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"the leader in facilitating community facilities consensus"

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July 31, 2008

Mr. Keith Boggs
Deputy Executive Officer – Economic Development
County of Stanislaus
1010 10th Street
Suite 6800 – Sixth Floor
Modesto, California 95354

Subject: **Comments of the Newman-Cross Landing Unified School District
Notice of Preparation of a
Draft Program Environmental Impact Report**

West Park Specific Plan

Dear Mr. Boggs;

This letter is submitted by Community Systems Associates, Inc. on behalf of the Newman-Cross Landing Unified School District ("NCLUSD"), and is presented as the formal position of the District on the project as described herein. Community Systems Associates, Inc. is the retained consultant of the Newman-Cross Landing Unified School District and this letter has been authorized to be presented to the County of Stanislaus.

The District is in receipt of the County of Stanislaus (referred to as "County") Notice of Preparation of a Draft Program Environmental Impact Report ("Notice") dated June 18, 2008 with regards to the proposed West Park Specific Plan ("Proposal" or "Project"). The Notice states as follows:

"Stanislaus County will be the lead agency for the preparation of an Environmental Impact Report (EIR) for the General Plan Amendment, Zoning, West Park Specific Plan, and related land use entitlements. The EIR will also evaluate the Redevelopment Plan for the Crow's Landing Air Facility and related disposition and development agreement and ground leases and Airport Land Use Compatibility Plan Amendment. All of these actions are collectively referred to as the "proposed project", for the proposed West Park development project located on the western side of Stanislaus County, south of the City of Patterson. This document is a Notice of Preparation (NOP) of an EIR for the proposed project and has been prepared in compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (Title 14, California Code of Regulations).

Section 15082 of the State CEQA Guidelines states that, after a decision is made to prepare an EIR, a lead agency must prepare an NOP to inform all responsible and

trustee agencies of the forthcoming EIR. The purpose of an NOP is to provide information about the proposed project and its potential environmental impacts that is sufficient to allow agencies and individuals to make a meaningful response related to the scope and content of the EIR and to the environmental information that pertains to each agency's statutory responsibilities in connection with the proposed project. The purpose of the NOP is to also solicit input on alternatives that should be considered during preparation of the EIR. The project location, description, and the potential environmental resources and issues that will be addressed in the EIR are presented below. An initial study has not been prepared for this project because the EIR will address all relevant issue areas. The EIR will identify any significant environmental impacts of the proposed project and recommend mitigation measures to reduce the proposed project's environmental impacts, where feasible."

The District acknowledges these statements as set forth in the Notice.

The Notice further states:

"Comments and suggestions are invited from all interested parties. Further information regarding the project may also be obtained from the following website www.crowsbizpark.biz. Written comments or questions concerning the EIR must be directed to the County's environmental project manager at the following address no later than 5:00 p.m. on August 4, 2008. All comments must include full name and address in order for staff to respond appropriately."

This letter is intended to comply with the request made by the County. The District is prepared to meet with the representatives of the County to provide additional information that may be needed to address the issues and topics discussed herein.

The Notice describes the Project location as follows:

"The project site consists of approximately 4,800 acres: the approximately 1,528-acre former National Aeronautics and Space Administration (NASA) Crows Landing Air Facility (CLAF) and approximately 3,276 acres of undeveloped land surrounding the former CLAF. The project site is located in western unincorporated Stanislaus County, between Interstate 5 (I-5) and State Route (SR) 33, outside of the Patterson city limits and the City's adopted urban services boundary and sphere of influence (see Exhibits 1 and 2).

The project site is generally surrounded by agricultural and rural residential land uses to the west, south, and east; land uses to the north are currently agricultural, but are proposed for industrial and residential development under the City of Patterson General Plan. Regional access to the project site would be provided from I-5 and SR 33. Local access to the project site is provided by Fink Road and West Marshall

Road (Exhibit 2). The Delta-Mendota Canal runs through the project site in a north-south direction. The California Aqueduct forms the western boundary of the project site.”

The District notes that the Project is located within the boundaries of the District, and that the Project will have growth inducing impacts on the District.

The Project is defined in the Notice as follows:

“The proposed project would include the following major components: (1) development of an inland port and short-haul rail service to and from the Port of Oakland; (2) development of industrial, business park, and distribution land uses on approximately 4,800 acres, including the former CLAF; (3) development of a general aviation airport on the former CLAF property, and (4) various infrastructure and public facility improvements to support the project. These project components are described in greater detail below.

The proposed project would require the following actions and entitlements from Stanislaus County and other agencies, including but not limited to (1) a general plan amendment, rezoning, specific plan, subdivision maps, and a development agreement; (2) disposition and adoption of the CLAF redevelopment plan for the approximately 1,528-acre CLAF; (3) adoption of the Airport Land Use Compatibility Plan amendment, a disposition and development agreement, and ground leases for use of land within the former CLAF; (4) a transportation systems management plan; (5) infrastructure and public facility improvement plans for commercial and industrial development and upgrades to rail crossings along state highways and/or County roads; (6) an infrastructure, public facility, and community services financing plan and the formation of a financing district to implement this plan; (7) approvals from the State of California for proposed improvements to the short-haul rail operations, state highways, roadway crossing over the California Aqueduct, and the general aviation air facility; (8) approvals from the federal government for proposed improvements to roadway crossings over the Delta- Mendota Canal; and (9) Stanislaus County Local Agency Formation Commission (if the project includes the formation of, or annexation to, a community services district).

Reuse of the former CLAF would include the development of a general aviation facility with one approximately 5,300-foot runway to support Category B-2 aircraft, associated aprons and taxiways, navigational aids, a fixed base operator, hangars and tie-down positions, and fuel facilities. The general aviation facility would also be available to NASA as described by the terms of the property conveyance, and to local law enforcement. Development at the project site would include reuse of portions of the former CLAF for large industrial and distribution sites that would have rail access if desired by future tenants; business parks; a workforce training facility; a medical

facility; and an associated on-site roadway network and utilities, including storm water management facilities, a water treatment plant, and a sewage treatment plant.

The proposed project would also include off-site improvements, including a new Las Palmas Avenue grade separation at the Union Pacific Railroad (UPRR) crossing, an at-grade crossing of SR 33 at the project site near Marshall Road improvements to existing railway crossings, construction of a new rail spur from the UPRR to the project site, sewer and water conveyance lines, storm water conveyance/treatment/discharge, provision of sewer and water supply lines to the existing community of Crow's Landing.

Buildout of the proposed project would occur in four phases over a period of 30 years. Initial development under Phase 1 of the proposed project would include between four and five million square feet of building space, including 250,000 to 500,000 square feet of speculative building space. Among improvements that would be required to support Phase 1 of the project (see Exhibit 4) are interim water and wastewater facilities and a new fire station occupying approximately one acre. The precise locations of these facilities on the project site has not yet been determined.

