legally improper. More specifically, the Commenter claims that, because “the 2010 baseline traffic counts reflect traffic corresponding to a temporarily depressed economic environment,” the SPRDEIR underestimates the impacts of the Project traffic. The 2010 traffic counts employed in the SPRDEIR traffic analysis, however, were the most recent and best available data to analyze the existing traffic conditions for the Project and the City and the traffic consultants determined this was the most appropriate information to use as the “existing conditions” baseline in the SPRDEIR.

Although, as is noted in prior responses, the Commenter is not a trained economist and thus has no basis for making economic predictions, he tries to assert a relatively optimistic view of likely future economic growth and activity in the relatively near future. He suggests, without citation to any facts or authoritative sources, that diminished traffic due to the recent recession is merely a brief, “temporary” change, as though the economy will come roaring back to 2006 levels within a relatively short time frame. The City wishes there were actual economic evidence and trained economic opinion to reflect that optimism. The fact is, though, that most economists believe that 2006 levels of economic activity in the greater Sacramento Metropolitan area reflected conditions created by the “housing bubble” that wrought so much havoc on the world economy since 2008. The City’s own view is that 2010 conditions are a much more accurate gauge for measuring traffic levels for the next several years than 2006 conditions would be. Contrary to the Commenter’s claim, moreover, *Sunnyvale West Neighborhood Association v. City of Sunnyvale City Council* (2010) 190 Cal.App.4th 1351 actually supports the baseline traffic conditions used in the SPRDEIR. The court in *Sunnyvale West Neighborhood Association* held that the City of Sunnyvale violated CEQA because its EIR for a proposed roadway improvement project failed to analyze the project’s impacts against existing, present day conditions. Instead, the EIR used as its baseline for analyzing project impacts projected traffic conditions in the year 2020, the year the proposed project in that case was expected to become operational. According to the Court of Appeal, the respondent city’s failure to analyze the project’s impacts against existing conditions constituted a failure to proceed in a manner required by law. As the court explained, under CEQA Guidelines section 15125, “[a]n EIR must include a description of the physical environmental conditions in the vicinity of the projects, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, both from a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” The court, however, acknowledged that there are circumstances in which the physical conditions existing exactly at the time the notice of preparation is published or at the time the environmental analysis begins may not be representative of the generally existing conditions. The court held that in those cases, the agency has *discretion* to apply appropriate methodology to determine the baseline conditions, and that an appropriate baseline could even be the projected traffic levels as of the expected date of project approval. In this case, the PRDEIR used traffic counts from 2006, which the City determined were not representative of the conditions when the analysis in the SPRDEIR was commenced. For that reason, the City requested the traffic consultant obtain 2010 traffic counts for use in the SPRDEIR analysis.

The Commenter is correct that the daily traffic counts collected in 2010 are lower than the daily counts collected in 2006 at a number of the study area locations. For the weekday peak hours, a majority of the locations have lower counts in 2010. On Saturday, however, a majority of the locations have moderately higher volumes in 2010. These changes are not surprising, recognizing that reduced economic activity sometimes translates into reduced traffic (due, among other things, to fewer commuters on the road). The Commenter claims, however, that pursuant to *Sunnyvale West Neighborhood Association*, the City should have employed an adjusted baseline that accounted for

what the Commenter deems the “temporarily economically-depressed existing traffic conditions.” The court in *Sunnyvale West Neighborhood Association* noted that if traffic congestion has temporarily decreased due to an unusually poor economy such that the traffic conditions at the time specified by CEQA Guidelines section 15125 are inconsistent with the usual historic conditions, an agency *might* use a different baseline. In this case, there is no evidence, at this point in time, that the depressed traffic conditions are temporary in nature, as noted above. Traffic conditions have been declining since 2008 and, if anything, the traffic conditions are leveling out, such that the 2010 conditions appear to represent the new normal. Moreover, there is no indication that the 2010 traffic conditions are inconsistent with historic conditions, requiring an adjusted baseline, as claimed by the Commenter. In fact, with the benefit of hindsight, it is the 2006 traffic counts, taken at the height of the economic and housing boom, that could be considered inconsistent with the usual historic traffic conditions, supporting the City’s discretionary determination to use a more appropriate 2010 traffic conditions baseline.

