



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Conduct Public Hearing to Consider Two Appeals of the Planning Commission's Decision to Not Certify the Final Revised Environmental Impact Report (FREIR) Regarding the Lodi Shopping Center Project, Located at 2640 West Kettleman Lane

MEETING DATE: March 11, 2009

PREPARED BY Community Development Director

RECOMMENDED ACTION: Conduct a public hearing and consider the two appeals of the Planning Commission's decision to not certify the Final Revised Environmental Impact Report (FREIR) for the Lodi Shopping Center project.

BACKGROUND INFORMATION: On October 8, 2008, the Planning Commission held a noticed public hearing on the Lodi Shopping Center project, located at 2640 West Kettleman Lane. The Planning Commission decided to not certify the FREIR. On December 10, 2008, the City Council held a noticed public hearing to consider two appeals of the Planning Commission's decision to not certify the FREIR. The City Council reversed the decision of the Planning Commission and certified the FREIR.

On January 6, 2009, the City received a notice to cure an alleged Brown Act violation arising out of its December 10, 2008 public hearing on the FREIR. At its meeting on February 4, 2009, the City Council adopted a Resolution rescinding the certification of the FREIR for the Lodi Shopping Center project and reset the public hearing. Consistent with Government Code section 54960.1, the action was made to avoid litigation, and it is not a concession or evidence of a Brown Act violation. Even so, all written comments received and oral comments made at the meeting have been incorporated into the record. The Minutes from that meeting are included as an attachment to this report.

Lodi First recently questioned a parcel map recorded by Applicants on February 18, 2005, contending that Council must terminate all approvals on the project and pursue a Notice of Violation under the Subdivision Map Act. However, the three lot parcel map (the "Questioned Map") referenced by Lodi First is a legal phased portion of the Tentative Parcel Map approved by the Lodi City Council on February 16, 2005. The Subdivision Map Act authorizes the filing of phased maps noting: "multiple final maps relating to an approved ...tentative map...may be filed..." (Government Code Section 66456.1) As indicated on the approved 12-unit tentative parcel map, applicant's intended to follow the phased map process noting "THIS MAP MAY BE PHASED." The Questioned Map continues the chain noting that the viewer should "Refer to Tentative Map File 003-P-001." Indeed the Questioned Map reflects nearly the identical parcel lines for the three

APPROVED: _____


Blair King, City Manager

lots it creates as referenced on the approved 12 unit tentative parcel map. Lodi First points out that the Questioned Map was signed by Public Works Director Richard Prima on February 14, 2005, 2 days before Council approval of the tentative map. However, the Map was not, and would not have been, released to applicants prior to Council Approval. As noted above, the Map Act only requires that the phased map be filed after the approval of the tentative map. Nothing prohibits staff from processing its portions of the approvals in advance of, and contingent on, the Council action. Accordingly, Staff finds no violation of the Subdivision Map Act upon which to delay these proceedings.

Moreover, the issue is mooted by the Superior Court's order directing the City to set aside the approvals associated with the Project. Judge Humphreys ordered the City to vacate, among other things, "City Council Resolution 2005-38 approving Use Permit U-02-12 and Tentative Parcel Map 03 P 001." Council did so via Resolution 2006-81. Because the Questioned Map was filed in reliance on the approved (and subsequently vacated) tentative map, the Questioned Map was necessarily disapproved as well. To clarify the state of the record with the County Recorder, staff has recorded a "Notice of Rescission of Parcel Map Approval" to provide record notice that the Questioned Map is no longer valid.

As indicated above, staff does not find that a violation of the Subdivision Map Act has occurred. Even were a violation to have occurred, Lodi First's citations reveal that Council could not terminate these proceedings. Government Code Section 66499.34 provides that "No local agency shall ...grant any approval to develop any real property which has been divided... in violation of [the Subdivision Map Act] if it finds that the development of such real property is contrary to the public health or the public safety. (emphasis added) However because of the court order prohibiting further action, all public health and safety concerns will necessarily be resolved, through the current application process before the property can be developed (either through a refusal to certify the EIR and refusal to grant the project approvals; or through certification of the EIR and the grant of conditioned approvals). Staff sees no facts supporting a finding that further approvals would be contrary to public health or safety.

In summary, the map was legal upon its recording, was later rendered invalid based on the Court action, and notice of its invalidity has been recorded with the San Joaquin County Recorder. Moreover, all questions regarding the map will be resolved through this process, either 1) through the failure to certify the EIR, denial of the project approvals and (preexisting) recording of the Notice of Rescission of Approvals or 2) through the certification of the EIR, granting of conditional approvals and recording of a new valid map.

With Lodi First's preliminary challenge resolved Staff turns to the purpose of this agenda item: to conduct another public hearing to consider the two appeals of the Planning Commission's decision to not certify the FREIR. The appeals have been filed by Sheppard Mullin Richter & Hampton LLP on behalf of Wal-Mart Stores, Inc. (the proposed anchor tenant) and Remy Thomas Moose and Manley, LLP, on behalf of Browman Development Company (the applicant). Both of the appeals seek review of the Planning Commission's action on October 8, 2008 declining to certify the FREIR that was prepared for the project. Since both appeals are for the benefit of the project proponents and make the same arguments, they will be treated concurrently in this staff report.

The original Final Environmental Impact Report and the associated Lodi Shopping Center project came to the Planning Commission on December 8, 2004. At the conclusion of that meeting, the Planning Commission certified the Final Environmental impact Report (FEIR) and approved a Use Permit to allow the construction of the Lodi Shopping Center, the sale of alcoholic beverages at the Wal-Mart Supercenter, and a Tentative Map to create 12 parcels.

Two appeals were filed concerning the Planning Commission's certification of the FEIR and approval of the project. The City Council considered the appeals, and, on February 3, 2005, it certified the FEIR for the Lodi Shopping Center project. On February 16, 2005, the City Council

approved the Use Permit for the construction of the Lodi Shopping Center, allowed the sale of alcoholic beverages at the Wal-Mart Supercenter, and approved the Tentative Map to create 12 parcels. The Council added to the Planning Commission's condition regarding the existing Wal-Mart building by allowing various options and expansions.

The City Council's approval of the Lodi Shopping Center was challenged in court on environmental grounds. On December 19, 2005, the San Joaquin County Superior Court found the FEIR to be deficient with respect to cumulative urban decay impacts and energy impacts. The Court found the balance of the environmental document consistent with CEQA. The Court ordered the City to void the project approvals, pending correction of the deficiencies in the FEIR. The Court also ordered the City to vacate approval of the following Planning Commission and City Council resolutions approving the project:

- a) Planning Commission Resolution PC 04-64 certifying the EIR 03-01 adopted on December 8, 2004;
- b) Planning Commission Resolution PC 04-65 approving Use Permit U-02-12 and Tentative Parcel Map 03-P-001 adopted on December 8, 2004;
- c) City Council Resolution 2005-26 certifying the EIR 03-01 adopted on February 3, 2005; and
- d) City Council Resolution 2005-38 approving Use Permit U-02-12 and Tentative Parcel Map 03-P-001 adopted on February 16, 2005.

On May 3, 2006, the City Council adopted Resolution 2006-81 rescinding the above listed Planning Commission and City Council Resolutions relating to the Lodi Shopping Center. The City Council also adopted Resolution 2006-82, authorizing agreements with two consulting firms to prepare revisions to the sections of the Lodi Shopping Center EIR that were found deficient by the Superior court.

PROJECT DESCRIPTION:

Revisions to the Lodi Shopping Center EIR:

In the case of Lodi First v. City of Lodi, San Joaquin Superior Court Case No. CV025999 ("Lodi First"), the Court ordered revisions to the discussions of cumulative urban decay impacts and energy impacts. In all other respects, the Court found the EIR to be legally sufficient under the California Environmental Quality Act (CEQA). However, the City decided to make revisions to three additional areas of the EIR, including the statement of project objectives, the discussion of agricultural resources, and the discussion of project alternatives. These areas of additional analysis were the subject of a lawsuit entitled Citizens for Open Government v. City of Lodi, San Joaquin Superior Court Case No. CV026002 ("C.O.G."). The C.O.G. case was resolved after the court's decision in Lodi First by a stipulated order of dismissal, preserving to the C.O.G. plaintiffs the right to continue to assert certain previously made claims as to the adequacy of the environmental analysis. The FREIR includes only the above five (5) sections which were revised or augmented. Since the remainder of the original EIR is not subject to further review, the original EIR, as amended by the Revisions to the EIR document, cures the deficiencies identified by the court.

The Revisions to the EIR were subject to the full administrative and public review. A Notice of Preparation ("NOP") was prepared describing the legal context, a project description, and a brief overview of the topics to be covered in the Revisions document. The NOP was made available to the State Clearinghouse in the Office of Planning and Research for State agencies, was sent to non-state agencies, and was posted and made available to the public to solicit input on the five (5) sections that were revised in the FREIR. After a period of analysis and formulation, the Draft Revised Environmental Impact Report (DREIR) was prepared. The City filed a Notice of

Completion (NOC) with the State Clearinghouse and posted, published, and distributed the Notice of Availability of the DREIR. This began the public and agency review period for the document. The length of the public review period was 52 days. During the review period, the Planning Commission held a public hearing on November 14, 2007, to receive oral and written comments on the DREIR. The City prepared formal written responses to all the comments received as well as an addendum section indicating further revisions made to the document. The revisions, comments on the DREIR, and responses to comments constitute the FREIR for the Lodi Shopping Center Project and are presented for certification.

Summary of Specific impacts and their Mitiaations:

A. ~~Urban Decay~~ Impacts

CEQA requires an EIR to disclose and analyze the direct and the **reasonably** foreseeable indirect environmental impacts of a proposed project if those impacts are significant. Economic and social impacts of proposed projects, therefore, are outside CEQA's purview. When there is evidence, however, that economic and social effects caused by a project, such as a shopping center, could result in a reasonably foreseeable indirect environmental impact, such as urban decay or deterioration, then the City is obligated to assess this indirect environmental impact. An impact which is speculative or unlikely to occur is not reasonably foreseeable. The FREIR analyzed the potential for urban decay due to the cumulative economic effects of competing retail projects. This analysis was prepared by the economic consulting firm of Bay Area Economics (BAE). The FREIR analyzed the regional effects of Wal-Mart Supercenters as well as the effects of the commercial area of the Reynolds Ranch development project.

The BAE study found that existing retail centers in Lodi may be subject to a reduction in sales due to competition from new retailers within the proposed project. The study also found that it is possible that one or more businesses can close and the affected properties could be subject to long-term vacancies under cumulative conditions. However, while such closures and vacancies are possible, they are not reasonably foreseeable. The BAE study concluded that if closures and long-term vacancies were to occur, they would not result in total neglect or abandonment thereby leading to urban decay or physical deterioration. As explained in the FREIR and the BAE analyses, the evidence gathered as part of the economic analysis is insufficient to support a finding that the project alone would result in or contribute to business vacancies or a downward spiral resulting in physical deterioration or urban decay. No urban decay or physical deterioration is reasonably foreseen to occur, and that is the test under CEQA for an environmental impact. In the CEQA context, substantial evidence means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Consequently, it cannot be stated with any probability that any negative physical change may occur. Since economic effects are not to be treated as significant effects, no mitigation is required (see CEQA Guidelines Title 14, Chapter 3, Article 9, contents of Environmental Impact Reports Section 15131, Economic and Social Effects).

Even without an identified urban decay impact, the City has committed to aggressive code enforcement measures to ensure the abatement of any nuisance within the City and to prevent the physical deterioration of communities. In this vein, in August of 2008, the City added another member to its Community Improvement Division by hiring a new Supervising Community Improvement Officer.