The project would realign the I-5/Fink Road interchange and Davis Road north of Fink Road about 1,200 feet east of its current intersection with Fink Road. The realignment would also move the Davis Road crossing over the Delta Mendota Canal to the east, at which point, Davis Road would generally parallel the Canal until it joins the current road alignment just north of the Canal. The project would also include construction of a new interchange at Oak Flat Road and I-5. All infrastructure would be phased in direct relation to the development of the project over time.

Because Fink Road is a major gateway to the project site and the County from I-5, the north side of the road along the project's frontage will include enhanced design, landscaping, and entryway features. Light industrial buildings along Fink Road will include enhanced architectural features according to design guidelines to be prepared for the project. No residential uses are proposed. The short-haul rail service would use existing railroad corridor owned by the UPRR between the project site and the Port of Oakland as an alternative to truck hauling services that currently travel on Interstate 580 (I-580) over the Altamont Pass. Short-haul rail and inland port services would include rail transport, pick-up and delivery of containers at the Port of Oakland and the inland port, container loading and unloading operations, and associated administrative services.

Most of the project site is currently designated as "Agriculture" under the County's General Plan and zoned "General Agriculture 40-acre Minimum" (A-2-40). There is a small area north of Fink Road, east of Ward Avenue, and west of Davis Road that is

designated as “Highway Commercial/Planned Development.” With implementation of the proposed project, the existing land use designations over the entire project site would be amended under the General Plan to “Specific Plan,” which would allow for the range of land uses proposed under the West Park Specific Plan. The current zoning designations would also be changed for the entire project site to be zoned “Specific Plan” (S-P).

The project could also require action from the Stanislaus County Local Agency Formation Commission (LAFCO), including the formation of a new community services district within the County for services such as potable water and wastewater.”

The District acknowledges that the Project does not contain residential land uses which could have a direct project-specific and cumulative impact on the District. However, the Project contains land uses which will require employees that may result in the need, growth, and development of residential land uses outside the Project and within the District, and which will have direct project-specific and cumulative impacts on the District. This outside-the-project growth would be considered to be a result of the “growth inducing” impacts of the Project. As such these need to be addressed in the Draft EIR and appropriate mitigation measures offered.

The Projects purpose, need, and objectives are defined in the Notice as follows:

“The purpose of the proposed project, to be realized through the approval and implementation of the West Park Specific Plan, the CLAF Redevelopment Plan, and related entitlements and agreements, is to provide for development of a County-owned general aviation facility at the former CLAF, an inland port/short-haul rail operations, industrial, business park, distribution and commercial development, and supporting infrastructure and roadway improvements on an approximately 4,800-acre site in western Stanislaus County. Development of the proposed project, with the inland port and short-haul rail service to the Port of Oakland, would provide the following local and regional benefits:

- Enable the growth of international trade and support the full potential for development of the Port of Oakland, supporting northern California’s growing economy and population;
- Support agricultural and other exporters by increasing productivity through consolidation of shipments, warehousing, equipment storage, food processing, and logistical support functions;
- Reduce overall truck miles traveled by providing distribution of imported goods to the growing number of northern California consumers through Port

of Oakland instead of being trucked almost exclusively from ports in Southern California.;

- Improve economic stability in the Central Valley through the creation of sustainable, “family wage” local jobs in a higher-than-average unemployment area of the State;
- Improve air quality, reduce greenhouse gases, and reduce overall energy consumption and the carbon footprint of the area by reducing vehicle miles traveled and utilizing on-site green operations and renewable energy policies;
- Provide funding for local schools, funding and construction of a new on-site fire station, and funding and construction of a new potable water and wastewater conveyance and treatment system for the existing community of Crow’s Landing;
- Reduce overall congestion on the highway system by reducing reliance on commuting to the Bay Area for quality jobs and by providing a rail alternative to trucking for containers moving between the Port of Oakland and the San Joaquin Valley, thereby reducing truck traffic on the I-880 and Altamont Corridor.

The proposed project is designed to enable redevelopment of the former CLAF and development of surrounding land at the project site by private enterprise or public agencies to attract and retain business and industry, encourage employment opportunities, provide public infrastructure improvements, and strengthen the economic base of the project region.

The Redevelopment Plan would authorize the following programs and activities at the former CLAF:

- 1) participation in the redevelopment process by developers and occupants of properties at the project site;
- 2) management of property under the ownership and control of the Redevelopment Agency and County;
- 3) demolition or removal of buildings and improvements at the project site;
- 4) installation, construction, expansion, addition, extraordinary maintenance or reconstruction of streets, utilities, airport facilities, and other public facilities and improvements;

- 5) disposition by lease of property by the County for uses in accordance with the Redevelopment Plan;
- 6) rehabilitation of structures and improvements; and
- 7) provision for the retention of controls and establishment of restrictions or covenants running with the land so that property will continue to be used in accordance with the Redevelopment Plan.

Implementation of the proposed project would allow the Stanislaus region to diversify its economic base, while at the same time, help alleviate the impacts of truck traffic on some of the most congested highway corridors in the United States. The proposed project would effectively establish the region's finance, services, and foreign trade leadership. The proposed project would generate a substantial number of new jobs (37,000 direct jobs) for residents in the San Joaquin Valley. The proposed project would also potentially attract new businesses, helping to provide much needed jobs in the region over the next 30 years, thereby helping to improve the County's jobs/housing imbalance.

Stanislaus County has the following objectives, which expand on the guiding principles listed in the section above entitled "Property Conveyance and Acceptance by Stanislaus County:

- Protect the former CLAF from incompatible land uses that would interfere with future airport operations and uses.
- Set aside land for runway expansion and operation of a general aviation facility at the former CLAF.
- Incorporate an on-site multi-modal terminal and associated transportation facilities, including short-haul rail service to and from the Port of Oakland.
- Develop a project in close proximity to I-5 to capitalize use of this major transportation corridor.
- Maintain sensitivity to surrounding communities by ensuring that project development does not encroach upon or abut existing communities, and implement all feasible mitigation measures related to environmental, sound, safety, and aesthetic impacts including appropriate roadway crossings at railroad grade separations, sound walls, and appropriate landscaping design to soften the project's hardscape and to better blend into the existing landscape of Stanislaus County.

- Improve infrastructure and services related to potable water and wastewater treatment for the community of Crows Landing.
- Provide a work force training facility for the future development of the work force in the project vicinity that includes all aspects of employee training in management, research, technical, and support positions.

Following adoption of the specific plan by the Stanislaus County Board of Supervisors, all subsequent development in the plan area must be consistent with specific plan goals, policies, and standards (see Government Code Section 65455).”