5-58 The Commenter claims that the SPRDEIR failed to include the Caltrans I-80/SR-65 flyover ramp in its approved projects list considered in the analysis for the “existing plus approved projects” baseline conditions. The Commenter is incorrect; this project is not required to be included in the “existing plus approved projects” baseline analysis because it is not an *approved* project. An “approved project” is defined in the SPRDEIR as a project that has been approved, and, thus, has the potential to be completed at the time of the Project’s opening. (See SPRDEIR, p. 4.2-45.) The changes to the I-80/Taylor Road interchange are preliminarily *proposed* in the Project Study Report (PSR) for the I-80/SR-65 interchange. But contrary to the Commenter’s claim, the change to the I-80/Taylor Road ramps is not an “approved” project requiring addition to the SPRDEIR merely on the basis of its inclusion in the PSR. The PSR, although completed in 2009, is not a project approval document. By Caltrans’ definition, a PSR is a document that evaluates several alternatives for a project and recommends a preferred alternative for further analysis and preparation of reports/documents for obtaining the environmental clearance. Thus, the inclusion of a change to the I-80/Taylor Road ramps does not make it an approved project; nor does it have any environmental clearance. Furthermore, and perhaps more importantly, the change to the ramps is not funded and no funding is available (nor is it expected to be available) in the foreseeable future. Hence, these changes to the I-80/Taylor Road ramps are not required to be included in the baseline scenarios of the Project’s traffic impact analysis and are most properly *not* included. Additionally, Caltrans has reviewed the SPRDEIR and traffic impact analysis for the Project and did offer some written comments. However, Caltrans did not see fit to offer criticism of the study consistent with that of the Commenter. As noted in *Gentry v. City of Murrieta* (1995) 36 Cal. App. 4th 1359, this lack of comment, like Sherlock Holmes’ “dog in the night-time” that tellingly failed to bark, is in itself evidence that the changes to the I-80/Taylor Road ramps is not an approved project requiring inclusion in the baseline scenarios of the Project’s traffic impact analysis. The City has confirmed with the Placer County Transportation Planning Agency that there is no project funding for the construction of this project at this time.

5-59 The Commenter is correct that the SPRDEIR uses the Highway Capacity Manual (HCM) methodology for evaluating LOS at signalized intersections under the jurisdiction of Caltrans and the Town of Loomis; and, as noted in the SPRDEIR, the HCM method was employed based on the preferences of Caltrans and Town of Loomis. (See SPRDEIR, p. 4.2-2.) The LOS methodology used in analyzing the traffic impacts at intersections controlled by the City of Rocklin is Circular 212 which provides a planning-level assessment of the traffic volume at an intersection. The Commenter incorrectly claims that this methodology is “obsolete.” In fact, it is actually currently used by many cities and agencies in California for the purposes of traffic impact analysis, and a number of professional traffic engineering firms have submitted traffic studies to the City of Rocklin over the past many years without comment or criticism of the use of the Circular 212 methodology, including DKS Associates, Dowling Associates, Inc., Omni-Means Engineers, and Fehr and Peers Transportation Consultants to name a few. The cities and agencies that use this methodology are listed in the SPRDEIR on page 4.2-2 which states, “Some of the cities and agencies besides Rocklin

that utilize the Circular 212 CMA methodology include Placer County, West Sacramento, Fairfield, Roseville, Union City, San Carlos, the Contra Costa Transportation Authority, and the City/County Associations of Governments of San Mateo County.” No revision to the SPRDEIR traffic analysis is necessary.

5-60 As the Responses to Comments 5-31 through 5-59 indicate, the Commenter is incorrect in his claim that the SPRDEIR analysis underestimates the Project’s traffic impacts. Furthermore, the Commenter’s opinion that the SPRDEIR fails to include sufficient information to estimate the Project’s urban decay impacts is irrelevant. The Commenter, Mr. Smith, is not an expert in the economic field. (See Response to Comment 5-31.)

No recirculation of the SPRDEIR is required pursuant to CEQA Guidelines, section 15088.5, subdivision (a). The responses and clarifications provided in response to comments 5-31 through 5-59 do not result in any of the conditions described in CEQA Guidelines, section 15088.5, subdivision (a), that would warrant recirculation of the SPRDEIR. None of the revisions to the SPDEIR in light of these comments results in or indicates a new significant impact or a substantial increase in the severity of an impact associated with the Project. Contrary to the Commenter’s claim, moreover, as the responses above demonstrate, the SPRDEIR has not “failed to include sufficient information” rendering it impossible for the public to consider the SPRDEIR’s traffic generation or distribution analysis or the traffic impact analysis.

