4. The Project EIR Does Not Properly Analyze the Availability of Sewer Treatment Facilities.

In comment 13-18, the City of Roseville states that the conclusion of no mitigation required for impact 6.8-4 is incorrect. Impact 6.8-4 states "The proposed project could increase the amount (volume) of treated wastewater discharged into Pleasant Grove Creek which could exceed the capacity of the creek, exacerbating on-or off-site flooding in the 100-year storm event." The City of Roseville states that the mitigation required to mitigate this impact is to obtain an NPDES permit for the additional discharge above that already permitted and to reduce flooding impacts on downstream communities should be identified. The City of Roseville states that the RSUP would require an expansion of the PGWWTP and the EIR should address the NPDES permit and downstream flooding. The response of the City is non-responsive and the EIR fails to mitigate for the expansion of flows in Pleasant Grove Creek. 29

The response to comment 13-10 is non-responsive. The comment states that the description of available wastewater treatment capacity is incorrect. The analysis must rely on technical documents (the Sewer Master Plan for this Project). This technical document is not referenced in the Draft EIR. This comment was not responded to correctly, but was avoided in the response to comments. 30

Impact 6.8-13 is "the proposed project, in combination with the buildout of urban growth areas that could be served by the Pleasant Grove Wastewater Treatment Plant, could result in degradation of water quality from increased wastewater discharge to Pleasant Grove Creek." The City stated that the finding of no impact was incorrect and that as a minimum an NPDES permit should be obtained. Likewise, there should be an analysis of flooding impacts on downstream communities. This comment was not responded to in a meaningful way. 31

In comment 13-21 the City of Roseville states that the information on page 6.8-26 is incorrect. The City states: "First the analysis implies PGWWTP with RUSP results in flows less than 12 MGDP. The analysis fails to consider future flows from projects that are already located within the service area boundary. Second the conclusion there is 'adequate capacity to serve the project' is incorrect. Capacity is not available within the 12 MGDP at the PGWWTP. This same error is repeated on page 6.11-8 (see comment 13-24). The responses of the authors of the EIR are non-responsive. In the response to comments the authors suggest that the City review pages 6.11-9 to 6.11-10 of the DEIR. These sections address the measures necessary to expand the PGWWTP to take into account cumulative projects. The reason the EIR is inadequate, is that the City of Roseville has clearly shown that there is no capacity at the PGWWTP to accommodate the wastewater from the Regional University Specific Plan area without an expansion of the PGWWTP. As a direct result of the Project an expansion of the wastewater treatment plant will be necessary. Therefore, the Environmental Impact Report is required to address the environmental impacts of expanding the PGWWTP. As part of the Environmental Impact Report it must at a minimum be shown that the 1996 Wastewater Master Plan EIR would still be applicable to an expansion of the treatment plant, and it would be feasible to expand the plant. Obtaining an NPDES permit for expansion of the plant and increasing the water flows in Pleasant Grove Creek is essential to the Project. Without the permit the RUSP cannot be built. Therefore, the Environmental Impact Report needs to address the factors necessary for the permit including the possibility of downstream 32

flooding as suggested by the City Roseville.

As pointed out in comment 13-26 the City of Roseville states: "Environmental utility staff does not concur with the 'less than significant impact' conclusion to this paragraph. This impact could be potentially significant as if there is no assimilative capacity of the receiving water for discharge and therefore no ability to obtain an NPDES permit. Please be aware that this project is outside the 2005 service area boundary and therefore not contemplated in any other environmental review. Therefore this impact is potentially significant and appropriate mitigation should be identified. The FEIR response to this is non-responsive. It is in fact a tautology. The response is "The Draft EIR requires that all necessary permits (e.g., NPDES) are in place for the PGWWTP to discharge additional treated effluent in the amounts associated with the new development. If the discharge permit could not be obtained, there will be no development approved that would generate wastewater flows beyond what is currently permitted." Under the existing case authority, an EIR must properly identify impacts and address feasible mitigation. Because it is absolutely necessary for the Project to go forward to expand the PGWWTP, the expansion has to be addressed in the Project EIR. The studies need to be completed to demonstrate that additional treated affluent can be discharged into the creek and that the permits can be obtained for expansion of the sewer treatment plan. In fact, the comments of the City of Roseville indicate that the City cannot rely upon the 1996 Master Plan EIR because the Project is not within the PGWWTP service area. The EIR needs to thoroughly study and address the impacts of expansion of the sewer treatment plant. The discussion on pages 6.8-36 to 6.8-39 is cursory and includes no scientific evidence. 33

In comment 13-27 the City of Roseville states that the mitigation measure for 6.8-10 should be the ability to expand the PGWWTP to meet currently buildout commitments and Project commitments and the ability to obtain the NPDES permit for the Project impacts. The authors' answer to this comment is non-responsive. The EIR needs to include a comprehensive study of the expansion of the PGWWTP. 34

The response to comment 19-21 is inadequate. Comment 19-21, the commentor states that the Project EIR needs to discuss the environmental impact associated with acquiring the area that is necessary to expand the PGWWTP. Additionally, the environmental impacts of the expansion need to be addressed. The authors response is non-responsive. The authors of the EIR state that there would be other projects that would contribute to the demand that could necessitate an expansion of the treatment plant. Contrary to the claim of the authors of the EIR, the City of Roseville which owns and manages the treatment plant states that the RSUP cannot go forward without an expansion. The City of Roseville states there is insufficient capacity. Therefore, the EIR is required to address the environmental impacts of the expansion as well as how the expansion shall be paid for. Otherwise, there is no mitigation for the Project impacts. 35