The FREIR analyzed the Reynolds Ranch project at approximately 640,000 square feet. As a result of the City Council's most recent approval of the Reynolds Ranch project at 750,000 square feet, the City asked Matt Kowta, a Principal with BAE, to review the previously prepared study and the potential impacts of the additional area. The memorandum from BAE is included as an attachment to the Planning Commission staff report. In summary, the conclusion is that 'This

review process has shown that even if BAE had assumed that Reynolds Ranch was to be developed with 750,000 square feet of retail space when preparing the October 2007 analysis, the conclusions and findings would not have been significantly different than they are at present." Thus, the additional space does not change the impact conclusions of the REIR. Additionally, the recent Reynolds Ranch EIR Addendum, which analyzed the impacts of the larger project, did not find any additional economic or urban decay impacts as a result of the increased project size.

Based on this information, the FREIR concluded that while it is possible that the proposed project, in combination with the Reynolds Ranch project, may result in one or more business closures, it is not reasonably foreseeable that such closures would lead to total neglect or abandonment of the business leading to urban decay. Should there be a business closure, the potential for physical deterioration will depend largely on the commitment of the property owner to maintain the property. Should the owner fail to maintain the property, City code enforcement staff would pursue active and aggressive enforcement as previously directed by City Council. Accordingly and as further explained in the FREIR, even assuming a reasonable worst-case scenario that results in one or more business closures, urban decay impacts of the Lodi Shopping Center, when combined with the economic effects of projects such as Reynolds Ranch, would result in a less-than-significant cumulative urban decay impact.

B. Energy

The FREIR also addressed energy impacts. The analysis found no significant energy consumption impacts or impacts on energy supplies and infrastructure. Therefore, no mitigation measures are required.

C. Agricultural Resources.

The original EIR found an impact from the conversion of approximately 40 acres of prime agricultural use to urban uses to be a significant and unavoidable impact because there is no feasible mitigation that would reduce this impact to a less-than-significant impact except for an outright prohibition of all development on prime agricultural lands.

The FREIR confirms the significant and unavoidable impact on agricultural resources, but requires the project applicant to obtain a permanent agricultural conservation easement over a single parcel of land of at least 40 acres of prime farmland. The easement shall be located in San Joaquin County, excluding the Delta Primary Zone as currently defined by State law, and shall be in current agricultural use or be put into agricultural production.

D. Project Objectives and Alternatives.

The remaining revisions to the EIR modified the project objectives and changed the alternative project location that was analyzed. The original alternative location was the Reynolds Ranch project site. As this site is subject to an active development application, a new site at the northeast quadrant of Highway 12 and Thornton Road was evaluated.

The above sections were the focus of the revisions to the EIR for the Lodi Shopping Center. Modified impacts, mitigation measures, findings, and statements of overriding considerations have been prepared and are included in the proposed resolution of certification.

Planning Commission Meeting October 8, 2008:

As noted, on October 8, 2008, the Planning Commission held a public hearing to consider the FREIR, as well as the request for a Use Permit for the project in a C-S Community Shopping Zone, approval to sell alcoholic beverages within the Wal-Mart store, a Tentative Map to subdivide the property and Site Plan and Architectural review approval for the site and building plans for Wal-Mart.

The Planning Commission heard testimony from 38 people. A copy of the Planning Commission minutes are attached which provide an overview of the various points raised. Following the public hearing, the Commission discussed its issues with the project. A few Commissioners were uncomfortable with the conclusions of the revised environmental document and believed that additional information would be necessary in order for them to certify the revised environmental impact report. The main area of concern was the adequacy of the urban decay analysis. To a lesser extent, the potential energy impacts of the project were questioned. Finally, two Commissioners expressed interest in receiving information concerning the project's impacts on greenhouse gas impacts. After concluding its discussion on the adequacy of the FREIR, the Commission ultimately declined to certify the FREIR.

As indicated in the background section of this memorandum, the economic analysis was prepared by BAE. BAE has been in business since 1986 with over 20 professionals in four offices across the country. In that time, they have provided services in a variety of areas including real estate feasibility studies, strategic planning, revitalization, public-private transactions, public financing, fiscal and economic impacts analyses, and development advisory services. They are experts in the field. CEQA case law allows the City to defer to the environmental conclusions reached by the experts that prepared or contributed to the EIR, even though other experts may disagree with the underlying data, analysis, or conclusions.

Due to the Planning Commission's action on the environmental document, no Action was taken on the applicant's other requests. Should the City Council decide to certify the FREIR, the Planning Commission must hold a subsequent hearing to review and make a determination on the project approvals.

FISCAL IMPACT: None

FUNDING AVAILABLE: None



Konradt Bartlam
Community Development Director

- Attachments:
- Draft Resolution
 - Sheppard Mullin Richter & Hampton Appeal dated October 10, 2008
 - Remy Thomas Moose and Manley Appeal dated October 13, 2008
 - City Council Minutes from December 10, 2008
 - Planning Commission Minutes from October 8, 2008
 - Planning Commission packet from October 8, 2008

Environmental Impact Report
previously given to City
Council and Staff.

To access Environmental documents please visit the City
of Lodi web page: http://www.lodi.gov/com_dev/EIRs.html

City Council
Resolutions

RESOLUTION NO. 2009-27

A RESOLUTION OF THE LODI CITY COUNCIL CERTIFYING
THE FINAL REVISED ENVIRONMENTAL IMPACT REPORT
(EIR-03-01) RELATING TO THE LODI SHOPPING CENTER
PROJECT; STATE CLEARINGHOUSE NO. 2003042113

WHEREAS, an application was filed by Browman Development Company for a commercial shopping center at 2640 W. Kettleman Lane, more particularly described as Assessor's Parcel Numbers 058-030-08 and 058-030-02 and a portion of 058-030-09; and

WHEREAS, the Community Development Director made a determination that the project may have a potentially significant impact on the environment and ordered the preparation of an Environmental Impact Report (EIR); and

WHEREAS, the Notice of Preparation (NOP) of the Draft EIR has prepared and distributed to reviewing agencies on April 14, 2003; and

WHEREAS, the Draft EIR (DEIR) was released for circulation on August 5, 2004; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a study session and public hearing on September 9, 2004. Public comments on the DEIR were taken at this hearing; and

WHEREAS, a Final EIR (FEIR) responding to all public comments on the DEIR submitted prior to the expiration of the comment period was prepared and released to the public and commenting agencies on November 22, 2004; and

WHEREAS, on December 8, 2004, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a public hearing before said Commission; and

WHEREAS, the Planning Commission of the City of Lodi reviewed and certified the FEIR prepared for the project; and

WHEREAS, that certification and approval was appealed to the Lodi City Council; and

WHEREAS, the Lodi City Council, on appeal, reviewed and certified the FEIR prepared for the project (Resolution No. 2005-26, February 3, 2005); and

WHEREAS, the Lodi City Council rescinded the certification of the FEIR and approval of the project on May 3, 2006, pursuant to Superior Court Order of December 19, 2005, which order directed revisions to be made to the EIR; and

WHEREAS, in response to the Court Order, the City prepared a NOP for the Revisions to the EIR (REIR) and distributed it to reviewing agencies on September 25, 2006; and

WHEREAS, the Draft Revisions to the EIR (DREIR) was released and circulated on October 17, 2007, for public comment and review; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a study session and public hearing on November 14, 2007. Public comments on the DREIR were received at this hearing; and

WHEREAS, a Final Revisions to the EIR (FREIR), which includes the DREIR as revised and responses to all public comments on the DREIR submitted prior to the expiration of the comment period, was prepared and released to the public and commenting agencies on August 26, 2008; and

WHEREAS, on October 8, 2008, the Planning Commission of the City of Lodi held a hearing on the adequacy of the FREIR, and the Planning Commission declined to certify the FREIR; and

WHEREAS, Wal-Mart Stores, Inc. and Browman Development Company have each filed timely appeals of the Planning Commission's denial of the FREIR to the City Council; and

WHEREAS, the California Environmental Quality Act (CEQA) requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant effects, the decision-making agency make certain findings regarding those effects.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. THAT THE CITY COUNCIL hereby finds that full and fair public hearings have been held on the FREIR and the City Council having considered all comments received thereon said FREIR is hereby determined to be adequate and complete; and said FREIR is hereby incorporated herein by reference.
3. THAT THE CITY COUNCIL hereby determines, in connection with the proposed project identified in the FREIR, which includes a Use Permit and Tentative Map for the Lodi Shopping Center, that the FREIR has been prepared in compliance with CEQA and the state and local environmental guidelines and regulations, that it has independently reviewed and analyzed the information contained therein, including the written comments received during the DREIR review period and the oral comments received at the public hearings, and that the FREIR represents the independent judgment of the City of Lodi as Lead Agency for the project.
4. THAT THE CITY COUNCIL does hereby find and recognize that the FREIR contains additions, clarifications, modifications, and other information in its responses to comments on the DREIR and also incorporates text changes to the DREIR based on information obtained from the City since the DREIR was issued. The City Council does hereby find and determine that such changes and additional information are not significant new information as that term is defined under the provisions of CEQA because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the project and they do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the DREIR have been proposed that would either lessen a significant environmental impact of the project or result in a new, substantial environmental impact; no feasible alternatives considerably different from those analyzed in

the DREIR have been proposed that would lessen the significant environmental impacts of the project: and the DREIR was adequate. Accordingly, the City Council hereby finds and determines that recirculation of the FREIR for further public review and comment is not warranted. (CEQA Guidelines Section 15088.5).

CONCLUSION

The Final Revisions to the Environmental Impact Report for the Lodi Shopping Center project was completed in compliance with the California Environmental Quality Act, has been reviewed and considered by the City Council, and represents the City Council's independent judgment and analysis.

The Final Environmental Impact Report for the Lodi Shopping Center project, as amended by the Final Revisions to the Environmental Impact Report, is hereby certified pursuant to the California Environmental Quality Act.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the City Council of the City of Lodi that the Final Revised Environmental Impact Report (EIR-03-01) relating to the Lodi Shopping Center project, State Clearinghouse No. 2003042113, is hereby certified.

Dated: March 11, 2009

I hereby certify that Resolution No. 2009-27 was passed and adopted by the City Council of the City of Lodi in a special meeting held March 11, 2009 by the following vote:

- AYES: COUNCIL MEMBERS – Johnson, Katakian, and Mayor Hansen
- NOES: COUNCIL MEMBERS – Hitchcock and Mounce
- ABSENT: COUNCIL MEMBERS – None
- ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk

Appeal Letters

Sheppard Mullin 10/10/08

Remy Thomas Moose &
Manley 10/13/08

Sheppard Mullin 11/25/08



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October 10, 2008

Our File Number: 15CM-130407

VIA E-MAIL AND FEDEX

Ms. Randi Johl, City Clerk
221 West Pine Street
Lodi, CA 95240

Re: Appeal of Planning Commission's decision to not certify the Lodi Shopping Center EIR (October 8, 2008 Planning Commission agenda item 3a)

Dear Ms. Johl:

We submit this letter on behalf of our client, Wal-Mart Stores, Inc. ("Wal-Mart"). Wal-Mart hereby appeals the Planning Commission's decision to not certify the Final Revised Environmental Impact **Report** (EIR-03-01; State Clearinghouse **No.** 2003042113) ("EIR") for the Lodi Shopping Center project ("Project") to the City Council.

The Planning Commission held a public hearing on October 8, 2008 to hear public testimony and to consider the Project EIR and Project entitlements (Use Permit, Vesting Tentative Map, and Site Plan and Architectural Review). Wal-Mart's public affairs and governmental relations senior manager, Aaron Rios, presented testimony on behalf of Wal-Mart in connection with the Planning Commission's decision on the EIR and Project entitlements. The Planning Commission voted five to one to not certify the EIR. The Planning Commission failed to take action on the Project entitlements.

City staff and its team of expert consultants have worked on the EIR for over two and a half years. We believe that the EIR complies with the December 19, 2005 Superior Court ruling and that there is substantial evidence in the record to support a finding by the City that the EIR complies with the California Environmental Quality Act. Thus, we respectfully request that the City Clerk place this appeal on the City Council agenda for the next regular meeting.