The District fully and completely supports the economic growth and financial stability of the County and the intention to convert underutilized properties to properties that will have economic, job, and productivity advantages for the short- and long-term future of the County and the region. We are particularly supportive of the reuse of this area in a way that has economic advantages to the County and the affected special districts, and through the reuse, creates new job opportunities for the residents of the region. However, the District believes that the Project objectives, although having various advantages, also results in the Project being “growth inducing”, thereby creating direct and indirect project-specific and cumulative impacts on the surrounding areas, the other parts of the region, and the special districts, including but not limited to the District. These growth inducing impacts need to be addressed in detail so that the impacts are mitigated to a level of insignificance.

The type of EIR that will be prepared is described in the Notice as follows:

“The EIR will include only program-level, or “first-tier,” analysis for some elements of the project, consistent with California Public Resources Code (PRC) Sections 21083.3, 21093, and 21094; 14 CCR Sections 15152 and 15168. The Crow’s Landing Redevelopment Plan will be evaluated pursuant to PRC Section 21083.8.1 regarding reuse plans for military bases.

The program-level analysis will consider the broad environmental effects of adoption and implementation of the general plan amendment, specific plan, the CLAF redevelopment plan, airport land use compatibility plan amendment, rezoning, development agreement, and off-site project-related improvements that would be constructed during development Phases 2 through 4. The EIR will identify performance standards (e.g., setbacks, measures to protect agricultural, biological, cultural and visual resources) and mitigation measures that would apply to all subsequent, future project phases under the specific plan (as conditions of approval) at the West Park Specific Plan project site. These performance standards will be incorporated into the specific plan to avoid or reduce impacts to the maximum extent feasible.

The project has four separate phases of development. To move forward with a specific phase, the project applicant will submit a plan for each phase. At that time, the County will require compliance with the West Park Specific Plan performance standards and mitigation measures set forth in the EIR and incorporated into the West Park Specific Plan for each improvement plan as conditions of approval.

CEQA includes a number of different but complementary means for streamlining environmental review consistent with an approved general plan, specific plan, or zoning action. More than one of these provisions might apply to future entitlements in the approved specific plan area. (See, for example, PRC Section 21083.3 [streamlined review for projects consistent with general plans, community plans, or zoning actions for which an EIR was prepared]; 14 CCR Section 15183 [same]; PRC Sections 21093 and 21094 [tiering]; 14 CCR Section 15152 [same].) The extent of environmental review, if any, for future development entitlements will depend on a number of factors, including the streamlining provisions of CEQA that are most applicable to a particular proposed entitlement; consistency of the development with the adopted specific plan; and the extent to which the programmatic analysis, performance standards, and mitigation measures have anticipated and accounted for the site-specific impacts of the requested entitlements.

In addition to the programmatic analysis described above, the EIR also will include a more detailed, project-level analysis of development Phase 1 of the proposed West Park Specific Plan project (as shown in Exhibit 4). As stated previously in this NOP, the project-level analysis will include the potential environmental impacts of adopting and implementing a general plan amendment, the West Park Specific Plan, rezoning, subdivision map, development agreement, CLAF Redevelopment Plan, Airport Land Use Compatibility Plan amendment, disposition and development agreement, ground leases and off-site project-related improvements that would occur during development Phase 1. The details of the proposed development Phase 1 contain enough specificity for a site-specific, project-level environmental review under CEQA and will allow the consideration of discretionary approvals for implementation of the first phase of development, which includes the general aviation facility, inland port, and the short-haul rail operations. The County's intention in evaluating Phase 1 development at a project level of detail is that no further EIR's or mitigated negative declarations will be required for additional regulatory approvals for Phase I activities following adoption of the specific plan, barring the occurrence of any of the circumstances described in PRC Section 21166 or State CEQA Guidelines Sections 15162 and 15163."

The District suggests that the "program" EIR is an appropriate environmental document if it addresses the direct and indirect project-specific and cumulative impacts, and the growth inducing impacts on the surrounding areas, the other parts of the region, and the

special districts, including by not limited to the District. These growth inducing impacts need to be addressed in detail in the program EIR, so that the impacts are mitigated to a level of insignificance and future environmental documentation can refer to such mitigation in project-specific documentation.

The Notice describes the possible environmental effects of the proposed Project as follows:

“The County has reviewed the proposed project and determined that an EIR addressing the potential impacts in all 17 issue areas listed in Appendix G of the CEQA Guidelines should be prepared. Accordingly, the environmental issues described in detail below will be evaluated in the EIR. In addition to anticipated environmental issues, information regarding the probable environmental effects of the proposed project is provided below as required by State CEQA Guidelines Section 15082(a)(1)(C). It is assumed that implementation of the proposed project would result in potential environmental effects in all issue areas, described below. However, the actual effects will be identified during the EIR process. The EIR will address direct, indirect, and cumulative effects in all issue areas. The EIR will include feasible mitigation measures to reduce significant environmental impacts, where appropriate....

Public Services – The EIR will evaluate the potential for adverse physical effects on the environment related to construction of new governmental facilities required to provide public services such as fire and law enforcement protection, schools, and solid waste, and the project’s effect on the availability of public resources to communities within the project vicinity...

Growth Inducement – The EIR will analyze the potential for the proposed project to induce growth in Stanislaus County and local communities, and will examine the proposed project’s potential for inducing additional growth on adjacent lands and on the region. The EIR also will analyze growth-inducement potential from construction of the off-site sewer main to the community of Crows Landing.

Cumulative Impacts – The EIR will analyze the potential cumulative impacts of the proposed project as related to each of the environmental technical sections.”

The County has correctly determined that the EIR needs to address seventeen (17) areas cited in the Notice, including an evaluation of the potential for adverse physical effects on the environment related to construction of new governmental facilities required to provide public services, including but not limited to schools and the Project’s effect on the availability of public resources to communities within the Project vicinity. In addition, as we have offered herein the growth inducing and cumulative impacts need to be adequate addressed.

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The Notice states:

“Consistent with the requirements of CCR Section 15126.6, the EIR will examine a range of reasonable alternatives to the proposed project that are potentially feasible. The alternatives must feasibly attain most of the objectives of the proposed project while also avoiding or substantially lessening at least one of the significant environmental effects of the proposed project. One of the purposes of the NOP is to solicit input from interested agencies and the public regarding potential alternatives to the proposed project. Therefore, the alternatives examined in the EIR will be developed as a result of the public scoping process, and will include a No Project Alternative as required by State CEQA Guidelines Section 15126.6.”