The response to comment 19-22 is likewise inadequate. The comments suggest that the mitigation measures for added treatment capacity should parallel those in the West Roseville Specific Plan EIR. One of the elements in the mitigation measures included in the West Roseville Specific Plan EIR was that there would be CEQA review of any proposal for development in the RSUP area and there shall be an environmental document that tiers from the Specific Plan EIR in order to provide a Project-level analysis. The mere statement in the Final EIR that commitments from the Wastewater Treatment Provider to receive anticipated flows at the PGWWTP shall be 36

secured by Placer County prior to County approval of improvement plan does not comply with the requirements of CEQA and is also non-responsive to the comment. (Cont.) 36

The response to comment 19-23 is inadequate. The authors state that the 2003 West Roseville Specific Plan EIR was in error when it stated that an expansion of the PGWWTP beyond 20.7 MGD would be necessary to accommodate the RUSP. The authors claim there's more recent information so this would not be necessary. However, the City of Roseville states that the RSUP cannot be accommodated within the 20.7 MGD that was anticipated in the 1996 EIR. Since it is the City of Roseville's treatment plant, and the City owns and manages the treatment plant, the City's position on this issue should be dispositive. 37

5. Piecemealing Impact of Construction of Drainage Basins.

In comment 19-75 the commentor notes that the detention/retention basin facilities were not modeled for their construction emissions impacts. The loading up of the massive amount of dirt and moving it on highways to its ultimate disposal site will include a substantial amount of extra air pollution. The impacts of creating the drainage basins were mentioned by Dr. Mark Grismer. He stated that the creation of the drainage basins was such a large project with its own air pollution and hydrological impacts that a separate EIR should be prepared. In fact, the drainage basins are part of the Project and the EIR should include a substantial discussion of the environmental impacts of creating the drainage basins. However, these impacts have not been discussed in the EIR and the response to comments is non-responsive. 38

6. Modification of Standards for the Berm and Open Space.

In comment 13-2 the City of Roseville asked for a minimum of a 50 foot buffer between the W-81 wildlife preserve area and Watt Avenue which is supposed to be a 6 lane arterial. The City points out that the preserve includes wetland and other sensitive habitat. The FEIR response is non-responsive. The response does not state why a 50 foot buffer is infeasible and it does not explain why the proposed 18 foot buffer is adequate. The only reason that there is a variation from the general plan standards, is once again the County is attempting to modify Policy 1.H.6. to allow smaller buffers for projects within a Specific Plan. As pointed out in comment 19-17 the Environmental Impact Report fails to include in the proposed amendments the standards that would be applied and to provide an environmental analysis of the application of those standards. The response in the Final EIR states that there are in fact going to be no standards for reducing the proposed buffers. Likewise in comment 19-28 the commenter states that the EIR does not disclose how much agricultural land would be converted or harmed as a result of the revision of the General Plan Policies with respect to agricultural buffers. The Environmental Impact Report includes no information on how the reduction in buffers would affect agricultural operations. This very issue was raised in the lawsuit against the Placer Vineyards and has still not been resolved by the courts. The Project EIR fails to include sufficient information that justifies a reduction in the General Plan buffers of agricultural lands and sensitive open space. The proposed buffer of 18 feet between a 6 lane Watt Avenue and sensitive habitat is clearly inadequate. There is no data that shows the wildlife preserve will be protected. 39

The Environmental Impact Report is silent on how the RUSP will be changed in the event that a Regional University cannot be attracted. At the current time there are no Universities that have entered in to an agreement to locate in the RUSP. One of the reasons that there are no alternatives for the Project is that the EIR states that only in RUSP location is the developer willing to donate the land for a Regional University. If a Regional University is not built, what will become of this land. Will it be donated to the County for open space or wildlife habitat. It would appear that the County should insist upon such a donation. Otherwise, the Regional University is merely a phantom carrot for more urban development. The area of the Regional University will ultimately be a housing development out in the middle of nowhere. The EIR needs to address what will become of the Regional University site if the Project is not built. 40

Comment 19-24 states that the Project EIR does not include sufficient information to show that the requirements for development within the Future Study Area have been met. Since development in the Future Study Area is a land use issue, the land use section of the EIR was required to include information concerning whether compliance with the Future Study Area standards for development could be met. Further, the County must make findings concerning the future study area requirements before the Project is approved, and there must be a factual basis for such findings. 41

7. Air Quality.

The Draft EIR cannot rely on the recommended protocol for evaluating the location of sensitive land uses adjacent to major roadways. (SMAQMD.) The protocol is not intended to be a standard for acceptable risk. The use of a higher than 10 in 1 million threshold is not supported by the CARB or any other agency. In all health risk assessments the resulting chemical-specific environmental exposure are compared to either the AB2588 or Proposition 65 significant risk levels of 10 per million to verify warning compliance. There is absolutely no basis for the approach taken in the EIR. In response to a similar EIR approach of trying to reduce cancer risk by assuming shorter exposure periods, the SMAQMD stated as follows: 42

> "The District does not agree with the protocol used in these arguments to discount the cancer risk. We embrace OEHHAs 70 year risk protocol and do not discount it. In addition, we do not compare today's risk with that which will be achieved in the distant future after the ARB risk reduction plan takes affect. In essence in this case the FEIR is inventing its own method of risk characterization, which appears to be an attempt to discount exposures and support a less than significant risk finding. The protocol in this case is not appropriate or effective. It should not be applied.