SHEPPARD MULLIN RICHTER & HAMPTON LLP

City Clerk
October 10, 2008
Page 2

Thank you for your time and consideration of this matter. Please contact us if you need additional information.

Sincerely,


Judy V. Davidoff

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

W02-WEST:5ENS1401088009.1

cc: Rad ~~Bartlan~~, City Community Development Director
Steve Schwabauer, City Attorney
Blair King, City Manager

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October 13, 2008

VIA FACSIMILE & OVERNIGHT MAIL
(209)333-6807

Ms. Randi Johl, City Clerk
221 West Pine Street
Lodi, CA 95240

Re: Appeal of Planning Commission's decision not to certify the Lodi Shopping Center EIR (October 8, 2008), Planning Commission Agenda item 3a.

Dear Ms. Johl:

We submit this letter on behalf of our client, Browman Development Company ("Browman"), for purposes of appealing the Planning Commission's decision to not certify the Final Revised Environmental Impact Report ("EIR") (State Clearinghouse No. 2003042113) prepared for the Lodi Shopping Center project ("Project"). The Project includes the construction of a variety of commercial and retail uses, including a Wal-Mart Supercenter. We appeal pursuant to the City of Lodi Municipal Code Chapter 17.88 and, specifically, section 17.72.110. We have included the required appeal fee.

The Planning Commission held a public hearing on October 8, 2008, to hear public testimony and to consider the Final Revised EIR and Project entitlements (conditional use permit, tentative map, site plan and architectural review). The Planning Commission voted not to certify the Revised EIR against the recommendation of staff and without relying on any substantial evidence refuting the conclusions of staff. The Planning Commission failed to take action on the Project entitlements.

City staff and the City's independent consultants have worked long and hard on the Revised EIR. The Revised EIR includes a detailed socio-economic study and energy analysis. The Revised EIR is responsive to the December 19, 2005 trial court ruling for

Ms. Randi Johl
City Clerk
October 13, 2008
Page 2

which it was prepared. Substantial evidence in the record supports a finding by the City that the EIR complies with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). We therefore respectfully request that the City Clerk place this appeal on the next regularly scheduled City Council agenda.

We anticipate filing additional comments for the City Council's consideration in the near future. Thank you for your time and consideration of this matter. Please contact me **if** you need any additional information at this time.

Very truly yours,

A handwritten signature in cursive script, appearing to read "A. Leisy".

Andrea K. Leisy

cc: Jon Hobbs
Alexis Pelosi



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November 24, 2008

RECEIVED

NOV 25 2008

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j davidoff@sheppardmullin.com

Our File Number: 15CM-130407

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

VIA E-MAIL AND U.S. MAIL

Honorable Joanne Mounce
Mayor
City of Lodi
221 W. Pine Street
Lodi, CA 95242

Re: Appeal of Planning Commission's October 8, 2008, Decision Not to Certify the Final Revised Environmental Impact Report for the Lodi Shopping Center.

Dear Mayor Mounce and Honorable City Council Members:

This letter is submitted on behalf of Wal-Mart Stores, Inc. ("Wal-Mart") and Browman Development Company ("Browman") in support of their respective appeals of the Lodi Planning Commission's decision on October 8, 2008 to not certify the Final Revised Environmental Impact Report ("Revised EIR") (State Clearinghouse No. 20030421 13) prepared for the Lodi Shopping Center project ("Project").

As we explain in this letter, the City and its staff have worked diligently for years to prepare the Revised EIR. Contrary to the claims of those who are economically motivated to oppose the Project, the City has fully complied with its legal responsibilities under the California Environmental Quality Act ("CEQA") in preparing the Revised EIR. For this reason, we request that the City Council grant our appeals, and certify the Revised EIR.

SUMMARY

The Revised EIR being considered by the City Council represents several years of hard work by the City its consultants and by Wal-Mart and Browman. It is a detailed and exhaustive document that fully responds to the concerns raised by the San Joaquin Superior Court in rejecting the previously certified EIR. The Revised EIR also addresses the issues raised in a second lawsuit filed against the prior approval as explained below.

The Revised EIR analyzes five (5) issues: socio-economic impacts and their potential to cause, indirectly, physical effects to the environment; energy impacts; project objectives; agricultural resources and project alternatives. The Revised EIR therefore complies

both with CEQA's "remedial" requirements as well as the San Joaquin Superior Court's prior Judgment and Peremptory Writ of Mandate.

As explained in detail below, the Revised EIR fully analyzes the Project's economic impacts, including the potential for urban decay. The analysis considers the trade area, population and housing trends, household incomes, labor force trends, taxable retail sales, market "leakage," estimated sales and competing retail centers. It examined actual performance of competitive stores in the local market and takes a very conservative approach by underestimating the potential population growth. It analyzed re-tenanting issues, including the impact that backfilling the existing Wal-Mart store would have on re-tenanting other retail spaces. Additionally, the analysis specifically considered the cumulative impact of the Lodi Shopping Center and Reynolds Ranch. The BAE study was updated in October 2008 to take into consideration the approximately one hundred thousand (100,000) square feet of additional retail space approved by the City Council for the Reynolds Ranch project and not originally analyzed. The Revised EIR's conclusion that the Project would **not cause urban decay** is supported by substantial evidence.

The Revised EIR's economic analysis also considered the Project's potential to impact Downtown Lodi. This analysis is supplemented by a separate memorandum prepared by the Community Development Department. Both analyses were consistent in their conclusion that Downtown Lodi provides a unique retail environment by, for example, fostering boutique retail shopping opportunities which do not directly compete with the types of uses proposed at the Lodi Shopping Center, including Wal-Mart.

Despite the Revised EIR's conclusion that the Project would not have a significant economic impact on Downtown Lodi, Wal-Mart and Browman voluntarily agreed to make a monetary contribution to the City to be used towards improving Downtown Lodi. The contribution was negotiated as part of the conversations leading up to the conditions of approval. It is not being paid as mitigation. Thus, the voluntary contribution is outside the scope of the EIR and is part of the conditions of approval for the Project.

The Revised EIR considered five (5) project alternatives. Since the project objectives were modified, the range of these alternatives was expanded to include different sized sites and different locations. CEQA does not require that every alternative be considered. (CEQA Guidelines, § 15126.6.) The scope of alternatives analyzed in the Revised EIR complies with the requirements of CEQA. It provides the City Council with a reasonable range of alternatives that permits a reasoned choice so far as environmental aspects are considered. While other alternatives may exist, they fail either to meet most of the basic Project objectives, are inconsistent with City policies and goals, or are infeasible.

Finally, although as a matter of law the City was under no obligation to analyze this Project's potential impacts on global warming, Wal-Mart and Browman commissioned such

an analysis. The report concludes that the Project would not have a significant direct impact on climate change and that any potential effects in the cumulative context are speculative. This is in part because the Wal-Mart store being proposed in Lodi will be a premier energy-efficient store. It will include the most current green technologies available to Wal-Mart at the time the store is built and will continue Wal-Mart's commitment to finding ways to build stores that can reduce its impact on the environment.

In short, because the Revised EIR fully complies with CEQA, we respectfully submit that the City Council should certify the document.

PROJECT AND PROCEDURAL BACKGROUND

The Lodi Shopping Center project has been thoroughly reviewed and analyzed in the two environmental impact reports prepared for the Project. The original Environmental Impact Report ("Original EIR") (State Clearinghouse No. 2003042113) identified and analyzed thirteen (13) environmental topics: land use planning; agricultural resources; geology and soils; hydrology and water quality; biological resources; cultural resources; aesthetics; traffic and circulation; noise; air quality; hazardous materials; utilities and service systems; and public services. Only three (3) environmental topics or issues were determined not to be significant as part of the initial scoping for the Original EIR: mineral resources; population and housing; and recreation. The Planning Commission reviewed and certified the Original EIR, and, after its own review and analysis, the City Council upheld that decision and certified the Original EIR.

Two separate lawsuits were filed against the Original EIR'. The San Joaquin Superior Court dismissed one lawsuit for failure to exhaust their administrative remedies (Lodi II). On the other lawsuit (Lodi I), the Court ruled the Original EIR to be inadequate on two (2) grounds: failure to consider the two Stockton Supercenters in the cumulative analysis of economic impacts and failure to include a specific discussion of energy impacts in the EIR. All other challenges to the Original EIR were rejected.²

¹ The first lawsuit was *Lodi First v. City of Lodi*, San Joaquin Superior Court Case No. CV025999 ("Lodi I") and the second lawsuit was *Citizens for Open Government v. City of Lodi*, San Joaquin Superior Court Case No. CV026002 ("Lodi II").

² Some comments or questions have been raised concerning the traffic impact analysis. It is important to point out that the court upheld the traffic analysis prepared as part of the Original EIR. The Project, however, will be required to obtain an encroachment permit from Caltrans if the Revised EIR is certified and the Project is approved. Caltrans is likely to impose conditions or requirements on the Project during that process. Until an application is filed with Caltrans, the scope or extent of those requirements is not known. While it is premature at this time (i.e., before the Revised EIR is certified and Project approvals are obtained) to submit an application, preliminary discussions with Caltrans

Almost ten months after the court's ruling in the first lawsuit, the Court of Appeals, in an unpublished opinion, overturned the trial court's decision dismissing the Lodi II lawsuit. Because the City had already begun preparing the Revised EIR, all parties agreed to a stipulation for dismissal and order to stay the dismissed lawsuit while preserving the petitioners right to pursue prior claims on remand.³ As a result, the City expanded the scope of the Revised EIR to include project objectives, agricultural resources and project alternatives

Over the next few months, the City's consultant, Pacific Municipal Consultants ("PMC") prepared a Revised EIR for the Lodi Shopping Center. In its entirety, the Final Revised EIR is over two hundred (200) pages, not including the separate one hundred (100) page urban decay analysis prepared by Bay Area Economics ("BAE"), the six (6) page supplemental review of the Lodi Shopping Center Economic Impact/Urban Decay Analysis prepared on October 1, 2008, or the ninety (90) written or oral comments received during the public comment period on the Draft Revised EIR. The Revised EIR thoroughly analyzes the impacts of the Lodi Shopping Center as required under CEQA and as set forth in the Lodi I court ruling and mutually agreed-upon stipulation.

DISCUSSION

I. **The Scope of Review for the Revised Lodi Shopping Center EIR is Limited Based on the Doctrine of *Res Judicata*, or Claim Preclusion**

The Lodi Shopping Center Original EIR was revised to analyze five (5) impact sections that were subject to revisions by the San Joaquin County Superior Court or subject to augmentation based on the stipulation for dismissal and order. The remainder of the Original EIR was determined by the court to be legally adequate under CEQA. Under the doctrine of *res judicata* the City is not required to revisit all the potential environmental effects of the project anew.

Res judicata is the legal doctrine of claim preclusion. It provides that where a claim has already been litigated in another proceeding either by the same parties or parties with the same primary right, that claim cannot be re-litigated.⁴ The California Court of Appeals applied this doctrine in the CEQA context in the case of *Federation of Hillside and Canyon Associations v. City of Los Angeles* (2004) 126 Cal.App.4th 1180.

indicate the Project should be able to obtain an encroachment permit without significant changes to the "Project" or current site plan.

³ A copy of that stipulated order is attached as Attachment A.

⁴ See *Mycogen Corp. v. Monsanto Co.* (2002) 28 Cal.4th 888, 896.