As stated herein, the District believes that the Project should be modified to include a) the dedication of one (1) 25-net acre school site within the Project which would be in compliance with the State’s School Site Selection and Approval Guide and the State’s School Site Analysis and Development Guide to be developed by the District for grades K-8 to serve the growth inducing impacts of the Project in the area of the Project; or b) in the event that a school site cannot be sited within the Project due to the fact that the site would not comply with the State’s School Site Selection and Approval Guide, participate in the financing of the acquisition and construction of one (1) 25-net acre school site to be located outside and south of the Project to relieve the demand for the use of school capacity within the District’s current schools to serve the growth inducing impacts of Project.

The Project is located in the County of Stanislaus. The Project is further located within the boundaries of the District. The District believes that the development of the properties within the Project will have project-specific and cumulative impacts on the operations and enrollments of the District. In addition, the Project will be a catalyst for development of properties outside the Project boundaries and on properties within the District. This is defined under the CEQA Guidelines as a “growth inducing” affect.

The District is a local, responsible, and affected agency that will be impacted by the development of the Property by the proposed Project. This letter is intended to be entered into the public record of the County on the Project to address this Project, and is further intended to present the District’s comments with regards to the impacts and consequences that should be contemplated in the Draft EIR, in order to protect the District’s administrative and legal remedies.

Section 15180 of the CEQA Guidelines states:

“15180. Redevelopment Projects

(a) An EIR for a redevelopment plan may be a Master EIR, a program EIR, or a project EIR. An EIR for a redevelopment plan must specify whether it is a Master EIR, a program EIR, or a project EIR.

(b) If the EIR for a redevelopment plan is a project EIR, all public and private activities or undertakings pursuant to or in furtherance of the redevelopment plan shall constitute a single project, which shall be deemed approved at the time of adoption of the redevelopment plan by the legislative body. The EIR in connection with the redevelopment plan shall be submitted in accordance with Section 33352 of the Health and Safety Code.

If a project EIR has been certified for the redevelopment plan, no subsequent EIR's are required for individual components of the redevelopment plan unless a subsequent EIR or a supplement to an EIR would be required by Section 15162 or 15163.

(c) If the EIR for a redevelopment plan is a Master EIR, subsequent projects which the lead agency determines as being within the scope of the Master EIR will be subject to the review required by Section 15177. If the EIR for a redevelopment plan is a program EIR, subsequent activities in the program will be subject to the review required by Section 15168.”

The Notice states:

“TYPE OF ENVIRONMENTAL IMPACT REPORT

“The EIR will include only program-level, or “first-tier,” analysis for some elements of the project, consistent with California Public Resources Code (PRC) Sections 21083.3, 21093, and 21094; 14 CCR Sections 15152 and 15168. The Crow's Landing Redevelopment Plan will be evaluated pursuant to PRC Section 21083.8.1 regarding reuse plans for military bases.

The program-level analysis will consider the broad environmental effects of adoption and implementation of the general plan amendment, specific plan, the CLAF redevelopment plan, airport land use compatibility plan amendment, rezoning, development agreement, and off-site project-related improvements that would be constructed during development Phases 2 through 4. The EIR will identify performance standards (e.g., setbacks, measures to protect agricultural, biological, cultural and visual resources) and mitigation measures that would apply to all subsequent, future project phases under the specific plan (as conditions of approval) at the West Park Specific Plan project site. These performance standards will be incorporated into the specific plan to avoid or reduce impacts to the maximum extent feasible.

The project has four separate phases of development. To move forward with a specific phase, the project applicant will submit a plan for each phase. At that time, the County will require compliance with the West Park Specific Plan performance standards and mitigation measures set forth in the EIR and incorporated into the West Park Specific Plan for each improvement plan as conditions of approval.

CEQA includes a number of different but complementary means for streamlining environmental review consistent with an approved general plan, specific plan, or zoning action. More than one of these provisions might apply to future entitlements in the approved specific plan area. (See, for example, PRC Section 21083.3 [streamlined review for projects consistent with general plans, community plans, or zoning actions for which an EIR was prepared]; 14 CCR Section 15183 [same]; PRC Sections 21093 and 21094 [tiering]; 14 CCR Section 15152 [same].) The extent of environmental review, if any, for future development entitlements will depend on a number of factors, including the streamlining provisions of CEQA that are most applicable to a particular proposed entitlement; consistency of the development with the adopted specific plan; and the extent to which the programmatic analysis, performance standards, and mitigation measures have anticipated and accounted for the site-specific impacts of the requested entitlements.

In addition to the programmatic analysis described above, the EIR also will include a more detailed, project-level analysis of development Phase 1 of the proposed West Park Specific Plan project (as shown in Exhibit 4). As stated previously in this NOP, the project-level analysis will include the potential environmental impacts of adopting and implementing a general plan amendment, the West Park Specific Plan, rezoning, subdivision map, development agreement, CLAF Redevelopment Plan, Airport Land Use Compatibility Plan amendment, disposition and development agreement, ground leases and off-site project-related improvements that would occur during development Phase 1. The details of the proposed development Phase 1 contain enough specificity for a site-specific, project-level environmental review under CEQA and will allow the consideration of discretionary approvals for implementation of the first phase of development, which includes the general aviation facility, inland port, and the short-haul rail operations. The County's intention in evaluating Phase 1 development at a project level of detail is that no further EIR's or mitigated negative declarations will be required for additional regulatory approvals for Phase I activities following adoption of the specific plan, barring the occurrence of any of the circumstances described in PRC Section 21166 or State CEQA Guidelines Sections 15162 and 15163."

The Notice states that the EIR will include only program-level, or "first-tier". In essence, the EIR will be a "program EIR".

Section 15168 of the CEQA Guidelines describes a Program EIR as follows:

“15168. Program EIR

(a) General. A program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:

- (1) Geographically,
- (2) A logical parts in the chain of contemplated actions,
- (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or
- (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

(b) Advantages. Use of a program EIR can provide the following advantages. The program EIR can:

- (1) Provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action,
- (2) Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis,
- (3) Avoid duplicative reconsideration of basic policy considerations,
- (4) Allow the Lead Agency to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts, and
- (5) Allow reduction in paperwork.

(c) Use with Later Activities. Subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.

- (1) If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration.

(2) If the agency finds that pursuant to Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required.

(3) An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into subsequent actions in the program.

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

(5) A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required.

(d) Use with Subsequent EIR's and Negative Declarations. A program EIR can be used to simplify the task of preparing environmental documents on later parts of the program. The program EIR can:

(1) Provide the basis in an Initial Study for determining whether the later activity may have any significant effects.

(2) Be incorporated by reference to deal with regional influences, secondary effects, cumulative impacts, broad alternatives, and other factors that apply to the program as a whole.

(3) Focus an EIR on a subsequent project to permit discussion solely of new effects which had not been considered before.