8. Energy Conservation and Greenhouse Gases.

In response to comment 19-54, the Project EIR includes additional information on energy conservation. However, the EIR does not include any information on transportation energy use related to the RUSP. This information is required by CEQA and also Appendix F. Title 24 does not 43

address transportation energy use. The Environmental Impact Report is required to provide information about transportation energy use and the means to reduce transportation energy use. One potential mitigation measure would be to provide public transit to the Project. The response to comment 19-54 is not complete. (cont.) 43

Comments 19-55 through 19-62 address means to reduce greenhouse gas emissions and proposed mitigation measures. The reason that the EIR mitigation measures are inadequate is that they are just a general basket full of different proposals, but there are no requirements to mitigate to any particular standard. The lack of standards was noted in comment 19-76 which suggested that the development require an LEEDS building efficiency standard such as LEED silver or gold. Additionally, the comments suggested that the EIR include a standard such as exceeding Title 24 energy standards by not less than 25%. The EIR did not adopt these feasible mitigation measures, nor many of the other proposed feasible mitigation measures. Even if solar electric panels were not required on each house, the Specific Plan could require solar electric panels on 50% of the houses or solar water heating systems on 50% of the houses. Instead of requiring standards that will make a real difference in reducing greenhouse gases and meeting the goals of AB32, requiring carbon emission reductions of 25% by the year 2030, the Project EIR dodges it's responsibilities. The Project EIR does not require any significant mitigation. For example, the Project EIR could require that the fixtures in the houses be fitted only with energy efficient fluorescent bulbs, or at least 90 % of the fixtures must have energy efficient fluorescent bulbs. Instead, no standard at all is adopted. 44

The EIR is inadequate because it does not include meaningful mitigation measures to reduce greenhouse gas emissions. Additionally, the Project EIR is inadequate because it does not address the means to reduce greenhouse gases from transportation sources. In fact, the Project EIR increases greenhouse gas emissions for transportation sources by reducing the Level of Service to D, which will mean more idling vehicles. The Project EIR fails to include public transportation to its isolated location in West Placer County. The lack of public transportation will increase greenhouse gas emissions. 45

Sincerely,

WILLIAM D. KOPPER

WDK:kgr

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16 September 2008

TO: Bill Kopper Esq.

RE: Review of Regional University Project FEIR Comments/Responses

In reviewing the FEIR responses related to hydrology, water supply, soils and wastewater of the RUSP DEIR, I maintain that the proposed development will require careful management and oversight such that adverse impacts to site soils, hydrology, stormwater drainage and regional water supply will not occur as the project proceeds. It will be imperative and incumbent upon Placer, Sutter and Sacramento Counties and associated water agencies (PCWA) to carefully orchestrate all of these development projects in such a fashion as to accommodate the increased water demands, aggravated drainage/flooding problems and the capacity for wastewater treatment and disposal. AS I noted before, "the devil is in the details" making it very difficult to evaluate whether proposed drainage works will in fact be implementable and successful. While the RUSP area is quite flat as noted, developing several "large" detention storage basins will likely require in excess of 50,000 cubic yds of earth removal and additional grading for berms and side-slopes. This extent of land grading alone may be affected by local conditions and require a DEIR on its own as well as a feasibility study. The proposed Project only identifies a "preferred water provider" (response 19-73/74) who has access to "possible" water sources (primarily Sacramento River in this case) that are not yet firm; is this equivalent to actually identifying a "water source" for the RUSP project or the cumulative west county developments? In a similar vein, that the project should not utilize greater than historic groundwater resources during sequential dry years seems a weak argument when the historic groundwater usage values are simply estimates; the region's cumulative groundwater demands during dry years will be the problem as I noted in my earlier comments. The labored responses to the water supply and wastewater treatment aspects of the RUSP underscore some of the difficulties the project faces prior to implementation. Finally, the net water diversion proposed by the Project is mis-stated in responses 19-70/71 as 0.02%, a trivially small number, or typo. This should read as nearly 2% (1.9%) of the anticipated diversions will go to the RUSP. When combined with other cumulative demands in the region, a more significant impact may be noted in the discussions associated with these responses.

STUDENT HOUSING
Stanford University
A division of Residential & Dining Enterprises

Water Conservation

While many people argue that Stanford University has one of the best climates in the country, the many months of clear skies and rain-free days make water a scarce and precious resource.

Student Housing at Stanford University is working hard to reduce water consumption through retrofit projects such as installation of advanced irrigation controls, low-flow showerheads, and low-flow toilets in many of the on-campus residences. In addition, Student Housing is encouraging water conservation through their educational outreach campaigns such as this webpage, poster campaigns, and informational meetings.

Stanford's Water Allocation

All of Stanford's potable, or " fit to drink" water comes from San Francisco Public Utilities Commission (SFPUC). The main source of the SFPUC water is the Hetch Hetchy reservoir in Yosemite National Park. Currently, Stanford uses about 2.7 million gallons of potable water per day. Stanford has water rights to 3 million gpd (gallons per day) of potable water. Since the next 10 years will see more growth in housing and new academic facilities at Stanford, water conservation is a top concern for Student Housing and the University at large.

2515 acre feet

12,000 students

Q: How do we use 2.7 million gallons of water each day?
A: Together, academic buildings, student housing, faculty housing, and athletics use 2.7 million gpd for domestic water purposes (toilets, sinks, showers), irrigation, and cooling equipment. Student Housing is the largest single user of domestic water on campus (28% of the total allocation). Sixty percent of the potable water used in residences goes to showers and toilets. Irrigation makes up the other 40% of Student Housing water consumption, and this is both potable domestic water and non-potable lakewater. Lakewater comes from a reservoir on Stanford land and is not counted in the 2.7 million gpd figure.