Joanne Mounce
November 24, 2008
Page 5

In *Federation of Hillside*, the respondent city certified an EIR prepared for a general plan framework. In the first appeal, petitioners challenged the city's CEQA findings and analysis with regard to the project's water resource and traffic impact impacts. The Court of Appeal agreed with petitioners claims regarding traffic impacts, but denied the appeal on all other grounds. The city then adopted new findings and a statement of overriding considerations essentially mirroring the original ones, except with regard to traffic. Petitioners challenged the city's findings, and raised new claims regarding water, waste water, solid waste, open space and utilities. Using the doctrine of *res judicata*, the Court of Appeal barred petitioners claims that could have been raised in the first challenge to the EIR or were already decided in a prior appeal. The Court held "unless [the city] substantially changed the project, which it did not do...[t]he city had no obligation to update the analysis of environmental impacts in its adequate EIR."⁵ The fact that new documents or information became available after the city made its original CEQA findings or determination does not change this holding."

Here, as in *Federation Hillside*, neither the City nor the applicants has "substantially changed" the project; thus, the doctrine of *res judicata* applies. Parties are precluded from raising new challenges that were either rejected during the prior litigation, or which could have been raised by the petitioners but were not. Based on the ruling in Lodi I and the stipulated order in Lodi II, the only issues required to be analyzed in the Revised Lodi Shopping Center EIR were: the potential for urban decay from socio-economic impacts, energy impacts, project objectives, agricultural resources and project alternatives. All other issue areas under CEQA are barred.'

II. The Revised EIR Adequately Analyzes The Potential Economic Effects of the Lodi Shopping Center Project

Staff and the City's independent expert consultants have thoroughly analyzed the potential for the project to, indirectly, cause urban decay from the socio-economic effects of the project, including to Downtown Lodi. Under CEQA, the issue is not whether the Project will have an economic impact on other retail establishments in Lodi, but whether the Project will trigger a chain reaction, leading to foreseeable, significant physical urban decay.' CEQA is not

⁵ *Federation of Hillside*, 126 Cal.App.4th at 1204.

⁶ *See id.* at p. 1203.

⁷ The Project will, however, need to comply with all applicable regulatory requirements and obtain necessary permits from various state and local regulatory agencies including Caltrans and the San Joaquin County Air Quality District.

⁸ *See Maintain Our Desert Environment v. Town of Apple Valley* (2004) 124 Cal.App.4th 430, 446 ("social, economic and business concerns are not relevant to CEQA analysis

concerned with a project's purely social or economic impact on a particular business or person and is not a "fair competition statutory scheme." Instead, CEQA requires a finding of significant impact only if the economic or social effects of a project will lead to *foreseeable adverse physical changes to the environment*.¹⁰ Here, the economic analysis prepared for the Revised EIR by BAE found the Lodi Shopping Center would not have any significant impacts to the physical environment by causing urban decay.

The economic/urban decay analysis prepared for the Revised EIR is extensive and supported by numerous appendices and tables analyzing the trade area, population and housing trends, household incomes, labor force trends, taxable retail sales, market "leakage," estimated sales, and competing retail centers. It analyzed the Project's potential for both direct and cumulative urban decay impacts and assessed whether these economic effects would translate, through a chain of causation, into reasonably foreseeable adverse environmental effects in the form of physical urban decay.

The economic report prepared for the Revised EIR by BAE took a very conservative approach to analyzing the potential indirect effects of the Project from socio-economic impacts. It was prepared in October 2007 and acknowledged the softening real estate market and the impact it may have on projected growth." The report relied on the Claritas¹² projected growth rate established for Lodi (1.3 percent) and the trade area (1.1 percent), which is lower than the overall rate for San Joaquin County (2.3 percent) and lower than a rate (3-4 percent) that could have been justified at the time given the approved major residential projects near the Project. This slower growth rate is due to the City's growth control ordinance and limited available residential land, which has resulted in growth that lags behind other communities in San Joaquin County.

unless it is determined that those concerns will have a significant effect on the physical environment").

⁹ See *Waste Management of Alameda County Inc. v. County of Alameda* (2000) 79 Cal.App.4th 1223, 1235; *Friends of Davis v. City of Davis* (2000) 83 Cal.App.4th 1004, 1021.

¹⁰ CEQA Guidelines, § 15131; Pub. Resources Code, § 21082.2, subd. (c); CEQA Guidelines, § 15382; *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1182.

¹¹ BAE Report, 2007, pg. 6, 73.

¹² Claritas is a national research firm that provides demographic and economic data for cities and counties. It is typically based in part on the most recent U.S. Census Data.

The BAE report also did not rely solely on a leakage analysis in assessing retail impacts, but rather looked very carefully at local conditions. The report examined actual performance of the competitive stores, compared that to industry benchmarks and then analyzed the potential impact of adding additional retail to the marketplace. It included an analysis of sales that would be captured by the Project from existing outlets and analyzed the Project's specific impact on grocery stores, general merchandise stores, drug stores and Downtown Lodi. In each case, the report concluded that the Project would not result in urban decay.

A. The Urban Decay Analysis Included a Detailed Discussion of Re-Tenancing, Reynolds Ranch and the Project's Impact on Downtown.

The BAE report also analyzed the potential for re-tenancing of vacant space. Because the analysis was based on conservative underlying growth estimates, however, this impact may be overstated. The report recognized that the Project may result in the closure of one or more existing retail outlets in the trade area and that it may be challenging to re-tenant some of the vacant spaces. It acknowledges that the re-tenancing of the vacant Wal-Mart property could "conceivable absorb demand that might otherwise be absorbed by other closures."¹³ Even with these potentially overstated impacts, the report still found that the Project will not have a significant urban decay impact.¹⁴

The cumulative impacts analysis in the BAE report is also exhaustive. It analyzes the cumulative impact of the Project and Reynolds Ranch on nearly every shopping center in the City of Lodi. The report discusses and analyzes the potential difficulty that certain centers may have in re-tenancing major anchor spaces and the impact that may have on smaller retail spaces, including the potential for closure.¹⁵ It acknowledges that the cumulative impact of the Project and Reynolds Ranch may lead to "substantial cannibalization of retail sales from existing outlets in Lodi and the trade area."¹⁶ While it is possible that this cannibalization could potentially result in vacancies, vacancies per se do not necessarily result in a significant adverse effect on the environment under CEQA. As a result, under the thresholds of significance used by the City, the BAE report concludes the Project will not have significant cumulative urban decay impact.

The conclusions reached in the BAE report have been validated in two separate memorandums prepared or commissioned by the City. The most recent memorandum was prepared on October 1, 2008, by BAE and analyzes whether the increase in size of Reynolds Ranch project, which added an additional four hundred thousand (400,000) square feet of new

¹³ BAE 2007 Report, pg. 61.

¹⁴ BAE pg. 61.

¹⁵ *Id.* at 66-67.

¹⁶ *Id.* at 68.

retail without an urban decay analysis, changed any of the conclusions in the original BAE October 2007 report. The original BAE report analyzed Reynolds Ranch with a maximum of 640,676 square feet of retail, which was 109,324 square feet less than what the City Council recently approved.

The October 1, 2008 BAE memorandum concluded the increased square footage of Reynolds Ranch did not change the original analysis or conclusions because the change in sales diversion from existing stores, based on the new size of Reynolds Ranch, was thirty-four (34) percent. The original assumption for sales diversions from existing stores was thirty (30) percent. This four (4) percent increase in sales diversion was estimated not to be significant.

A second memorandum was prepared in November 2007 by GRC. This memorandum analyzed the economic conditions in Downtown Lodi and was transmitted to the City Manager with an assessment by the Community Development Department of the Lodi Shopping Center's impact on Downtown Lodi. A copy of this memorandum is attached as Attachment B. The Community Development Department concluded the Lodi Shopping Center Project's impact on Downtown Lodi would not create "a physical impact requiring CEQA mitigation."¹⁷ This memorandum furnishes the basis, however, for the City's exercise of its police powers, and serves as the justification for the proposed Downtown fee to be paid as part of the Project, despite the City's conclusion that the project will have a less than significant impact on urban decay.¹⁸

In sum, the economic or urban decay impact of the Project has been determined by three studies and analyses to be less than significant under CEQA. The substantial evidence supporting BAE's less than significant impact conclusions is not negated by opponents' citation to their own conflicting opinions. The City is also entitled to rely on the adequacy of their code enforcement program, including the requirements that nuisances be abated.

III. A Reasonable Range of Project Alternatives was Considered and Analyzed in Compliance with the Requirements of CEQA, Which Does Not Require Every Possible Alternative Be Considered.

The Revised EIR for the Project considered five (5) potential alternatives to the proposed Project. These included a No Project Alternative, an Alternative Land Use, a Reduced Density Alternative, a Reduced Project Size and an Alternative Project Location. These

¹⁷ GRC Memo, pg. 1.

¹⁸ The Lodi Shopping Center is slated to be located in the City's proposed Redevelopment Area. There are no plans by Wal-Mart or Brownian, nor is there any intent by Wal-Mart or Browman, to use any potential future Redevelopment Area funds or monies to satisfy the voluntary Downtown contribution.

alternatives meet the Revised EIR's project objectives, which, in fact, were modified to allow an expanded range of alternatives to be considered.¹⁹

Under CEQA, an EIR should consider alternatives that provide a substantial environmental advantage over the proposed project. CEQA only requires an EIR to describe a range of "reasonable alternatives" to the project, or the project location that would "feasibly attain" most of the project's basic objectives while avoiding or substantially reducing any of the project's significant effects.²⁰ CEQA requires that the EIR evaluate the comparative merits of the alternatives, but does not require that every alternative be analyzed. Instead, the range of alternatives proposed must simply "permit a reasonable choice of alternatives so far as environmental aspects are concerned."²¹ Here, the range of alternatives discussed meets that standard.

After a preliminary review of the five (5) alternatives considered, three were selected for further discussion and analysis: No Project Alternative, Reduced Project Size Alternative and Alternative Project Location. Further analysis of the Alternative Land Use alternative was not warranted because any other use would conflict with local plans, policies and regulations. Further analysis of the Reduced Density Alternative was also not warranted because it would not reduce or change two of the Project's significant impacts and would create an inconsistency with City policies.

The Project site is zoned "C-S Commercial Shopping," which has a purpose of developing commercial shopping facilities outside the central business district. Residential development is prohibited in this zone. Business or office park development may be permitted in this zone but it is not permitted under the General Plan designation of "NCC Neighborhood/Community Commercial." Thus, only the type of development proposed, commercial shopping, would be consistent with the site's zoning and general plan designation and any other type of use would require a General Plan Amendment and Zoning change.

Since CEQA only requires that an EIR consider alternatives that provide a substantial environmental advantage over the proposed project, analyzing a reduced density development is unwarranted because such an alternative would not reduce the two unmitigated significant impacts (e.g., agricultural resources and regional air quality) to less-than-significant levels. Moreover, such a use of the site would create an inefficient use of land and simply shift

¹⁹ The revised project objectives no longer include a requirement that the commercial center consist of at least 30 net acres or that it complete the development of the "Four Corners" area. *See* Revised Draft EIR, pg. 31-32.

²⁰ CEQA Guidelines, § 15126(A).

²¹ *San Bernardino Valley Audubon Soc'y v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750.

development pressure to other property in the City. It would also not be consistent with City policies, which promote compact and efficient development patterns to minimize agricultural land conversion.²²

One additional alternative mentioned by those who are economically motivated to oppose the Project is expanding or redeveloping the Wal-Mart store on its existing site. This alternative, however, is not feasible for several reasons. First, it would not meet the other project objectives such as "provid[ing] a commercial center on a large, undeveloped lot in close proximity to an existing highway."²³ Second, insufficient land exists to allow the current Wal-Mart store to expand as proposed. Third, any expansion would eliminate approximately half of the parking field in front of the existing store and encroach on the parking field of the retail space to the west. In fact, eminent domain from other retailers or landowners may be necessary under this alternative. Because of these facts such an expansion of the existing Wal-Mart store is infeasible.

Finally, a review of the alternatives included and analyzed in the Revised Final EIR shows that a good faith effort was made by the City and PMC to incorporate all feasible alternatives in the EIR.²⁴ The alternatives considered are reasonable and could feasibly obtain most of the basic Project objectives, even though they may not meet every objective and may be more costly. As a result, the scope of alternatives analyzed in the Revised EIR is not unduly limited or narrow and complies with the requirements of CEQA.