(e) Notice with Later Activities. When a law other than CEQA requires public notice when the agency later proposes to carry out or approve an activity within the program and to rely on the program EIR for CEQA compliance, the notice for the activity shall include a statement that:

(1) This activity is within the scope of the program approved earlier, and

(2) The program EIR adequately describes the activity for the purposes of CEQA.”

Section 15080 of the CEQA Guidelines states:

“To the extent possible, the EIR process should be combined with the existing planning, review, and project approval process used by each public agency.”

The County has issued the Notice as part of the planning, review and approval process of the Project. As such, the environmental review process should be combined with this existing process of processing the Project by the County.

Section 15081 of the CEQA Guidelines states:

“The EIR process starts with the decision to prepare an EIR. This decision will be made either during preliminary review under Section 15060 or at the conclusion of an Initial Study after applying the standards described in Section 15064.”

The County has not completed an Initial Study, but instead has determined that a Program EIR will be prepared.

Section 15060.5 of the CEQA Guidelines states:

“(a) For a potential project involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the lead agency shall, upon the request of a potential applicant and prior to the filing of a formal application, provide for consultation with the potential applicant to consider the range of actions, potential alternatives, mitigation measures, and any potential significant effects on the environment of the potential project.

(b) The lead agency may include in the consultation one or more responsible agencies, trustee agencies, and other public agencies who in the opinion of the lead agency may have an interest in the proposed project. The lead agency may consult the Office of Permit Assistance in the Trade and Commerce Agency for help in identifying interested agencies.”

The County has wisely sought the consultation of public agencies and others pursuant to Section 15060.5.

The County has proposed that the environmental documentation that should be prepared on the Project is a “Program” EIR. Section 15168 (a) of the CEQA Guidelines describes a “Program” EIR as follows:

“(a) General. A program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:

- (1) Geographically,
- (2) A logical parts in the chain of contemplated actions,
- (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or
- (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.”

The District agrees that this is a proper environmental document for this Project.

The District contends that there will be direct and indirect impacts, cumulative impacts, and growth inducing impacts from the potential development of the Project on traffic and circulation, air quality, water and hydrology, wastewater treatment, public facilities and services, schools, and utilities, etc. which will have a significant effect on the environment. The District contends that there is substantial evidence, in light of the whole record before the County with regards to the project-specific and cumulative developments throughout the County and the County, which suggest that all projects may have a significant effect on the environment.

The District suggest that the Draft EIR will identify one or more significant effects which will require the County to make findings under Section 15091 of the CEQA Guidelines for each significant effect and which may require statements of overriding considerations under Section 15093 of the CEQA Guidelines for the Project.

The District suggests that the County’s evaluation of the significance of the environmental effects of the Project shall consider direct physical changes in the environment which may be caused by the Project and reasonably foreseeable indirect physical changes in the environment which may be caused by the Project. The District notes that a direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the Project. The implementation of the development of the Project impacts on traffic and circulation, air quality, water and hydrology, wastewater treatment, public facilities and services, schools, and utilities, etc. regardless of the magnitude are direct physical changes in the environment. The District also notes that an indirect physical change in the environment is a physical change in the environment which is not immediately related to the Project, but which is caused indirectly by the Project. As such if a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. These kinds of indirect physical changes on the District need to be considered if the changes are reasonably foreseeable impacts

which may be caused by the Project. These changes are not speculative or are likely to occur and are reasonably foreseeable.

Section 15064.7 of the CEQA Guidelines states:

- “(a) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.
- (b) Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence.”

The County is encouraged to develop and publish thresholds of significance that the County uses in the determination of the significance of environmental effects. The District notes that a threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the County and compliance with which means the effect normally will be determined to be less than significant. The District would suggest that the Draft EIR identify these thresholds developed and published by the County.

The District suggests that the County can reasonably find that the Project may have significant effects on the environment and can thereby require a Draft EIR to be prepared for the Project. There is adequate substantial evidence, in light of the whole record, that the following conditions may occur:

1. The Project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
2. The Project has possible environmental effects that are individually limited, but cumulatively considerable.
3. The Project has environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.
4. The Project will have “growth inducing impacts” that may be adverse on the environment.

The District suggests that the preparation of a Draft EIR is warranted based on the contents of this letter and the finding that the Project will have a significant effect on the environment.

Section 15082 (c) of the CEQA Guidelines, states in part:

“(c) Meetings. In order to expedite the consultation, the lead agency, a responsible agency, a trustee agency, the Office of Planning and Research, or a project applicant may request one or more meetings between representatives of the agencies involved to assist the lead agency in determining the scope and content of the environmental information that the responsible or trustee agency may require. Such meetings shall be convened by the lead agency as soon as possible, but no later than 30 days after the meetings were requested. On request, the Office of Planning and Research will assist in convening meetings that involve state agencies.

(1) For projects of statewide, regional or area-wide significance pursuant to Section 15206, the lead agency shall conduct at least one scoping meeting. The lead agency shall provide notice of the scoping meeting to all of the following:

(A) any county or city that borders on a county or city within which the project is located, unless otherwise designated annually by agreement between the lead agency and the county or city;

(B) any responsible agency

(C) any public agency that has jurisdiction by law with respect to the project;

(D) any organization or individual who has filed a written request for the notice.

(2) A lead agency shall call at least one scoping meeting for a proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation if the meeting is requested by the department. The lead agency shall call the scoping meeting as soon as possible but not later than 30 days after receiving the request from the Department of Transportation.”

The County conducted a scoping meeting on July 1, 2008.

Finally, Section 15082 (d) and (e) state:

“(d) Office of Planning and Research. The Office of Planning and Research will ensure that the state responsible and trustee agencies reply to the lead agency within 30 days of receipt of the notice of preparation by the state responsible and trustee agencies.

(e) Identification Number. When the notice of preparation is submitted to the State Clearinghouse, the state identification number issued by the Clearinghouse shall be the identification number for all subsequent environmental documents on the project. The identification number should be referenced on all subsequent correspondence regarding the project, specifically on the title page of the draft and final EIR and on the notice of determination.”

The District notes that the Notice of Preparation has been filed with the State Clearinghouse. The County has requested the scope and content of the environmental information which is germane to the District’s statutory responsibilities. The following is a response to the Notice in conformance with the applicable provisions of the CEQA Guidelines.