Q: What are Stanford's growth plans?
A: Stanford has laid out a General Use Permit (GUP) as well as a Community Plan (CP) with Santa Clara County. The CP sets "goals and overall policy direction for physical development and use of lands" for the 4,000+ acres of Stanford land within Santa Clara County. Santa Clara County's Community Plan for Stanford was adopted on December 12, 2001. The GUP is more specific, laying out a development plan for these 4,000+ acres for the next 10+ years. Stanford also has a plan for sustainable building that was developed by the Capital Planning and Management group. The guideline "demonstrates Stanford University's commitment to building high-

value, quality, long-term, cost effective facilities and landscapes that enhance the academic mission of the University, embrace our partnership with the community, and reinforce our stewardship of Stanford lands."

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Q: How can we use less water?
A: What you can do to help us use less water is download the following conservation checklist and make sure you are taking steps to conserve.

Please help us save water in the bathrooms and kitchens by alerting Student Housing to any leaks, fixtures that cannot be turned off completely, or fixtures that appear to be emitting an abnormally high volume of water per minute. Fill out an online fix-it request when you spot a problem!

You can also help us conserve irrigation water by reporting areas that appear over-watered. Sometimes pipes break or sprinkler heads get broken. If you should see excessive runoff or a muddy area, please call 723-3050. To find out more information about the irrigation systems visit the Stanford Grounds website.

Don't drive vehicles over grassy areas. A major contributor to irrigation problems is broken sprinkler heads. If a car is driven over a sprinkler head, chances are the sprinkler head will break. Help us keep vehicles off irrigated areas.

Take your car to a car wash that recycles their water. Lozano's Brushless Car Wash at El Camino & Del Medio or Palo Alto Deluxe Car Wash on El Camino and Encina Ave.

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For More Information

Stanford-Related Sites:

Stanford Facilities Energy and Water Conservation Homepage

Stanford Facilities Water Resources and Environmental Quality Homepage

Stanford Grounds Homepage

Resources Outside of Stanford:

Santa Clara Valley Water District

Additional Tips for Conserving Water

Water *Resources* Sites

University of Minnesota Extension Services: Conserving Water

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RESPONSE TO LETTER FROM WILLIAM KOPPER
RECEIVED BY PLACER COUNTY ON SEPTEMBER 25, 2008

Comment 1

(County General Plan encourages use of surface water over groundwater, there is no evidence in the EIR that the use of groundwater will not have a negative environmental impact.)

This comment overstates the implications of the Placer County General Plan policy encouraging use of surface water over groundwater. General Plan policy 4.C.2 states, "The County shall approve new development based on the following *guidelines* for water supply: a) Urban and suburban development *should* rely on public water systems using surface supply." (General Plan p. 83.)

First, this policy states that urban and suburban development "should" rely on public water systems using surface supply. This statement is not, however, an absolute prohibition on the use of groundwater, particularly where such use is part of a larger program in which surface water use predominates and groundwater is used only as a temporary "bridge" for foreseeable surface supplies or for redundancy purposes. In contrast, the same General Plan chapter contains many policies that indicate a much higher threshold of compliance, relying on the term "shall" rather than "should." (See for example, Policies 4.C.1, 4.C.4.) In fact, other policies within the very same section contemplate use of groundwater. (See, for example, Policy 4.C.1., "[w]here the County will approve groundwater as the domestic water source, test wells, appropriate testing, and/or report(s) from qualified professionals will be required substantiating the long-term availability of suitable groundwater." This general policy guideline does not preclude the County's interim use of groundwater for the project.

In fact, the water supply strategy for the Project is one that is generally encouraged by the Placer County Water Agency (PCWA) and other water agencies throughout California as a means of optimizing overall water systems so that groundwater can provide "redundancy" in situations in which surface supplies are temporarily limited. The comment neglects to point out that the Master Facilities Agreement (2330) embodies the policies of the PCWA. Importantly, the initial stages of project build-out will use surface water from the American River wheeled through Roseville's piping system. Because of the limited capacity in that system, PCWA will allow the Project to use groundwater as a "bridge" until such time as additional American River water, diverted at the newly completed American River Pump Station (ARPS) in Auburn and treated at the proposed Ophir Treatment Plant, can be brought to the RUSP project site through pipelines taking a different route. Because the water at issue – part of a 35,000 acre feet per year (AFY) component of PCWA's Middle Fork Project water rights – is "firm" and reliable, this temporary reliance on groundwater carries no real risk. The surface water that will follow is "wet" in the sense that the diversion at issue, from the ARPS in Auburn, has received each and every regulatory approval necessary. In fact, the Pump Station is built, and the Ophir Treatment Plant has received all necessary regulatory approvals. All that

remains is to construct the Plant and to build pipelines sending ARPS water to the RUSP site. Once this second surface water source (the water coming through Roseville being the first source) is in place, groundwater will only be used for "redundancy" purposes (i.e., in some portions of dry and critically dry years when available surface water supplies are limited). (See DEIR, pp. 2-28, 6.14- 3 – 6.14-7, 6.14-16 – 6.14- 6.14-24; Facilities Agreement 2330 between PCWA and Placer 2780, LP.) The surface water coming from the Ophir Plant is neither "paper water" nor a speculative source, but rather is a reasonably forseeable and reliable surface supply in light of (i) the existing regulatory approvals for both the ARPS diversion facility and the Ophir Treatment Plant, (ii) PCWA's plans to extend infrastructure to the RUSP property, and (iii) the Master Facilities Agreement between the RUSP proponents and PCWA. For legal purposes, the ARPS Middle Fork Project water coming from the Ophir Plant is an example of "*existing* water supply entitlements, water rights, or water service contracts" under Water Code section 10910, subdivision (d) (Senate Bill 610 from 2001), and a "reasonably likely" water source under the standards of the California Supreme Court's decision in *Vineyard Area Citizens v. City of Rancho Cordova* (2007) 42 Cal.4th 412.