IV. Additional Analysis Prepared in Response to the Planning Commissioner's Concerns Regarding Project's Impact on Global Warming Shows That the Project Will Not Have a Significant Impact on Climate Change.

Pursuant to the doctrine of *res judicata*, as discussed above, and because climate change is not a new issue, the Revised EIR was not required to analyze the Project's potential to contribute to global warming. Despite having had ample opportunity to raise the issue of climate change during consideration of the Original EIR, the issue was not raised, nor was it raised by petitioners in Lodi I or Lodi II in their petitions for writ of mandate. Because petitioners did not raise or litigate the issue, they are now precluded from doing so at this time. Wal-Mart, and

²² City of Lodi General Plan, Land Use Element, Goal B, Policies 1-6, p. 3-4 - 3-5.

²³ Revised DEIR, pg. 31-32.

²⁴ It would not be feasible to analyze a Reduced Project Size without the proposed Wal-Mart store since a main project objective is "[t]o expand the existing Wal-Mart to a Wal-Mart Supercenter with more retail space and the addition of grocery sales." (Revised DEIR, pg. 31.) Similarly, it is not feasible to analyze a different Alternative Project Location since no other suitable sized sites exist within the City. (*See* Revised DEIR, pg. 94.)

Browman, however, recognize the importance of global warming and the concerns expressed by several of the Planning Commissioners. They "heard" the Planning Commission's concerns on this issue at the October 8, 2008, hearing and as a result, commissioned the preparation of a climate change analysis report to analyze the Lodi Shopping Center's potential contribution to global warming. A copy of this report is attached to this letter as Attachment C.

A. The Michael Brandman Associates Report

The climate change analysis report is consistent with existing requirements under CEQA and is not intended to amend the Revised EIR that has been prepared. Instead, it is a stand-alone technical report and analysis intended to provide the City of Lodi with information concerning the project's potential greenhouse gas emissions. The report may be relied on by the City Council Members in evaluating the project's impact on climate change.

As a preliminary matter, the Council should be aware that no State or regional regulatory agency has adopted thresholds of significance or modeling methodology to measure the impact of a project on climate change. The report relies on the draft thresholds for greenhouse gases recently issued by the California Air Resources Board (ARB), the Governor's Office of Planning and Research (OPR) Technical Advisory and the California Air Pollution Control Officers Association's (CAPCOA) white paper. This approach is the current generally accepted standard for analyzing a project's potential to effect climate change.

The climate change analysis includes a detailed project level analysis of existing and potential greenhouse gas emissions. It calculates the carbon dioxide generation and greenhouse gas emissions associated with project construction, project operation and potential demolition of the existing Wal-Mart store. It analyzes mitigation measures required in other impact areas, design features, and conditions of approval and their ability to reduce greenhouse gas emissions. After a detailed discussion and analysis, it concludes that the project would result in a project specific less than significant impact to climate change. It also concludes that approval of the project would not hinder or delay California's implementation of AB 32, and is in fact, consistent with AB 32 scoping plan measures.²⁵

The report also includes a cumulative-level analysis. It recognizes that greenhouse gas emissions from the project would be small in comparison to globally generated and/or California generated emissions. The report concludes, however, that quantifying and analyzing the potential effects of the Project, on a cumulative and global level, would be speculative. CEQA does not require a discussion or analysis of speculative impacts. (CEQA Guidelines § 15 145.) Here, the project's cumulative impact on climate change is speculative because (1) no cumulative list of project climate change exists; (2) no approved greenhouse gas

²⁵ AB32, the California Global Warming Solutions Act of 2006, requires greenhouse gas emissions in California be reduced to 1990 levels by the year 2020.

reduction plan for the City of Lodi or San Joaquin County exists, and (3) no adequate climate change models are available to measure the project's incremental effect on cumulative climate change.

B. The Proposed Wal-Mart Store Included Energy Efficient Measures that would Reduce the Store's Energy Demand and Global Footprint.

The proposed Wal-Mart store will be a premier energy-efficient store. On October 6, 2008, Wal-Mart submitted a letter to the Community Development Director outlining some of the green features of the proposed store. This letter was in response to a letter from Lodi First that commented on the energy and global warming impacts of the proposed Wal-Mart store as well as discussed Wal-Mart's High Efficiency (HE) test program. A copy of Wal-Mart's letter is attached as Attachment D.

As indicated in the letter, the proposed Lodi Wal-Mart store will contain the most current green technologies available to Wal-Mart at the time the store is built. Some of these features may include:

- Daylighting (skylights/dimming) - This system automatically and continuously dims all of the lights within the store as the daylight contribution through skylights increases.
- Night Dimming - Lighting is dimmed to approximately 65% of typical evening illumination during the late night hours.
- Energy Efficient HVAC Units - Super high efficiency packaged heating and air conditioning units that are 4-17% more efficient than required by California's Title 24.
- White Roofs - White membrane roofing is used in order to increase solar reflectivity and lower cooling loads.
- Recycling: - Wal-Mart stores include huge amounts of recycled material. (A) Steel recycling: Current construction standards on Wal-Mart buildings include a substantial amount of recycled steel. Stores are built with nearly 100% recycled structural steel. Wal-Mart structural steel suppliers use high efficient electric arc furnaces that use 50% less energy to manufacture recycled steel. Using recycled steel means less mining for new steel, and it is a material that can be readily recycled again if the building is demolished. (B) Recycled Plastic: All of the plastic baseboards, and many of the plastic shelving, are manufactured from recycled material.

This store, and all new Wal-Mart stores, will be designed and equipped to recycle the following materials:

- Oil - over 20 million gallons per year
 - Tires - 23 million tires per year
 - Auto Batteries - 19 million per year
 - Cardboard - 6.4 billion pounds in 2005
 - Vegetable Oil - each new store has an indoor tank used to collect oil from cooking processes for recycling
 - Single-use Cameras - 47 million per year collected at our photo processing centers
 - Plastic Waste- on 2/1/06 we rolled out a chain-wide program for "sandwich bale" recycling of plastics, e.g., bags, garment bags, shrink wrap, bubble pack, etc.
 - Silver- our photo labs capture silver from the photo processing
 - Interior Lighting Program - All new stores use efficient T-8 fluorescent lamps and electronic ballasts.
- Water-Conserving Fixtures: Restroom sinks include sensor-activated low flow faucets. The low flow faucets reduce usage by 77%. The sensors save approximately 20% over similar manually operated systems.

By incorporating these and the other measures listed in the October 6, 2008, letter into the proposed Lodi store, Wal-Mart is reducing the energy demand of the store and reducing its energy demand footprint.

Wal-Mart and Browman both recognize the importance of considering the potential effects of a project on climate change and, for that reason, commissioned the attached analysis in a good faith effort to provide additional information to the City as requested by the Planning Commission. The issue of climate change within the context of the procedural history and litigation surrounding this project, however, renders the issue outside the scope of the Revised EIR. Under *res judicata* the City was not required to consider climate change under CEQA. Including the attached information, therefore, does not undermine the previous legal conclusion made by City staff and the City Attorney that the City was not required to include climate change as part of the Revised EIR. Nevertheless, substantial evidence shows that the potential effects of the Project on climate change will be less than significant.

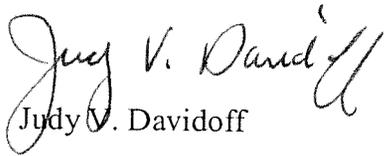
* * * * *

The Revised EIR being considered by the City Council on December 10, 2008, represents several years of independent study and analysis by the City and its consultants. The Revised EIR is a thorough, detailed and exhaustive document that fully analyzes every issue

Joanne Mounce
November 24, 2008
Page 14

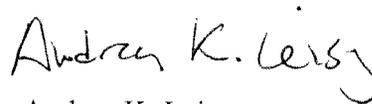
required under CEQA as set forth by the Court of Appeal ruling and the expanded scope resulting from the Lodi II stipulation for dismissal and order. We ask that the City Council carefully consider all of the information before it and reach a conclusion that the Revised EIR is legally adequate under CEQA and certify the document.

Very truly yours,



Judy V. Davidoff

for SHEPPARD, MULLIN, RICHTER &
HAMPTON



Andrea K. Leisy
by Alexis Petrosi

for REMY, THOMAS, MOOSE & MANLEY
LLP

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Attachments

cc: Lodi City Council

Attachment

A

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5 Attorneys for Petitioner
6 Citizens for Open Government

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN JOAQUIN

11 CITIZENS FOR OPEN)
12 GOVERNMENT;)
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Petitioner,
v.
CITY OF LODI; CITY COUNCIL
THE CITY OF LODI;
RD DOES 1-10,
Respondents.

Case No.: CV026002

STIPULATION FOR DISMISSAL
AND ORDER THEREON

13 BROWMAN DEVELOPMENT CO. a;)
14 California Corporation; LODI)
15 SOUTHWEST ASSOCIATE?, L.P., a)
16 California Limited Partnership;)
17 CES 11-100)
18)
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28)

Real Parties in Interest.

STIPULATION

24 The Petitioner ~~Citizens~~ for Open Government (“Citizens?”), the Respondents City of Lodi, et
25 (“Lodi”) and Real Parties in Interest Browman Development Co., et al. (“Browman”) hereby
26 stipulate to the dismissal of this action as follows:

27 1. Petitioner filed this action on March 18, 2005 challenging under the California
28 Environmental Quality Act (“CEQA”), Public Resources Code, section 21000 *et seq.*, the approval

1 by Lodi of the **Lodi Shopping Center** (the "Project") as proposed by Browman and the
2 certification of the adequacy of the associated **Environmental Impact Report** ("EIR").

3 2. In a different action in the **same** Court, another group, **Lodi First**, filed a **Petition** for
4 **Writ of Mandate** challenging **Lodi's** approval of the **same** Project (*Lodi First v. City of Lodi, et al.*
5 Super. Ct. **San Joaquin County**, 2006, No. CV025999).

6 3. On October **4, 2005**, **the Court** granted **Lodi's** Motion to Dismiss this action
7 ("**October 4 Order**"). The Court held that the Citizens had failed to exhaust **their** administrative
8 remedies.

9 4. On December 2, 2005, the Citizens appealed the **Court's** October 4 Order.

10 5. On December **19, 2005**, the Court issued an Order Granting Petition for **Writ** of
11 Mandate in *Lodi First v. City of Lodi, et al.* ("December 19 Order"). In that order, the **Court**
12 directed Lodi to vacate its approval of **the Project**, CEQA Notice of Determination and certification
13 of the CEQA Environmental Impact Report ("EIR"). No party in that case appealed the **Court's**
14 December **19** Order or the subsequent judgment in the *Lodi First* case.

15 6. On May 3, 2006, **Lodi** vacated its approval of the Project, its CEQA Notice of
16 Determination and certification of the EIR.

17 7. On October **11, 2006**, the Third District **Court** of Appeals reversed **the Court's**
18 October 4 Order in **this case** and found that the **Citizens** had sufficiently exhausted **their**
19 **administrative remedies**. In addition, the **Court** of Appeals found ~~the~~ matter **was not moot** in light of
20 **the Court's** December 19 Order in the *Lodi First* case. The Court of Appeals then remanded the
21 action to this **Court**.

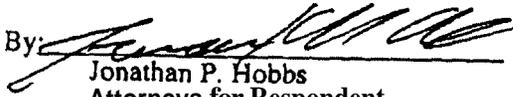
22 8. On November **24, 2006**, Lodi issued a CEQA Notice of Preparation ("November 24
23 NOP") of its intent to prepare a revised EIR for **the Project** following entry of judgment in the *Lodi*
24 *First* case. As set forth in **more** detail therein, the November **24 NOP** presents Lodi's intent to
25 revise the following **sections** of the EIR: **Project Objectives, Land Use, Agricultural Resources,**
26 **Energy, Cumulative Impacts and Alternatives.**

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Dated: July 2, 2007.