Current Condition of District

The District is currently considered overcrowded. Overcrowded conditions are enrollments which exceed 85% of the capacity of a school. Based on the proposed planning of new residential development projects within the District and without substantial expansion of the District’s schools and District-wide support facilities, the District will find itself in a condition of further overcrowding without the provisions of adequate facilities. Overcrowded schools have a variety of the consequences, which include, but are not limited to:

- 1) Deteriorated educational relationships between students and teachers resulting in reduced test scores;
- 2) Student emotional, social and psychological problems in the classroom, in the yards, and in the community;
- 3) Lower moral on the part of the teachers and employees and a lack of trust and confidence by the parents;
- 4) Inability to conduct some activities due to physical limitations or results in having to change normal operations of the school to abnormal operations;

- 5) Increased traffic and circulation problems around schools and increased bussing throughout the community;
- 6) Bussing results in the need for the District to spend educational funds on busses, bus operations, and bus drivers; and
- 7) The need to re-direct general funds revenues needed for salaries and employee benefits, and operational and administrative changes that are inefficient.

All of these are considered environmental impacts under CEQA and the CEQA Guidelines. Therefore, the Draft EIR should review the project-specific and cumulative impacts of all projects in conjunction with all formal and informal planning processes that are known by the County.

Based on the Project description, the District has determined that the Project will have growth inducing affects on areas outside the Project Area which will result in student generation impacts on the District. These impacts should be evaluated in detail and with accuracy in the Draft EIR in order to offer a full and complete disclosure of the impacts of the Project and to enable the County to make a full and informed decision on the Project and the entitlement applications.

The District notes that the costs of facilities are increasing, land acquisition costs are increasing, and District-wide support facilities to accommodate existing students is inadequate and needs to be funded if the District is to continue to provide the quality of education, services and facilities that is desired by the constituents of the District. In addition, development fee funds and State School Facility Program financing is inadequate to fund the facilities required by the District. Therefore, Additional mitigation will be required in order to accommodate the students generated by the Project.

Based on this analysis, the District would be significantly impacted by the Project. The District would not have adequate financing to acquire land for additional schools and fund the construction of the school facilities. In addition, the District would be impacted in terms of the need for interim facilities, District-wide support facilities (i.e. administrative facilities, storage and warehouse facilities, central kitchen facilities, central technology facilities, and transportation and busing facilities and rolling stock (buses).

In the event that the District is unable to fund the “local share” portion of the cost of school facilities resulting from the growth inducing impacts of the Project, then the District will have to modify attendance area boundaries, program double-session schedules, load classrooms with students in excess of District and State standards, and house students in inadequate and inappropriate school facilities, etc. throughout the District. This will affect the overall operation and administration of the District and the

students, employees, and constituents affected by such actions and needs to be addressed in the Draft EIR. This will have physical, social, financial, and psychological effects on the students, employees, and constituents of the District. These potential impacts need to be addressed in the EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.

In addition, in the event that the impacts of the Project are not mitigated, students and employees will experience additional overcrowding conditions in the schools that are impacted by the Project. This may result in operational and administrative modifications that would be necessary to accommodate the increased overcrowded enrollments. This may have physical, social, financial, and psychological effects on the students, employees, and constituents of the District. These potential impacts need to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.

Finally, in order to accommodate students at current District schools, permanent and interim classrooms and support facilities may need to be installed, constructed, and developed on the school sites. The Draft EIR needs to address the impacts of these additional facilities on school site utilization, wastewater treatment, water and utility service increases, parking demands, traffic and circulation in an around the schools, loss of parking due to the utilization of these areas for structures, loss of open space, and field areas, and State site and design compliance. Mitigation measures need to be offered to reduce the impacts to a level of less than significant.

The District can provide the financial impact of the Project on the District upon request to and in order to assist in the preparation of the Draft EIR.

Draft EIR Issues

The Notice states:

“Population, Employment, and Housing – The EIR will present existing population, housing, and employment figures for Stanislaus County and the projected changes in these variables as a result of overall regional development. The analysis will include a review of County goals and policies; potential changes in population, housing, and employment characteristics resulting from the proposed project; and the potential for secondary environmental impacts from those changes. The population analysis will compare the amount and type of growth anticipated under the proposed project with estimates from the Stanislaus County General Plan, the U.S. Census Bureau, the California Department of Finance, the Stanislaus County Council of Governments, and other adopted planning documents. The EIR will address the proposed project’s effect on regional jobs/housing ratios and population demographics.”

“Public Services – The EIR will evaluate the potential for adverse physical effects on the environment related to construction of new governmental facilities required to provide public services such as fire and law enforcement protection, schools, and solid waste, and the project’s effect on the availability of public resources to communities within the project vicinity.”

“Traffic and Circulation – The EIR will evaluate the proposed project’s impacts on local and regional transportation facilities, including several freeway segments and ramps, and the local rail lines. The evaluation will be based on a transportation analysis that will evaluate local intersections, roadway segments, merge/diverge/weave, project-related vehicle trips, proposed site circulation and access, local transit operations, and the surrounding roadway network. The EIR will identify triggers for transportation improvements. The traffic and circulation section also will analyze effects on public transit, as well as public transit needs and alternative modes of transportation.”

“Growth Inducement – The EIR will analyze the potential for the proposed project to induce growth in Stanislaus County and local communities, and will examine the proposed project’s potential for inducing additional growth on adjacent lands and on the region. The EIR also will analyze growth-inducement potential from construction of the off-site sewer main to the community of Crows Landing.”

Based on its current enrollment and capacities, the District could easily be defined as being overcrowded. It is unclear as to where the students from the growth that may occur within the District resulting from the growth inducing impacts of the Project will be enrolled due to the already overcrowded conditions in the District. The Draft EIR needs to provide a full disclosure of the project-specific, cumulative impacts, and growth inducing impacts of the Project on the current schools within the entire District. The following is a list of the impact areas and areas of concern that need to be addressed in the Draft EIR:

1. The project-specific and cumulative direct, indirect, and growth inducing impacts on the increased enrollments, increased required employees, increased school facilities, increased District-wide facilities, increased interim facilities, and increased transportation facilities and services required by the students generated by the growth inducing impacts of the Project on the District, needs to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
2. The project-specific and cumulative direct, indirect, and growth inducing impacts on the circulation and traffic patterns throughout the region as a result of overall traffic generated by the growth inducing impacts of the Project, as

well as private and public traffic generated by the transportation needs of students to and from the schools in the District required to accommodate students that cannot be accommodated at these schools. The impacts of this traffic on the schools and the surrounding areas need to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.