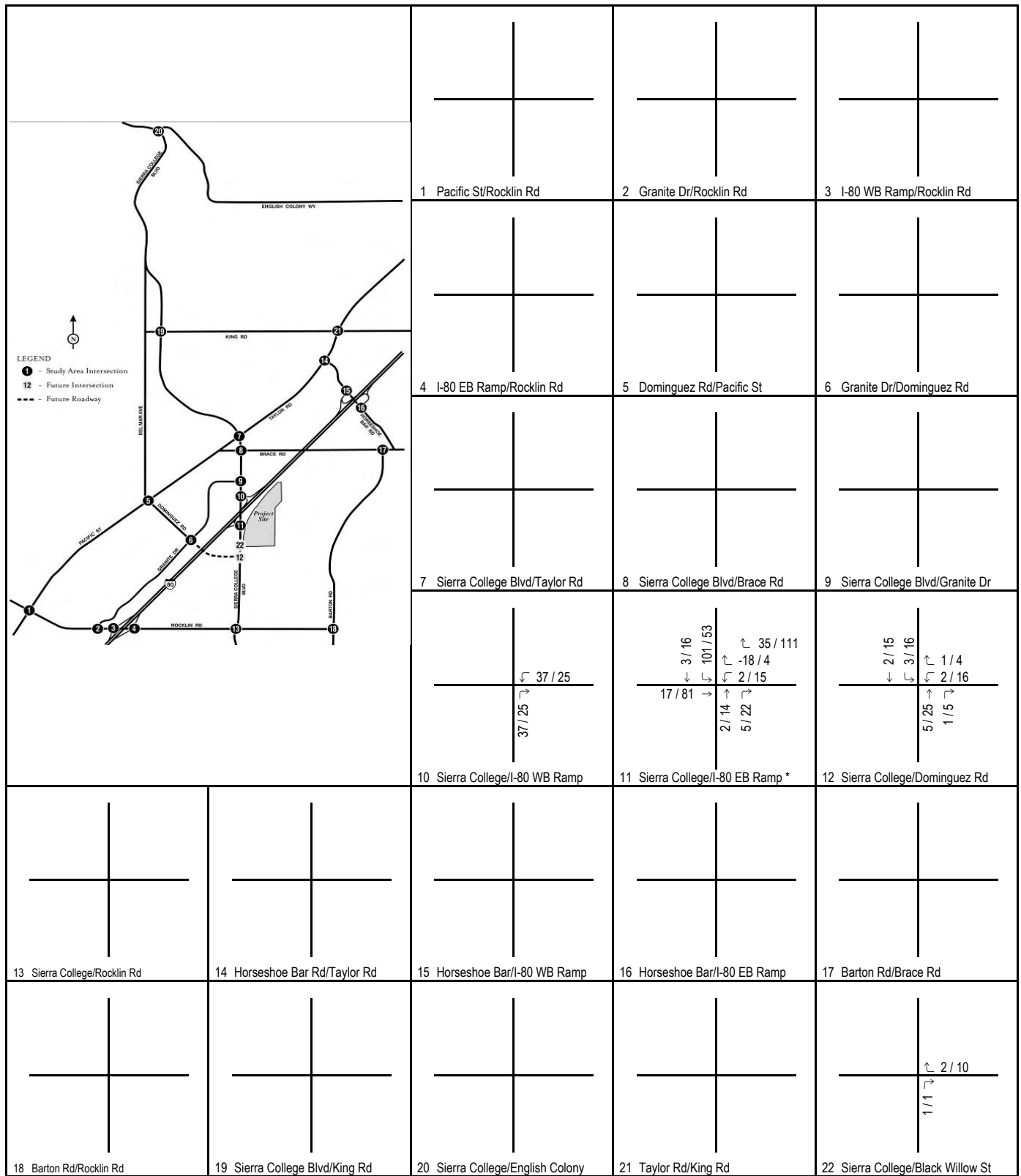


FIGURE RTC 1

* Notes:

Westbound Right-Turn movement on Figure 8A includes both right-turn lanes.