KRONICK, MOSKOVITZ, TIEDEMANN &
GIRARD

By: 
Jonathan P. Hobbs
Attorneys for Respondent
City of Lodi, *et al.*

Dated: July __, 2007.

REMY, THOMAS, MOOSE & MANLEY

By: _____
James G. Moose
Attorneys for Real Parties in Interest
Browman Development Co., Inc., et al.

ORDER

Based upon the above Stipulation between the parties and premised upon the conditions contained therein, this action is hereby **DISMISSED**.

Dated: July __, 2007.

SUPERIOR COURT JUDGE

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Dated: July __, 2007.

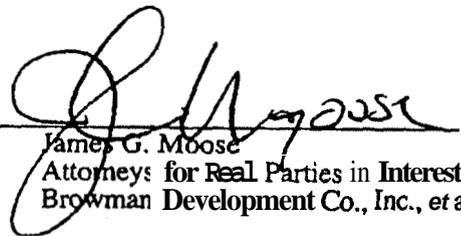
**KRONICK, MOSKOVITZ, TIEDEMANN &
GERARD**

By: _____
Jonathan P. Hobbs
Attorneys for Respondent
City of Lodi, et al.

Dated: July __, 2007.

June 29,

REMY, THOMAS, MOOSE & MANLEY

By: 
James G. Moose
Attorneys for Real Parties in Interest
Browman Development Co., Inc., et al.

ORDER

Based upon the above Stipulation between the parties and premised upon the conditions contained therein, this action is hereby DISMISSED.

Dated: July __, 2007.
JUL 16 2007

ELIZABETH HUMPHREYS

SUPERIOR COURT JUDGE

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PROOF OF SERVICE

I am employed in the County of Yolo; my business address is 129 C Street, Suite 2, Davis, California; I am over the age of 18 years and not a party to the foregoing action. On July 20, 2007, I served a true and correct copy of

**NOTICE OF ENTRY OF STIPULATION
FOR DISMISSAL AND ORDER THEREON**

X (by mail) on all parties in said action listed below, in accordance with Code of Civil Procedure §1013a(3), by placing a true copy thereof enclosed in a sealed envelope in a United States mailbox in the City of Davis, California.

___ (by overnight delivery service) via Federal Express to the person at the address set forth below:

___ (by personal delivery) by personally delivering a true copy thereof to the person and at the address set forth below:

___ (by facsimile transmission) to the person at the address and phone number set forth below:

Jonathan P. Hobbs
Kronick, Moskovitz, Tiedemann & Girard
400 Capitol Mall, 27th Floor
Sacramento, CA 95814-4416

Representing City of Lodi

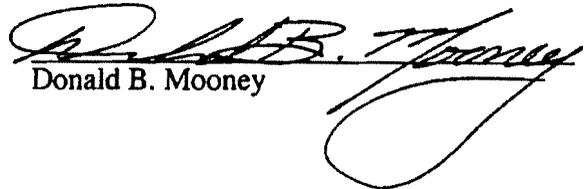
D. Stephen Schwabauer
Office of the City Attorney
City of Lodi
221 West Pine Street
Lodi, CA 95240

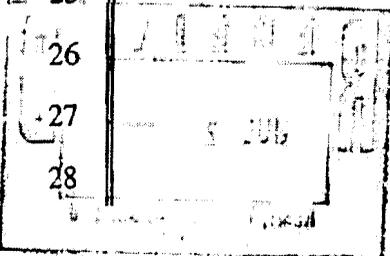
Representing City of Lodi

James G. Moose
Remy, Thomas, Moose & Manley
455 Capitol Mall, Suite 210
Sacramento, CA 95814

Representing Real Parties in Interest

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 20, 2007, at Davis, California.


Donald B. Mooney



Attachment B



MEMORANDUM, City of Lodi, Community Development Department

1) Reduce Sunday shopping
2) Historic Blading.

To: Blair King, City Manager
From: Community Development Department
Date: 11-9-2007
Subject: Economic effects of the proposed Lodi Shopping Center Project

RH

CEQA ANALYSIS

A major focus of the Draft Revisions of the Environmental Impact Report (EIR) for the Lodi Shopping Center Project is economic effects. The beginning text in the "Land Use and Planning" section of chapter II explains the CEQA Standard for addressing economic or social effects of a project. "Economic and social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a 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 focus of the analysis shall be on the physical changes." (page 33) Appendix B prepared by Bay Area Economics presents an extensive analysis of the economic effects and potential resulting physical changes.

Pages 68-71 of the appendix document that there is expected economic effects of the proposed Lodi Shopping Center Project. These effects include the possible closure of an existing supermarket and Kmart. The analysis also shows that drug stores in Lodi will see declines in sales of approximately 13% in the first year of the Lodi Shopping Center's opening though no closures are forecast. Eating and drinking places and "other" retail will likely also see effects. The Downtown will also be subject to effects. As noted on page 70 of Appendix B "overall, the estimated decline in Downtown retail sales in 2008, assuming a fully tenanted proposed project, would be approximately \$4.0 million, or about 7% of Downtown's retail sales." "The introduction of the additional retail square footage at the Lodi Shopping Center could delay further downtown growth and the reuse of currently vacant properties until retail demand increases through income and population growth to the point where more retail space can be supported."

The **analysis** also, as required by CEQA, looked at the cumulative effects of the Lodi Shopping Center and the currently planned and developer desired expansion of Reynolds Ranch. "The cumulative impacts of Reynolds Ranch in addition to the proposed **Lodi** Shopping Center may lend to substantial cannibalization of retail sales from existing outlets in Lodi, putting existing businesses at increased **risk** of closure." (page 71)

Though economic effects of the Lodi Shopping Center are documented at both the project and cumulative levels, a physical impact requiring a CEQA mitigation was not found. On page 74 of Appendix B it is noted "...it cannot be stated that there is a likelihood that the possible closures of these stores would result in a "downward spiral" Leading to significant urban decay impacts due to the Proposed Project". This

determination of no physical impacts and therefore no CEQA mitigation was **also** found in the cumulative case.

DOWNTOWN ECONOMIC CONDITIONS ANALYSIS

In July 2007 GRC Consultants released its Preliminary Findings on Economic conditions in Downtown Lodi (see attached). As noted in the **Finding** Report (page 1) "Downtown Lodi is faced with a number of economic challenges that affect its long-term potential as an active and self-sustaining center for the Lodi region." The report reviews the sub-areas of Downtown, its retail and non-retail trends, physical conditions, and investment trends. The Report's conclusion note "...the economic future of the area is not well established, and could be reversed by the loss of local shoppers using community-serving commercial establishments." (pages 6-7) The proposed Lodi Shopping Center is such a community-serving commercial establishment that **is** likely to draw shoppers away from the Downtown.

CASE FOR ECONOMIC EFFECTS MITIGATION

The Draft Revisions to the EIR for the Lodi Shopping Center document economic effects of the proposal in both the project and cumulative levels (not CEQA physical impacts, but economic effects). The GRC Report documents the fragile nature of Downtown and how a **loss** of local shoppers via a new competing retail establishment could negatively affect Downtown. These two studies verify that the **Lodi** Shopping Center would result in negative economic effects. Under the police powers, a Planning Commission/City Council has the ability to require conditions and measures as part of a discretionary approval to address negative economic effects. The Use Permit **and** Tentative Map sought by the Lodi Shopping Center are such discretionary actions. The police power of a City allow a **City** based upon a documented analysis which shows a negative effect reasonably related to a project to impose conditions and measures on that project to address that effect. Those conditions and measures further are to be roughly proportional to the negative effect caused by the project.

Staff believes that based upon the reports noted above the negative economic effects of the Lodi Shopping Center should be addressed via a downtown mitigation measure. Such a mitigation measure is recommended as a condition of approval on both the Use Permit and Tentative Map required by the Lodi Shopping Center.

CRC – MEMORANDUM

DATE: July 15, 2007
TO: Blair King, City Manager
FROM: Ernie Glover
RE: Preliminary Findings on Economic Conditions in Downtown Lodi

Purpose

The purpose of this memorandum is to review the status of Downtown Lodi regarding its ability to maintain itself economically and to continue to attract viable activities and supporting uses.

Summary of Findings

Downtown Lodi is faced with a number of economic challenges that affect its long-term potential as an active and self-sustaining center for the Lodi region. The downtown area is transitioning from a community center serving residents and businesses in Lodi's market area to a specialty commercial area with a narrower range of activities than before, but a much wider, regional market area. This is especially evident along School Street. Other areas, however, have been left behind or remain stagnant. Many of the original activities have left, leaving behind a depressed and abandoned urban landscape, as is evidenced by largely abandoned or marginal land uses east of the Union Pacific railroad tracks to Washington Street and the Sacramento Street frontage.

Downtown Study Area

This analysis is based upon the area used to define Downtown Lodi for the Downtown Business Survey. As shown on the following map, the Downtown Lodi area is generally between the Union Pacific Railroad tracks on the east and Pleasant Avenue on the west, and between Lockeford Street on the north and Lodi Avenue on the south. The study area extends east of the tracks to Washington Street between Elm Street on the north and Oak Street on the south. This area appears to include the original business and civic core of Lodi.



Parameters Reviewed

This is a preliminary study based on a relatively limited set of data readily available at the time this memorandum was being prepared. GRC collected data from the City of Lodi including land use information, a survey of building conditions in the Downtown Business Survey Area prepared by City staff, sales tax data through HdL, Inc., San Joaquin County Tax Assessor's data through CD Data, Inc., and demographic information through ESRI. A day long field visit was conducted by GRC on July 13, 2007, with the assistance of City staff.

The focus of this study is on activity patterns in the Downtown area, sales tax performance and trends, building conditions as they affect future usability of buildings, and apparent trends. Demographic data were also collected for the purpose of providing background comparisons with the remainder of the city and San Joaquin County as a whole.

Use and Activity Patterns

Uses are defined as discrete land uses, generally as defined in a zoning ordinance. They are not generally tied to surrounding uses, except as being part of a district such as a commercial-retail district or a light industrial district. Activity areas define areas where various land uses support an underlying set of activities. For instance, the area around the Lodi Cinema 12 is evolving into an entertainment area with fast food and restaurants, shops aimed at a younger teen age crowd, and the like. These uses support and enhance each other. On the other hand, public uses along Elm and Pine Street west of Church Street form a civic district, but do not seem to have retained supporting office and professional uses in the near vicinity.

There are four major sub-areas in the Downtown Survey Area.

1. The largest is the School Street corridor between Church Street and the railroad tracks from Lockeford Street to Lodi Avenue. This is the business and social core of Downtown Lodi. School Street shows significant commercial resurgence on its ground floor, but this resurgence does not carry through to the upper stories (largely vacant or under-utilized) and to Sacramento Street with its high business vacancy rate.
2. The civic district is a well established concentration of City and County offices west of Church Street. These include the City Hall, County courts, the police station, the fire station and other municipal offices. The library is also located in close proximity. There are few, if any private uses such as professional offices, attorneys, accountants, engineers or planners located in closed proximity to the civic area.

3. The Lodi Avenue district is an activity corridor devoted to strip commercial or auto-totive uses. This area is organized for convenient automobile access, and is the home of the original A&W Root beer fast food restaurant. While some of the stores along this corridor are the major sales tax generators for the Downtown Lodi Area, the overall impression is one of an aging strip commercial corridor with a high concentration of obsolete, underutilized and vacant buildings.
4. The Stockton Street corridor east of the railroad tracks can be characterized as an urban slum. This area has a concentration of bars, cheap hotels and vacant buildings along Main Street. Pine Street is dominated by a ~~mix~~ mix of low-end commercial outlets, a converted motel, and other uses. This area is largely isolated from the remainder of the Downtown area by the railroad tracks and closed packing house uses.