Groundwater modeling has shown that such an approach will not cause any adverse effects on the underlying groundwater basin. The Water Supply Master Plan and the DEIR both contain a groundwater availability analysis conducted by West Yost and Associates. This analysis provides evidence to conclude that even annual use of groundwater compared to historic groundwater use for agricultural practice on the project property would not result in an increase in the quantity of groundwater use or any adverse impacts. (See DEIR, p. 6.14-19.) Despite this "no negative impact" conclusion, the Project is required to construct and/or fund surface water facilities to supply 100% of the potable water needs (except in dry and critically dry years) and in addition must construct redundant groundwater facilities to provide reliability under drought conditions. Also, as a recent study demonstrates, the groundwater basin contains a sustained yield of 95,000 afy. (See Western Placer Groundwater Storage Study by MWH for PCWA, October 2005.)

This approach is consistent with the Placer County General Plan. Viewed in the proper context, the Project's reliance on groundwater will be relatively minimal. The additional groundwater facilities provide an extra component of assurance for a long term water supply. The interim use of groundwater does not reflect an absence of sufficient surface water, which is available from PCWA's new permanent ARPS, but rather simply reflects the timing of extending infrastructure to the RUSP site. "Wet" surface water for the project exists; the only uncertainty relates to the timing of extending pipes to the project area. This approach is a far cry from one that relies solely, or even substantially, on groundwater in the absence of any evidence that such a strategy is sustainable. Here, even under the extremely unlikely scenario that the "interim" (partial) use of groundwater, which will start when the Roseville pipeline has reached its capacity and end when pipes bringing ARPS water treated at Ophir are extended to the project site, would persist indefinitely without any surface water hookup, the pumping levels required for the RUSP would be permanently sustainable.

Notably, the Project is also consistent with the PCWA Integrated Water Resources Plan (IWRP, August 2006), which anticipates redundant groundwater supply facilities to provide reliability in the event of extreme dry year conditions. The Project will further these goals by providing a redundant groundwater supply to meet a potential 25% surface water reduction in an extremely dry year. The DEIR states, "PCWA does not currently use significant amounts of groundwater to meet potable demand within the Western Area, although it plans on expanding groundwater production in the future as a backup supply in the event of emergency or planned outages or extended drought conditions. In order to ensure that there is no long-term effect of this increased groundwater production, PCWA has proposed a groundwater banking program making use of 'in lieu recharge,' whereby historic groundwater use is reduced during normal and wet water years and replaced with surface water deliveries." (DEIR p. 6.14-5.)

The RUSP will connect to surface water coming through Roseville at project commencement, but when additional water through that facility is no longer available, additional development in the RUSP could be served by groundwater in dry years, if determined to be necessary by PCWA, until such time, as noted above, that PCWA facilities delivering ARPS water treated at Ophir are in place. The Project thus complies with General Plan policy 6.A.10.e. by using groundwater in the western part of the County only upon a demonstration that the pumping needed will not exceed the safe yield, and complies with policy 6.A.10.c. by "encouraging the use of surface water to supply major municipal and industrial consumptive demands." (DEIR p. 6.14-19.)

Also, the Water Forum Agreement (WFA) contemplates the use of groundwater under appropriate circumstances. (DEIR 6.14-5.) As the DEIR states, "PCWA plans to use groundwater to assist in supplying future demands for potable water during dry years in the western Placer County. The dry year pumping of groundwater supports the WFA co-equal objectives of providing a reliable and safe water supply to the Sacramento-Placer-El Dorado region, and preserving the environmental values of the lower American River. The WFA recommended a sustainable long-term annual groundwater yield for the three sub-basins."

Contrary to commenter's assertion, the DEIR did analyze the impacts of groundwater use. (DEIR p. 6.14-19.) As noted above, this analysis demonstrates a net decrease in average annual groundwater pumping when total project demand is served by groundwater and recycled water. (*Ibid.*)

The groundwater supply would be provided by on-site wells and pipelines internal to the project. The project would include construction of off-site pipelines to connect to existing surface water supplies and the on-site construction of groundwater wells and treatment systems, distribution systems, and storage tanks to supply water to the proposed project. The physical impacts of constructing this infrastructure are assumed as part of this project and are evaluated throughout the EIR. No off-site infrastructure would be required for use of groundwater. (DEIR 6.14-23.)

Under Section 5 "Facilities Necessary for Water Service," the Facilities Agreement between PCWA and the applicant states that an onsite groundwater well with storage tank and associated facilities and groundwater treatment facilities would be constructed by the applicant. (See Facilities Agreement 2330 between PCWA and Placer 2780, LP, p. 3 and Section 8, p. 7.)

The Response to Comment 19-97 further elaborates on this issue:

> The commenter states that a conjunctive use strategy does not translate to available groundwater during dry years because other nearby projects may be not be practicing conjunctive use and the basin will not recover for banked water to be available during dry years. The statement assumes that other projects will be allowed to use groundwater as yearly water supply. However, . . . Placer County . . . [has] policies that state that no new development will be allowed to use groundwater as its *primary* source, as stated on pages 6.14-18 and 6.14-19 of the Draft EIR [a policy that PCWA supports]. In addition, Sacramento County has placed a requirement on the planned Elverta Specific Plan, south of the project site, through its PF-8 requirement that states there can be no net increase in groundwater usage in the Elverta plan area. Further, the Sacramento County area north of the American River is already under a conjunctive use groundwater management program directed by the Sacramento Groundwater Authority that has proven to stabilize the groundwater basin.
>
> The analysis provided by the commenter assumes that PCWA supplies and contract water are kept separate within the service area, and that all west Placer County development can only be served by the 35,000 acre-feet CVP contract. This is not correct, as PCWA has the ability to move water from its various sources to various demand areas. Although PCWA cannot move 100 percent of any one supply to all of its service areas, the greatest flexibility is in its CVP [Central Valley Project] supply and its Middle Fork American River supply. PCWA's planned infrastructure improvements and future water demands presented in the integrated Water Resources Plan (August 2006) provides the basis for alternatives to meet several possible growth scenarios' water demands with available water supplies for regular and "dry" years. Further, the Draft EIR provides an in-depth analysis of the flexibility of water supplies in the cumulative impact analyses on pages 6.14-23 through 6.14-39. [Emphasis added.]