3. The project-specific and cumulative direct, indirect, and growth inducing impacts on the routes and safety of students traveling to schools by vehicles, District busing, walking and using bicycles need to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
4. In order for the District to accommodate the students from the growth inducing impacts of the Project, which are not accommodated at current District schools, the District will have to modify attendance area boundaries, program double-session schedules, load classrooms with students in excess of District and State standards, and house students in inadequate and inappropriate school facilities, etc., throughout the District. This effect on the overall operation and administration of the District, and the students, employees, and constituents affected by such actions need to be addressed in the Draft EIR. This will have physical, social, financial, and psychological effects on the students, employees, and constituents of the District. These potential impacts need to be addressed in the EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
5. In the event that the growth inducing impacts of the Project are not mitigated, students and employees will experience overcrowding conditions in the schools that are impacted by the growth inducing impacts of the Project. This may result in operational and administrative modifications that would be necessary to accommodate the increased overcrowded enrollments. This may have physical, social, financial, and psychological effects on the students, employees, and constituents of the District. These potential impacts need to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
6. In order to accommodate students at current District schools, resulting from the growth inducing impacts of the Project permanent and interim classrooms and support facilities may need to be installed, constructed, and developed on the school sites. The impacts of these additional facilities on school site utilization, wastewater treatment, water and utility services, parking, traffic and circulation, loss of parking, open space, and field areas, and State site and design compliance needs to be addressed in the Draft EIR. Mitigation

measures need to be offered to reduce the impacts to a less than significant impact.

7. SB 50 places limitations on the statutory development fees to be paid by the development for each residential unit. The Draft EIR needs to address the deficiencies in the fees paid versus the revenues required to fund the permanent and interim school facilities, and the District-wide support facilities to accommodate the students generated by the Project. In the event the SB 50 limitations result in financial deficits that would result in facilities not being fully funded, then the Draft EIR should identify the measures that will be taken to address the unfunded facilities to accommodate the students generated by the development. If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the growth inducing impacts of the Project as proposed, the effects of the mitigation measure should be discussed. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
8. The Draft EIR should evaluate all alternatives to the Project, including but not limited to a) the implementation of a Growth Management/Phasing Program, including the annual allocation of building permits based on the availability of school facilities; and e) the “no project” alternative. The project-specific and cumulative direct, indirect, and growth inducing impacts of these alternatives should be evaluated in the Draft EIR. Mitigation measures to the impacts of these alternatives need to be offered to reduce the impacts to a less than significant impact.
9. The Draft EIR should evaluate the “growth inducing” impacts of the Project on the region and the District, including but not limited to the direct and indirect environmental impacts of the growth inducement on schools, public facilities, wastewater treatment, water availability and water table, traffic and circulation, noise, land use. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
10. The increased traffic of the Project will have an impact on increased traffic on the surrounding collector and arterial streets, as well as State Highways and County roads. These traffic increases will impact the District’s busing and transportation timing and routes. The Draft EIR should address these impacts on the District. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
11. The Draft EIR should identify the significant environmental effects on schools, public facilities, wastewater treatment, water availability and water table, traffic and circulation, noise, and land use which cannot be avoided if

the Project is implemented, together with the project-specific and cumulative direct and indirect consequences of the unavoidable environmental effects.

12. The Draft EIR should identify the significant irreversible environmental changes on schools, public facilities, wastewater treatment, water availability and water table, traffic and circulation, noise, and land use, which would be caused by the project-specific and cumulative growth inducing impacts of the Project should the Project be implemented.
13. The Draft EIR should address how the growth inducing impacts of the Project are consistent with the land use map, and the ALL goals, policies, and implementation programs of the County of Stanislaus General Plan, including but not limited to schools, public facilities, wastewater treatment, water availability and water table, traffic and circulation, noise, and land use.
14. SB 50 provides:
 - a. Section 65995 (e) “The Legislature finds and declares that the financing of school facilities and the mitigation of the impacts of land use approvals, whether legislative or adjudicative, or both, on the need for school facilities are matters of statewide concern. For this reason, the Legislature hereby occupies the subject matter of requirements related to school facilities levied or imposed in connection with, or made a condition of, any land use approval, whether legislative or adjudicative act, or both, and the mitigation of the impacts of land use approvals, whether legislative or adjudicative, or both, on the need for school facilities, to the exclusion of all other measures, financial or non-financial, on the subjects. For purposes of this subdivision, "school facilities" means any school-related consideration relating to a school district's ability to accommodate enrollment.
 - b. Section 65995 (h) “The payment or satisfaction of a fee, charge, or other requirement levied or imposed ... are hereby deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization ..., on the provision of adequate school facilities.”
 - c. Section 65996 (a) “...the following provisions shall be the exclusive methods of considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the

planning, use, or development of real property or any change of governmental organization or reorganization...”

- d. Section 65996 (b) The provisions of this chapter are hereby deemed to provide full and complete school facilities mitigation and, notwithstanding Section 65858, or Division 13 (commencing with Section 21000) of the Public Resources Code, or any other provision of state or local law, a state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or any change in governmental organization or reorganization,... on the basis that school facilities are inadequate...”

The Draft EIR needs to identify the deficiencies and inadequacies between the legal provisions of SB 50 and the actual implementation of the provisions with regards to the Project. In addition, the Draft EIR needs to identify any and all impacts that have not been mitigated by the provisions of SB 50.

15. The cumulative impacts of the Project on traffic and circulation, noise, schools, public facilities and services, wastewater treatment, water and water table, and utilities need to be evaluated in the Draft EIR based on the build-out of the County of Stanislaus General Plan, the build-out of the land uses of the area, and the build-out of the land within the jurisdiction of the public agencies providing service to the Project. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
16. The Draft EIR should identify all federal, State, and local agencies, other organizations, and private individuals consulted in preparing the draft EIR, and the persons, firm, or agency preparing the Draft EIR by contract or other authorization.
17. The Draft EIR should identify and describe all entitlements required for the approval and development of the Project.
18. The Draft EIR should identify the economic or social information relative to the growth inducing impacts of the Project. The Draft EIR should trace the chain of cause and effect from a proposed decision on a Project through anticipated economic or social changes resulting from the Project to physical changes caused in turn by the economic or social changes. The economic and social analysis should focus the analysis on the physical changes that will result on the District from the growth inducing impacts Project. Economic, social, and particularly housing factors shall be considered by public agencies together with technological and environmental factors in deciding whether

changes in a Project are feasible to reduce or avoid the significant effects on the environment identified in the Draft EIR.