Retail Sales Trends

Retail sales tax trends are a good indicator of the health of the local retail commercial community, not only in absolute trends but also in comparative terms. The Downtown's share of City-wide sales tax receipts has declined by over 8% in the past ten years. In constant, inflation-adjusted dollars, Downtown's retail sales have increased by 14.2% over the past ten years, while retail sales outside the Downtown area increased 70% faster at 25.1% over the same ten year period. At present, retail sales per outlet in the Downtown area are less than half that of stores located outside Downtown. Downtown sales in FY2006/07 have averaged \$2,115 per outlet, while sales elsewhere in the City averaged **\$4,865** per outlet.

Downtown Area and City-Wide Sales Tax Comparison
(000s \$2007)

	FY06/07	FY05/06	FY04/05	FY03/04	FY02/03	FY01/02	FY00/01	FY99/00	FY98/99	FY97/98
Sales Tax Receipts (\$000s Adjusted to 2007 Values)										
City-Wide	8,870	9,520	8,859	8,427	8,224	8,189	8,123	7,804	7,508	7,129
Inside Downtown Area	516	544	528	514	471	488	471	485	480	452
Outside Downtown Area	8,354	8,976	8,331	7,913	7,753	7,702	7,652	7,319	7,028	6,677
Cumulative Increase over FY97/98										
City-Wide	24.42%	33.54%	24.27%	18.21%	15.36%	14.87%	13.94%	9.47%	5.31%	0.00%
Inside Downtown Area	14.21%	20.48%	16.31%	13.67%	12.13%	7.90%	4.26%	7.28%	6.24%	0.00%
Outside Downtown Area	25.12%	34.43%	24.81%	18.52%	15.58%	15.35%	14.60%	9.82%	5.25%	0.00%

Source: GRC Consultants, July 2007 based on sales tax data provided by HdL, Inc. July 2007.

Along School Street, the strongest retail sales performance appears to be in furniture and appliances, followed by dining and entertainment.

Non-Retail Trends

Data regarding non-retail activities, such as offices and professional services, is not available at this time. However, there did not appear to be much in the way of office use in the Downtown area. In older downtown corridors such as along School Street and Church Street, offices tend to concentrate on the second story. From the street, however, most of

the second stories were used either as schools (e.g., ballet or martial arts) or as low-end hotels. Many second story accesses appeared to be blocked, and City staff indicated that many of the buildings appear not to meet American with Disabilities Act (ADA) requirements. This makes rehabilitation very expensive, and probably forces potential officeuses to locate elsewhere.

There also are a number of vacant lots or under-utilized railroad-oriented buildings along the east side of the railroad tracks. This blocks the eastern portion of Downtown from the west. There is no evidence of significant “base employment” in the Downtown area. The major non-retail employers appear to be public uses and banks. There is little else to supply customers on a daily basis. Other uses rely mainly on evening and weekend traffic; with the exception of the Lodi Cinema 12 area, Downtown was not heavily trafficked through mid afternoon.

Physical Conditions

The physical conditions analysis is based on observations during the July 13, 2007, field visit by **GRC**, and through an analysis of a physical conditions survey conducted by City staff in early July. The July 13, 2007, survey was qualitative in nature, while the earlier staff survey was quantitative in nature.

In summary, the staff survey found that of the 385 addresses surveyed, 20% were either dilapidated or showed extensive physical or structural deficiencies. Another 25% had some deficiencies present, but the building condition was generally good with some site issues. Finally, 55% had either very few or no building deficiencies. Note that the deficiency rate in the Downtown Survey Area was somewhat higher than experienced in other downtown areas.

A high vacancy rate can contribute to an impression that an area is economically stagnant or declining. Overall, the Downtown area has an overall ground floor vacancy rate of approximately 16%, which is significantly higher than the maximum 10% considered the norm for commercial areas. Second and third story vacancies are not available. Ground floor vacancies west of the railroad appear to be concentrated along Sacramento Street, while the ground floor vacancy rate along School Street is just under 10%.

The qualitative survey yielded the following major observations:

1. School Street has been significantly rehabilitated in the public right-of-way, and provides a very pleasant pedestrian experience. Likewise, a number of older buildings have had significant façade upgrades in the recent past. These improvements, however, do not extend around to the back of the buildings and the area’s alleyways have not been improved. In a number of cases the backs of the buildings appear abandoned.

2. Like many other late 19th to early 20th Century small town business streets, School Street has second and third stories that at one time was devoted mostly to offices and residences. This is gone now, and most of the second *story* appears vacant or under-utilized.
3. Once one leaves School Street to the east, the Downtown area begins to show significant decay and abandonment typical of struggling or dying downtowns. For instance, there are many vacant storefronts along Sacramento Street along its entire length in the Downtown area. The environment along Sacramento Street is not inviting to the visitor, and there appears to be little spill-over demand from School Street. The vacant store fronts in the new parking structure at the northeast corner of Pine Street and Sacramento Street are an example of this lack of effective demand for commercial space in the Downtown area.
4. Alleyway and back of building access is poor, and is probably only usable for loading. This gives the alleyways an abandoned feel, with no foot traffic and very little vehicular traffic.

Investment Trends

While building investment data are not available at this time for the Downtown area, field observations and staff interviews yield the following conclusions:

1. A large portion of investment in Downtown has been in the public right-of-way, especially along School Street.
2. Much recent building construction has been through direct public investment. This is especially the case with the multi-modal station and the new parking structure/commercial center along Sacramento Street.
3. The City of Lodi has also contributed to private *façade* improvements, and has supported new businesses, including the Cellar Door wine tasting room and the new Smart and Final store on Lodi Avenue.
4. With the exception of School Street and the Civic Center area, the general trend has been towards disinvestment, with almost no evidence of private commercial investment being present. Rather, most buildings east of School Street obviously receive little by way of on-going maintenance or significant rehabilitation.

Conclusions

1. While the School Street area shows significant signs of resurgence as a regional wine-oriented commercial node, the economic future of the area is not well established, and could be reversed by the loss of local shoppers using community-serving

commercial establishments. These establishments include a concentration of furniture and appliance outlets on School Street and Pine Street, the entertainment activity area at School Street and **Elm** Street. At the same time, lack of interest in the Sacramento Street corridor indicates that there is not now sufficient commercial space demand to migrate off of School Street.

2. At present there is an over abundance of commercial and industrial land in central Lodi, both in the Downtown area and along Lodi Avenue. This excess supply of land means that non-competitive parcels and buildings remain vacant for long periods.
3. There does not seem to be much local demand for shopping or other uses in the Downtown Area. Besides the civic uses west of Church, there doesn't appear to be much employment in the area with disposable income – there is no significant lunch trade apparent. This was evidenced by the lack of foot traffic in Downtown during the lunch hour and virtually empty restaurants throughout the area.
4. The City may wish to develop strategies to increase demand in the Downtown area. These strategies could include increasing the housing supply through a combination of new construction, conversion of vacant or underutilized buildings, and re-use of the upper stories. Employment strategies could be aimed at attracting large office employment or other public agencies into the Downtown area.
5. Attracting mass or large-scale retailers into the Downtown area also could support and enhance economic activity. These kinds of retailers could attract foot traffic into the Downtown area if located appropriately. Public support would likely be necessary in assembling adequate sites for such uses or in reducing development costs.

Attachment C

**Climate Change Analysis Report
Lodi Shopping Center
City of Lodi, California**

Prepared for:

Doucet & Associates, Inc
3009 Douglas Blvd., Suite 175
Roseville, CA 95661
Contact: Ron Clundt

Prepared by:

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621 E. Carnegie Drive, Suite 100
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November 24, 2008

TABLE OF CONTENTS

Section 1: Introduction 1
 1.1 - Executive Summary 1
 1.2 - Project Description 2

Section 2: Climate Change 5
 2.1 - Greenhouse Gases 5
 2.2 - Regulatory Environment 9
 2.2.1 - International and Federal 9
 2.2.2 - California 11
 2.2.3 - Local and Regional 15
 2.3 - Emissions Trading and Carbon Offset Programs 16
 2.3.1 - Emissions Trading Programs 16
 2.3.2 - Carbon Offset Programs 18

Section 3: Thresholds of Significance 21

Section 4: Impact Analysis 23
 4.1 - Project-Level Analysis 23
 4.1.1 - Existing Greenhouse Gas Emissions 23
 4.1.2 - Inventory of Greenhouse Gases - Construction 23
 4.1.3 - Inventory of Greenhouse Gases - Operation 25
 4.1.4 - Inventory of Possible Demolition of Existing Wal-Mart 28
 4.1.5 - Mitigation Measures in Other Impact Areas 29
 4.1.6 - Project Design Features that Reduce Operational Emissions 30
 4.1.7 - Existing Conditions of Approval that Reduce Emissions 33
 4.1.8 - Greenhouse Gas Reduction Options 34
 4.1.9 - Inventory after Reductions 43
 4.2 - Cumulative-Level Analysis 44

Section 5: References 47

Appendix A: Greenhouse Gas Emission Spreadsheets and URBEMIS 2007 Model Output

Appendix B: Existing Wal-Mart Demolition URBEMIS Output

Appendix C: Additional Project Design Features

Appendix D: Resume

LIST OF TABLES

Table 1: Greenhouse Gases	7
Table 2: Construction Exhaust Carbon Dioxide Emissions	24
Table 3: Construction Exhaust Black Carbon Emissions	24
Table 4: Total Construction Greenhouse Gas Emissions	25
Table 5: Trip Generation and Pass-by Trips	26
Table 6: Trip Length Estimation.....	26
Table 7: Project Operational Greenhouse Gas Emissions	28
Table 8: Existing Wal-Mart Demolition Emissions.....	29
Table 9: Office of Planning and Research Example Mitigation Measures	34
Table 10: Consistency with Proposed Scoping Plan Reduction Measures	38
Table 11: Project Operational Greenhouse Gas Emissions (After Reductions).....	44

ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
ARB	California Air Resources Control Board
CAPCOA	California Air Pollution Control Officers Association
CAT	Climate Action Team (Report)
CCX	Chicago Climate Exchange
CEQA	California Environmental Quality Act
CFC	Chlorofluorocarbons
CH ₄	Methane
CO ₂	Carbon Dioxide
EIR	Environmental Impact Report
EPA	Environmental Protection Agency
EU ETS	European Union Greenhouse Gas Emission Trading Scheme
HCFC	Hydrochlorofluorocarbons
HFC	Hydrofluorocarbons
IPCC	Intergovernmental Panel on Climate Change
MTCO ₂ e	Metric Tons of Carbon Dioxide Equivalent
MMTCO ₂ e	Million Metric Tons of Carbon Dioxide Equivalent
NO _x	Nitrogen Oxides
N ₂ O	Nitrous Oxide
OPR	Governor's Office of Planning and Research
PFC	perfluorocarbons
ppm	parts per million
ppt	parts per trillion
RGCI	Regional Greenhouse Gas Initiative
SB	Senate Bill
SJVAPCD	San Joaquin Valley Air Pollution Control District
U.S.	United States
VOC	Volatile Organic Compound
Wm ⁻²	Watts per square meter

SECTION 1: INTRODUCTION

1.1 - Executive Summary

This document assesses the impact of the Lodi Shopping Center (project) on climate change. The proposed project includes the construction of approximately 338,235 square feet of commercial retail uses, representing a variety of retail sales and services, to be contained in 12 buildings of varying sizes. The primary user will be Wal-Mart, which will occupy approximately 226,868 square feet of floor area.