Thus, the issue of groundwater supply has been exhaustively analyzed by the County and verified by PCWA. The Project's water supply strategy does not violate the General Plan.

Comment 2

(IWMP projections of water demand. The RUSP's water demand from the IWP is different than that in the EIR, there is not enough supply to meet demand. If we used higher figures for the RUSP and the Curry Creek Planning Area and the Project, the shortfall would be even greater. there is no evidence that the middle fork water is anything other than paper water, even though PCWA has water rights.)

This comment again raises a concern with the use of groundwater, especially in light of surrounding urbanization. The comment again ignores the enhanced reliability of a water supply system that includes a groundwater component for "redundancy" purposes. PCWA's IWRP indicates several important conclusions about the role of groundwater in a long term water supply strategy.

The estimated historical average annual agricultural groundwater use in western Placer County has been approximately 90,000 AF per year. Under these pumping conditions groundwater levels have been stable since 1982. These stable groundwater levels indicate that ground water pumping is currently in balance with the natural groundwater recharge rate.

Due to anticipated urbanization in three areas of western Placer County (Placer Vineyards, Curry Creek, which includes the project site, and the area west of Lincoln), agricultural groundwater use is expected to reduce by approximately 20,000 AF per year.

To increase reliability of water supply, it is wise to develop sources redundant to surface supplies. Using an integrated resources approach that combines surface water, reclaimed water and groundwater, there is an adequate water supply to meet all of the projected PCWA western Placer County service area demands under normal climate, multiple year and single year drought conditions. (PCWA IWRP page 9-11.)

There is no direct comparison of water demands between the PCWA IWRP and the DEIR. The only comparison is between the water supply demands for individual land uses, which show that the DEIR and Water Master Plan used a higher per-unit demand factor, as a conservative measure. The total demand shown in the IWRP for the Curry Creek area (where the project is located) is 10,107 AF annually. Regional University is the only project currently proposed in the Curry Creek plan area. PCWA has a first come first served policy in water availability; thus, the 2448 AF potable water demand shown in the DEIR falls well short of the projected demand for the Curry Creek area.

The comment contends the IWRP shows a deficit for the entire PCWA service area. The deficit is due to the fact that PCWA has an agreement with Sacramento Suburban Water District ("SSWD") to sell up to 29,000 AF annually if PCWA demand has not yet reached the total for its service area. These numbers will change if PCWA experiences increased demand. If necessary, PCWA can choose not to sell that full amount in future if PCWA's own demands require the water and, for whatever reason, the planned

diversion of 35,000 AFY from the Sacramento River (also known as the "Sacramento River Water Reliability Study" or "SRWRS") does not come on line as expected (an unlikely scenario, as explained below).

PCWA's Middle Fork water is not analogous to "paper water," a term that has become somewhat famous in connection with CEQA case law dealing with State Water Project (SWP) "entitlements" – a term no longer used. (See *Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal. App. 4th 892, see also *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715). Water from the Middle Fork Project is, emphatically, "wet." The permanent American River Pump Station will be able to divert, treat, and deliver 35,500 AFY of the total of 120,000 AFY that make up that water right. Of the remaining amounts (the difference between 35,500 and 120,000), PCWA currently has contracts with other water providers. For example, PCWA has a contract with the Sacramento Suburban Water District for up to 29,000 AFY (under certain hydrological conditions). PCWA also has a 30,000 AFY contract with the City of Roseville, and a contract with the San Juan Water District for another 25,000 AFY. Notably, all of this water is "wet." Most of it is currently being delivered.

PCWA does not expect to have to call upon any of the Middle Fork Project water currently being sold to others, however, as it also has another very promising pending new water supply, undertaken pursuant to the Water Forum Agreement: the Sacramento River Water Diversion. Although the County and PCWA do not expect the RUSP to depend on this supply except perhaps in later stages of development or to the extent that the supply eventually becomes part of PCWA's overall system in West Placer County, this additional supply will be necessary for PCWA to serve its entire service area at build out of all existing General Plans in that service area. The reasons why the County and PCWA believe that this water source will likely come to fruition are discussed in more detail below. As the Draft EIR explains, the American River Pump Station water will be the "initial" surface water supply, while water from the Sacramento River Diversion will likely be part of the overall "long-term" supply. (See DEIR, pp. 6.14-23 – 6.14-31.)

Comment 3

> *(The water for the RUSP is planned to come from the Sacramento River. However, there is no meaningful description of how this water will be delivered to the Project site. Moreover, this water remains speculative since no project has been approved to remove water from the Sacramento River. In the event, that water is not available from the Sacramento River, the Environmental Impact Report has not set forth another realistic long-term source of water for the Regional University Specific Plan.)*

First, the comment is incorrect that this project relies upon water from the Sacramento Diversion. As described above, while *full build-out* of the RUSP may require

Sacramento River water if water from the ARPS runs out before RUSP build-out, PCWA intends to be able to supply water for development within the RUSP for a very considerable period of time from ARPS water combined with groundwater used on a limited, sustainable basis. The pace by which American River Pump Station water will be used by other projects in the general area will be a function of market demand for new development. When the full 35,500 AFY from the ARPS is finally spoken for, SRWRS water will be added to the overall PCWA water supply mix in West Placer. At that time, PCWA will optimize its system to move American and Sacramento River around so as to minimize costs, take advantage of gravity as a conveyance force where possible, and to make the most efficient use of infrastructure. Some of that Sacramento River water may be used within the RUSP site.