19. The Draft EIR should identify through data and quantitative and qualitative analysis supported by independent evaluation and expert analysis how the provisions and policies of the County of Stanislaus General Plan and the mitigation measures as set forth in the referenced environmental documents address the project-specific and cumulative growth inducing impacts the Project will have on the traffic and circulation, noise, schools, public facilities and services, wastewater treatment, water and water table, and utility impacts caused by the Project.
20. The Draft EIR should identify the inadequacies contained in the County of Stanislaus General Plan and the consequences of compliance or lack of compliance of the current General Plan with the applicable provisions of Section 65300 et. seq. of the Government Code.
21. In the event that the data, information, analysis and mitigation measures that are set forth in the General Plan and the General Plan Program EIR is used in the proposed Draft EIR, the data, information, analysis and mitigation measures should be updated to address the current conditions of the community and the differences should be identified, including but not limited to the changes in the community resulting from a) the unprecedented growth that has occurred in the past several years since the General Plan was adopted; b) the residential development projects which have been approved by the County and not developed as of yet, since the General Plan was adopted; e) the changes in the General Plan and zoning of the County since the General Plan was adopted; and d) environmental conditions and characteristics of the County and the region.
22. The Draft EIR should identify the operational, administrative, financial, and legal growth inducing impacts of the Project on the District.
23. The proposed Draft EIR should describe how the current County of Stanislaus General Plan and Housing Element are in compliance with State law, and identify the lack of internal consistency between the General Plan elements, and how these deficiencies affect the Project, if any.
24. The Draft EIR should address the legal constitutionality of the provisions of SB 50 as applicable to the mitigation of the Project impacts, the limits on cities and school districts to impose additional mitigation measures in excess of the limits of SB 50, and the limitations on the part of the County of Stanislaus to deny the Project on the grounds of inadequate facilities,

unmitigated impacts, or the refusal of the applicant to pay development fees in excess of statutory provisions.

25. The Draft EIR should evaluate the interim facility requirements of the District to accommodate student enrollments that will be generated as a result of the growth inducing impacts over the phasing of the Project and prior to permanent facilities being available for students generated from the growth inducing impacts of the Project.
26. The Draft EIR should identify the projected student enrollments to be generated by the growth inducing impacts of the Project by grade level, the specific schools that are intended to serve the growth inducing impacts of the Project, the current and future capacities of all existing schools within the District by grade level, the identification of future schools and the projection of capacities, the enrollment and capacities of permanent classroom facilities of all existing schools by grade level, the enrollment and capacities of portable classroom facilities of all existing schools by grade level, the capacity utilization of portable and permanent classrooms of all existing schools by grade level.
27. The Draft EIR should identify the growth inducing impacts of the Project on District-wide support facilities (i.e. administrative facilities, storage and warehouse facilities, central kitchen facilities, central technology facilities, and transportation and busing facilities and rolling stock (buses) that would be required by the growth inducing impacts of the Project. Mitigation measures should be identified.
28. The Draft EIR should address the fiscal and economic impacts on the County and all special districts, including the District from a project-specific and cumulative impact basis to a growth inducing impact basis. Revenue and expenses need to be addressed to insure that the Project is economically and fiscally sustainable and that the growth inducing impacts do not adversely affect the economic and fiscal conditions of the District, the County, and the special districts. On-going and one-time operational and capital expenditures need to be identified and addressed and on-going and one-time revenues need to be identified. Phasing of the Project should further be identified.

Mitigation Measures and/or Alternatives to be Considered

The District requests that the following mitigation measures and/or alternatives to the Project be considered to reduce the impacts to a level of insignificance:

1. Dedication of one (1) 25-net acre school site within the Project which would be in compliance with the State's School Site Selection and Approval Guide and the State's School Site Analysis and Development Guide to be developed by the District for grades K-8 to serve the growth inducing impacts of the Project.
2. In the event that a school site cannot be sited within the Project due to the fact that the site would not comply with the State's School Site Selection and Approval Guide, participate in the financing of the acquisition and construction of one (1) 25-net acre school site to be located outside and south of the Project to relieve the demand for the use of school capacity within the District's current schools to serve the growth inducing impacts of Project.
3. Provide for the "fair share" of the financing of interim facilities and District-wide support facilities as may be required to serve the growth inducing impacts of the Project.
4. Provide for the "fair share" of the annual financing of the growth inducing impacts of the Project's required busing of students, including the provision of rolling stock (buses) to serve the Project.
5. The entering into a School Facilities Mitigation Agreement with the District to generate revenue equal to the difference between the cost of permanent and interim facilities, District-wide support facilities, and transportation service and facilities, less a) the revenues generated by statutory development fees as provided for pursuant to SB 50; and b) revenues allocated to the District per the State School Facilities Financing Program to address the growth inducing impacts.

Notification

Following the completion of the Draft EIR, the District does hereby request the maximum time permitted by law to review the Draft EIR and offer any comments. We further hereby request that a copy of the Draft EIR be forwarded to the following for review:

Dr. Rick Fauss, Superintendent
Newman-Crows Landing Unified School District
890 Main Street
Newman, California 95360

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Deputy Executive Officer – Economic Development
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Mr. Marshall B. Krupp
Community Systems Associates, Inc.
3367 Corte Levanto
Costa Mesa, California 92626

The District's representatives are prepared to meet with the County and the environmental consultants to discuss the requests made herein and to provide the data and information that would enable the County and the environmental consultants to prepare the analysis and complete the Draft EIR to the level of detail that is required by the CEQA Guidelines. Please feel free to contact the District to arrange the necessary meetings and to obtain the information that is required.

CEQA Policies

Section 15003 of the CEQA Guidelines states:

“In addition to the policies declared by the Legislature concerning environmental protection and administration of CEQA in Sections 21000, 21001, 21002, and 21002.1 of the Public Resources Code, the courts of this state have declared the following policies to be implicit in CEQA:

- (a) The EIR requirement is the heart of CEQA. (*County of Inyo v. Yorty*, 32 Cal. App. 3d 795.)
- (b) The EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected. (*County of Inyo v. Yorty*, 32 Cal. App. 3d 795.)
- (c) The EIR is to inform other governmental agencies and the public generally of the environmental impact of a proposed project. (*No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68.)
- (d) The EIR is to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action. (*People ex rel. Department of Public Works v. Bosio*, 47 Cal. App. 3d 495.)
- (e) The EIR process will enable the public to determine the environmental and economic values of their elected and appointed officials thus allowing for appropriate action come election day should a majority of the voters disagree. (*People v. County of Kern*, 39 Cal. App. 3d 830.)
- (f) CEQA was intended to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the

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statutory language. (*Friends of Mammoth v. Board of Supervisors*, 8 Cal. 3d 247.)

- (g) The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind. (*Bozung v. LAFCO* (1975) 13 Cal.3d 263)
- (h) The lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect. (*Citizens Assoc. For Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151)
- (i) CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure. A court does not pass upon the correctness

The District believes that the policies of CEQA and the CEQA Guidelines provide and adequate foundation to support the District's requests as contained in this letter, and offers further support of the need to prepare adequate environmental documentation on the Project.

Thank you for your assistance and consideration.

Sincerely,

Community Systems Associates, Inc.



Mr. Marshall B. Krupp
President

MBK:mbk

County of Stanislaus – West Park Specific Plan Notice of Preparation 07-08-08 NCLUSD

Cc: Dr. Rick Fauss, Superintendent
Newman-Crows Landing Unified School District
890 Main Street
Newman, California