123 / 456 AM / PM Peak Hour Volume

Rocklin Crossings
Weekday Peak Hour Pass-by Trips

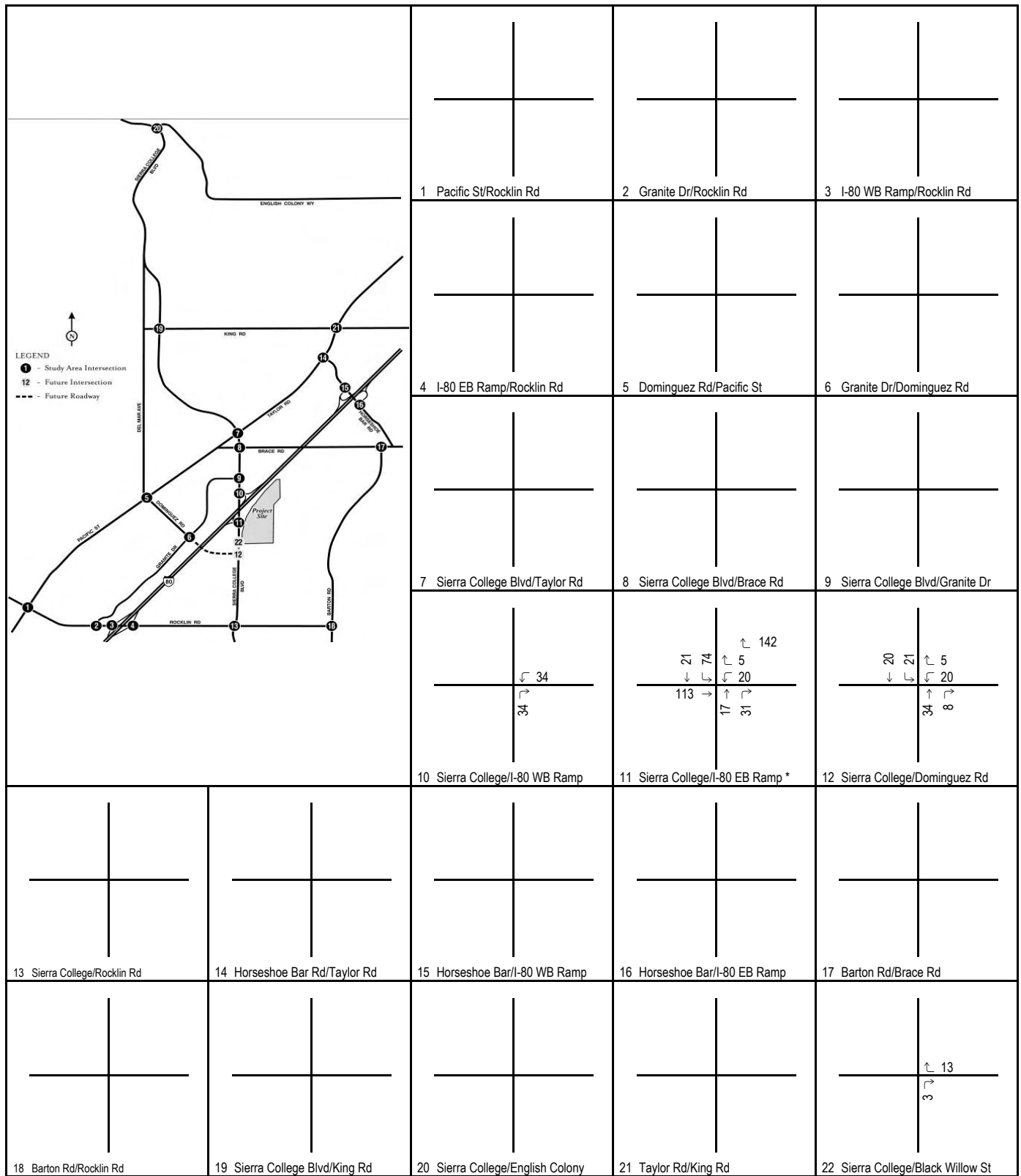


FIGURE RTC 2

* Notes:

Westbound Right-Turn movement on Figure 8B includes both right-turn lanes.

Rocklin Crossings
Saturday Peak Hour Pass-by Trips



JERRY BROWN
GOVERNOR

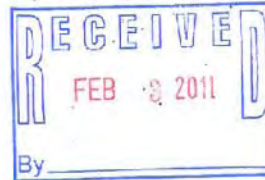
STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

LETTER 6



February 1, 2011

David Mohlenbrot
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677



Subject: Rocklin Crossings Project
SCH#: 2006112097

Dear David Mohlenbrot:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on January 24, 2011. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2006112097) when contacting this office.

6-1

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

**Letter
6
Response**

State Clearinghouse, Governor's Office of Planning and Research
Scott Morgan, Director
February 1, 2011

- 6-1** The commenter notes that a comment letter was received from the California Department of Transportation after the close of the comment period. The letter referenced by the commenter is included as Letter #4 above, which is followed by responses to the individual comments raised in the letter.