Notably, the RUSP EIR addresses the certainty of its current supplies. The DEIR describes the facilities that will ensure the certainty of the water supply on page 6.14-16-18 of the DEIR.

Both the water supply master plan and the PCWA Facilities Agreement require that the project both construct facilities and contribute funding to PCWA in order to construct facilities to deliver surface water to the project. These facilities will be capable of delivering the entire quantity of water required for all stages of development within the project. The facilities to deliver surface water to the initial development are required to be constructed "prior to receiving any water service."

Second, because, as explained above, PCWA will need the Sacramento River Diversion project to provide water for all of its service area when all growth contemplated in affected local General Plans are built out, the RUSP EIR provides an extensive analysis of this water supply source, and also incorporated detailed analysis provided from the Second Partially Recirculated Revised Draft EIR for the Placer Vineyards project. (PVSPRRDEIR.) (PVSPRRDEIR p. 4.3-9 – 4.3-22 addresses the Sacramento River Diversion.)

Although, as of the fall of 2008, there is pending CEQA litigation against Placer County over the lawfulness of the County's July 2007 approval of the Placer Vineyards Specific Plan, the Sacramento Superior Court has not yet reached any decision on the merits of attacks against the EIR for that plan, and certainly had not issued any injunctive relief precluding the County or anyone else from relying on the EIR. The document therefore continues to enjoy the presumption of regularity created by Evidence Code section 664, and remains the best existing information on certain subjects. The petitioners in that litigation bear the burden of proof of showing that the County somehow violated CEQA. No such showing has been made. Notably, the County is not "tiering" from that document (see CEQA Guidelines, § 15152) but rather is merely incorporating some of its contents by references (see *id.*, § 15150).

The Placer Vineyards EIR does not analyze in detail the future diversion structure, treatment plant, or storage facilities associated with the SRWRS because "at the time the Revised Draft EIR was published, there was a lack of meaningful information to include

in the Revised Draft EIR and the fact that the facilities were being separately evaluated in a parallel [EIR/EIS]." (PVSPRRDEIR p. 4.3-9.) The Placer Vineyards EIR does address, however, facility-related impacts to the extent they could be discerned. "[T] he Revised Draft EIR includes discussion of offsite infrastructure impacts in each topical area and includes mitigation measures that are applicable to offsite infrastructure construction, which are also applicable to water supply infrastructure effects." (PVSPRRDEIR p. 4.3-15.)

In considering the Regional University Specific Plan, the County now also has the benefit of the August 2007 Revised Assessment of Water Supply Needs prepared in connection with the Sacramento River Water Reliability Study, as well as two other public document that represent, as of October 2008, the best publicly available information on the likely attributes of the physical infrastructure for the Sacramento River Diversion and Treatment facilities as eventually constructed. These latter two documents are the "Engineering Technical Report for the SRWRS Elverta Diversion Alternative" (November 2006) and the "Sacramento River Water Reliability Study Initial Alternatives Report" (March 2005).

The Second Partially Recirculated Revised Placer Vineyards EIR also includes a good overall summary of the likely biological impacts associated with the SRWRS alternatives (pp. 4.3-15-4.3-19). Drawing from the "SRWRS Initial Alternatives Report" published by the United States Bureau of Reclamation, the County's EIR concludes:

> The Report identified potentially significant terrestrial species impacts due to habitat loss through the fragmentation and elimination of wildlife habitat. Additionally, impacts to vernal pools could result from treated water pipelines traversing wetland habitat that has the potential to impact fairy shrimp and California tiger salamander, which are federally threatened species.
>
> There would be impacts directly associated with diversion of water from the Sacramento River through pumping and conveyance of water through associated pipelines to the water treatment facility. According to the Report there will be long-term operational impacts to fisheries and riparian habitat. Specifically, water flows and temperature could be altered in a way that would result in alterations to anadromous fish spawning and rearing. Aquatic habitat availability may increase or decrease depending on temperature fluctuations and flow rates in the area of the pumping station. Flow rates and temperature fluctuations could decrease reproductive activities as well as impacts to maturation of cold water fisheries, such as anadromous species.

(PVSPRRDEIR p. 4.3-19.)

The Placer Vineyards EIR also discusses the benefits of relying upon a conjunctive use water supply system. The EIR discusses how the backup groundwater supply that would

be sufficient to provide a redundant water source equal to at least 25% of the required water supply on a maximum daily demand basis. (PVSPRRDEIR p. 4.3-22.)

Furthermore, the RUSP EIR includes a lengthy discussion of the potential pitfalls that could face the SRWRS; and though the discussion is optimistic, it does not shrink from conceding that the new diversion must still pass over certain regulatory hurdles, and once on-line will be subject to many of the vagaries that face virtually all surface water supplies in California. Response to Comment 19-68 lays out these points nicely:

> The commenter states that the Draft EIR must examine the "real *possibility*" that the Sacramento River diversion project may not happen. As fully explained in Section 6.14 of the Draft EIR, PCWA and the County believe it is reasonably likely that the 35,000 AFA long-term or buildout water supply from the Sacramento River will become available to serve future projects, including the RUSP. Although the Sacramento River faces regulatory hurdles, the County's confidence in the availability of this supply is based on the factors discussed below, all of which favor development of the Sacramento River diversion project. (DEIR, pp. 6.14-26 to 6.14-27.)
>
> First, PCWA has Middle Fork Project water rights and 35,000 AFA of CVP contract water to back up the 2,400 AFA buildout water supply for the proposed project, in addition to the 11,500 AFA required to supply the Placer Vineyards Specific Plan. Thus, the Sacramento River diversion entitlement is not analogous to the uncertain State Water Project (SWP) "entitlements" – a term no longer used – that the appellate courts have said included substantial amounts of "paper water." (See *Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892; see also *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715.) (DEIR, p. 6.14-27.)
>
> Second, quite notably, the Sacramento River diversion project has the support of both the Water Forum Agreement signatories and, it appears, the U. S. Congress. The WFA represents a regional consensus that water purveyors, such as PCWA, with unexercised water rights on the American River could reduce the environmental impacts of their future diversions based on those rights if they agreed instead to pursue diversions of like amounts of water from the Sacramento River. Because of local environmentalist support for this approach, the Sacramento River supply is less likely to encounter environmental opposition than would supplies taken from the American River. Thus, on page 14 of the Introduction and Summary of the WFA (January 2000), "expansion of Sacramento River diversion and treatment facilities" is listed as one of the major water supply projects that will receive Water Forum support upon signing the WFA, which has long since occurred. The project is also contemplated by

federal legislation known as Public Law 106-554, Appendix D, Division B, Section 103 (April 24, 2000). (See DEIR, p. 6.14-27.)

Third, for reasons suggested above in discussing the WFA, the Sacramento River diversion project is relatively benign from an environmental perspective. Essentially, the project would take water from the Sacramento River rather than the American River, thereby avoiding potential adverse environmental impacts on the American River, which, with its lower flows, is much more environmentally sensitive than the Sacramento River. (DEIR, p. 6.14-27.)

The County recognizes that there are regulatory hurdles that the Sacramento River diversion project must overcome before it can come to fruition. First, the project must complete the environmental review process under both CEQA (with PCWA as lead agency) and the National Environmental Policy Act (NEPA) (with Reclamation as the federal lead agency). Among the approvals the project will need are: (i) an exchange agreement between PCWA and Reclamation; (ii) an application from Reclamation to the State Water Resources Control Board for an additional point of "rediversion" at the SRWRS site; and (iii) actions by PCWA and Reclamation amending their water delivery contract to provide for delivery at the site. The project must also obtain a "Section 404" wetlands fill permit under the Clean Water Act from the Corps. As the federal lead agency, Reclamation is obligated under Section 7 of the federal Endangered Species Act to consult with both the United States Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) Fisheries to determine whether the direct or indirect effects of the project could jeopardize the continued existence of any federally listed endangered or threatened species or cause the destruction or adverse modification of the designated critical habitat of any such species. (DEIR, pp. 6.14-27 to 6.14-28.)

Finally, virtually all water supplies in California that have yet to be perfected suffer from some uncertainty due to combination of evolving environmental factors. One such factor is possible future species listing under the ESA and its State analogue, CESA, which could affect both CVP and SWP operations, as well as the timing and extent of other water diversions throughout California. (DEIR, pp. 6.14-28 to 6.14-30.)

The commenter correctly states that PCWA agreed through the WFA that it would contribute flows to the American River by taking water from the Sacramento River. In order to preserve the lower American River, WFA signatories are individually and collectively implementing and/or developing several water management action stipulated in the WFA, including seeking diversions on the Sacramento River to reduce future diversions from the American River. One of the primary objectives identified for the Sacramento River Diversion project is to contribute to

the Water Forum goal of protecting the lower American River by seeking increased diversions on the Sacramento River.

PCWA's existing CVP contract has points of delivery at Folsom Dam and a potential point of delivery on the Sacramento River north of the American River. Currently, however, PCWA does not have any diversion facilities and distribution system to apply the CVP water over its service area. Under the Sacramento River diversion project, Reclamation would enter into an exchange agreement with PCWA. Under the exchange agreement, Reclamation would provide for Sacramento Suburban Water District (SSWD) and the City of Roseville to receive CVP delivery at the Elverta Diversion location on the Sacramento River in exchange for an equal amount of water delivery to the CVP at Folsom Dam from PCWA's MFP. Under the proposed Sacramento River Diversion project, PCWA would divert its 35,500 AFA MFP water from the American River through the American River Pump Station and its 35,000 AFA CVP water from Sacramento River through the Elverta Diversion.

The commenter incorrectly states that a "new American River Flow Management Standard has been adopted." The Flow Management Standard (FMS) is a result of the collaborative approach between Water Forum participants, Reclamation, USFWS, NMFS, and the CDFG to improve the flow standard for the lower American River. The FMS includes recommended minimum flow requirements and water temperature objectives.

The ESA Section 7 consultations for the 2004 CVP Operating Criteria and Plan (OCAP) have been challenged in federal court in two parallel cases (*NRDC v. Kempthorne* (1:05-cv-1207) and *Pacific Coast Federation of Fishermen's Associations v. Gutierrez* (1:06-cv-00246), and the federal defendants are undertaking reconsultations while the litigation is pending. Judge Wanger issued an interim remedial order on December 14, 2007, ordering the USFWS to prepare a new OCAP Biological Opinion by September 12, 2008. The interim remedial order stated that the federal defendants committed, as of July 9, 2007, that Reclamation will not implement new construction activities and long-term projects in the Delta until the new Biological Opinion is completed, including the Lower American River Flow Standards. Therefore, no new FMS may be developed or formally adopted until the USFWS prepares a new OCAP Biological Opinion in accordance with Judge Wanger's order.

The commenter's stated assumptions regarding PCWA's MFP and CVP water supplies are incorrect. Under the proposed Sacramento River diversion project, PCWA would divert up to 35,500 AFA of its MFP water from the American River at the American River Pump Station and up to 35,000 AFA of its CVP water from the Sacramento River at Elverta.