The environmental impacts from the proposed project were initially assessed in the Draft Environmental Impact Report (DEIR) dated August 2004. On December 19, 2005, the Superior Court of California, San Joaquin County, Stockton Branch, ordered that the EIR for the Lodi Shopping Center project be revised to include discussions of cumulative urban decay and energy impacts. In all other aspects, the Court found the EIR to be legally sufficient under the California Environmental Quality Act (CEQA). A document titled, Draft Revisions to the Environmental Impact Report (2007 EIR Revisions) was prepared in 2007, which includes the components requested by the court as well as the statement of project objectives, and a discussion of agricultural resources and project alternatives.

In 2006, Governor Arnold Schwarzenegger signed AB 32, which charged the California Air Resources Board (ARB) with developing regulations on how the State would address climate change (also known as “global warming”). The ARB, the California Environmental Protection Agency (CalEPA), the U.S. Environmental Protection Agency (EPA), or other appropriate governmental organizations have not developed guidelines on how to prepare a CEQA assessment for climate change. In the absence of adopted CEQA thresholds, this analysis reflects a good faith effort to evaluate the potential impact of the proposed project with regard to its contribution to greenhouse gases.

Construction of the proposed project would generate approximately 874 metric tons of carbon dioxide equivalents (MTCO₂e). After project buildout, operation of the proposed project would result in greenhouse gas emissions equal to 15,017 MTCO₂e per year. With reductions included in other impact areas of the EIR and project design features, operational emissions would be 13,616 MTCO₂e per year. Possible demolition of the existing Wal-Mart across the street from the proposed project would result in 40 MTCO₂e.

The greenhouse gas emissions from construction and operation of the project would result in a less than significant impact to climate change. The project would not hinder or delay California’s implementation of AB 32. Although the mitigation measures contained in other impact areas of the EIR (Air Quality and Traffic/Circulation) would reduce greenhouse gas emissions, the project, through its objectives and project design features, results in a less than significant impact.

Concerning a cumulative-level analysis, the potential impact from the project on climate change is speculative. There is no cumulative list of projects for climate change, nor is there an approved greenhouse gas reduction plan for the City of Lodi or San Joaquin County. Additionally, no climate change models are available to measure the project's incremental contribution to cumulative climate change. While climate change is a global issue and each contribution of greenhouse gases may have a cumulative effect, there is no established methodology available to determine either the magnitude or the significance of the effect of an individual project on this global issue. As a result, the conclusions reached by any attempt to do so would be speculative. Section 15145 of the CEQA guidelines indicates that if a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact. Therefore, no impact conclusion can be reached and no further analysis is necessary.

This report and analysis was commissioned by Wal-Mart Stores, Inc., and Browman Development Corporation to address questions and comments received by the City of Lodi Planning Commission regarding the project's potential impacts on climate change. The analysis prepared concludes that the project would not have a significant direct impact on climate change. It also concludes that any potential cumulative effects are speculative. These conclusions were reached in part because of the energy-efficiency measures incorporated into the proposed Wal-Mart store's design and operations.

While this report is consistent with CEQA requirements, it is in no way intended to amend the Revised EIR prepared for the project. It is a stand-alone technical report and analysis. It is intended to provide the City of Lodi with information about the project's potential greenhouse gas emissions. While the report may be used by City Council members to evaluate the project's impact on climate change, it is not intended to amend the Revised EIR.

1.2 - Project Description

Project Location

The proposed Lodi Shopping Center (project) consists of 40 acres located at the southwest corner of West Kettleman Lane/State Route 12 and Lower Sacramento Road in west Lodi. The site includes approximately 36 acres for shopping center development, plus approximately four acres adjacent and southwest of the shopping center site for construction of a stormwater detention basin. The site was used previously in agricultural cultivation for row crops and is currently fallow. There are no structures on the project site with the exception of two agricultural wells.

Project Description

The proposed project includes the construction of approximately 338,235 square feet of commercial retail uses, representing a variety of retail sales and services, to be contained in 12 buildings of varying sizes. The primary user will be Wal-Mart which will occupy approximately 226,868 square feet of floor area, including approximately 70,000 square feet for grocery sales, 19,889 square feet for a garden center (including outdoor fenced area), and 6,437 square feet for an auto service shop.

The remaining 11 buildings (111,367 square feet) would range in size and would consist of fast food franchises, sit-down restaurants, and retail uses such as a pharmacy, financial services/bank, professional/business services.

There is an existing Wal-Mart facility across the street from the project site that will relocate to the proposed project if the project is approved. A search for another tenant for the vacant building will be conducted. The 2007 EIR Revisions included a condition of approval for the project regarding the existing Wal-Mart building. Essentially, the existing Wal-Mart building will be demolished if a tenant is not found within 90 days after opening of the new Wal-Mart building. Condition of Approval "R" states as follows:

- R. Prior to the issuance of a building permit for the new Wal-Mart Supercenter, the applicant shall ensure one of the following with respect to the existing Wal-Mart building located at 2350 West Kettleman Lane ("Building"):
- a) The owner of the Building shall have entered into signed lease(s) with bona-fide tenant(s) for at least 50 percent of the Building square footage (not including the fenced, outdoor garden center). The signed lease(s) required hereunder shall include a lease(s) with a bona-fide retailer(s) or restaurant for a minimum of two thirds of the Building frontage (not including the fenced, outdoor garden center); or
 - b) The owner of the Building shall have entered into a fully executed purchase agreement for the Building with a bona-fide retailer; or
 - c) The Applicant shall present to the City a cash escrow account, subject to the approval of the City Attorney, which account shall be for the purpose of securing applicant's obligation to demolish the Building not later than 90 days after the opening to the general public of the new Wal-Mart Supercenter (the "Opening Date"). The amount of the deposit shall be equal to the City estimated reasonable costs to demolish the Building (based on a licensed contractor estimate) plus \$100,000. The escrow account shall be paid to City in the event that Option (a), (b) or (c) is not satisfied within 90 days of the Opening Date. If Option (a), (b) or (c) is satisfied within 90 days after the Opening Date, the cash in the escrow account shall be refunded in full to the Applicant. If the Applicant does not satisfy this condition under Option (a), (b) or (c) within 90 days after the Opening Date, the City shall use the funds to demolish the Building with any balance reverting to the City as compensation for its expense and inconvenience incurred to demolish the Building. The owner of the Building shall present evidence that any lender on the Building consents to the demolition in a form subject to the approval of the City Attorney. This condition shall be recorded against the property as a deed restriction, which runs with the land. Applicant and Wal-Mart agree to enter into any agreements that are necessary in order to implement this Condition.

Project Objectives

The objectives of the proposed project, as stated by the applicant, are as follows:

- To expand the existing Wal-Mart to a Wal-Mart Supercenter with more retail space and the addition of grocery sales;
- To develop the proposed project site with a regional shopping center in conformance with the City of Lodi General Plan and zoning regulations;
- To provide a retail development which meets the current unmet demand of consumers residing within the City of Lodi and demand from planned future residential development in the City; and
- To provide a commercial center that serves both the local and regional market area to attract customers and new retailers into the City of Lodi.

The objectives of the City of Lodi that would be served by the project include the following:

- To provide a commercial development that results in a net fiscal benefit to the City of Lodi by providing new sales tax revenue and increasing property tax revenues;
- To help reverse leakage of retail spending from Lodi to outlying retail centers;
- To provide a commercial center on a large, undeveloped lot in close proximity to an existing highway, other commercial centers, and existing and planned residential areas to minimize travel lengths and utilize existing infrastructure to the extent possible;
- To provide a commercial development that can be adequately served by public services and utilities;
- To provide large scale retail activities that will add opportunities for a complement existing smaller scale retail activities located throughout the City of Lodi;
- To provide commercial development that creates new jobs for City residents; and
- To provide commercial development, which does not negatively affect Downtown and the past and ongoing investment in Downtown. (LODI 2007)

SECTION 2: CLIMATE CHANGE

Briefly stated, climate change is a change in the average weather of the earth that may be measured by changes in wind patterns, storms, precipitation, and temperature. These changes are assessed using historical records of temperature changes that have occurred in the past, such as during previous ice ages. Many of the concerns regarding climate change use this data to extrapolate a level of statistical significance specifically focusing on temperature records from the last 150 years (the Industrial Age) that differ from previous climate changes in rate and magnitude.

The United Nations Intergovernmental Panel on Climate Change (IPCC) constructed several emission trajectories of greenhouse gases needed to stabilize global temperatures and climate change impacts. The IPCC predicted that global mean temperature change from 1990 to 2100, given six scenarios, could range from 1.1 degrees Centigrade (°C) to 6.4°C. Regardless of analytical methodology, global average temperatures and sea levels are expected to rise under all scenarios (IPCC 2007).

In California, climate change may result in consequences such as the following:

- A reduction in the quality and supply of water to the State from the Sierra snow pack;
 - Increased risk of large wildfires;
- Reductions in the quality and quantity of certain agricultural products;
 - Exacerbation of air quality problems;
 - A rise in sea levels resulting in the displacement of coastal businesses and residences;
 - Damage to marine ecosystems and the natural environment;
 - An increase in infections, disease, asthma, and other health-related problems; and
- A decrease in the health and productivity of California's forests (CCCC 2006).

2.1 - Greenhouse Gases

Gases that trap heat in the atmosphere are called greenhouse gases. The effect is analogous to the way a greenhouse retains heat. Common greenhouse gases include water vapor, carbon dioxide, methane, nitrous oxides, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, ozone, and aerosols. Natural processes and human activities emit greenhouse gas. The presence of greenhouse gases in the atmosphere affects the earth's temperature. Without the natural heat-trapping effect of greenhouse gas, the earth's surface would be about 34°C cooler (CAT 2006). However, it is believed that emissions from human activities, such as electricity production and vehicle use, have elevated the concentration of these gases in the atmosphere beyond the level of naturally occurring concentrations.

Climate change is driven by forcings and feedbacks. Radiative forcing is the difference between the incoming energy and outgoing energy in the climate system. Positive forcing tends to warm the

surface while negative forcing tends to cool it. Radiative forcing values are typically expressed in watts per square meter ($W m^{-2}$). A feedback is “an internal climate process that amplifies or dampens the climate response to a specific forcing” (NRC 2005). The global warming potential (GWP) is the potential of a gas or aerosol to trap heat in the atmosphere; it is the “cumulative radiative forcing effects of a gas over a specified time horizon resulting from the emission of a unit mass of gas relative to a reference gas” (EPA 2006a). The GWP of a gas is essentially a measurement of the radiative forcing of a greenhouse gas as compared with the reference gas, carbon dioxide. The greenhouse gases, health effects, and sources are summarized in Table 1.

Individual greenhouse gas compounds have varying GWP and atmospheric lifetimes. The reference gas for the GWP is carbon dioxide; carbon dioxide has a GWP of one. The calculation of the carbon dioxide equivalent is a consistent methodology for comparing greenhouse gas emissions since it normalizes various greenhouse gas emissions to a consistent metric. Methane’s warming potential of 21 indicates that methane has a 21 times greater warming affect than carbon dioxide on a molecule per molecule basis. A carbon dioxide equivalent is the mass emissions of an individual greenhouse gas multiplied by its GWP.

In 2004, total worldwide greenhouse gas emissions were estimated to be 20,135 MMTCO₂e, excluding emissions/removals from land use, land use change, and forestry (UNFCCC 2006). (Note that sinks, or removal processes of greenhouse gas, plays an important role in the greenhouse gas inventory as forest and other land uses absorb carbon.) In 2004, greenhouse gas emissions in the U.S. were 7,074.4 MMTCO₂e (EPA 2006a). In 2005, total U.S. greenhouse gas emissions were 7,260.4 MMTCO₂e, a 16.3 percent increase from 1990 emissions, while U.S. gross domestic product has increased by 55 percent over the same period (EPA 2007a). Emissions rose from 2004 to 2005, increasing by 0.8 percent. The main causes of the increase is believed to be: (1) strong economic growth in 2005, leading to increased demand for electricity, and (2) an increase in the demand for electricity due to warmer summer conditions (EPA 2007a). However, a decrease in demand for fuels due to warmer winter conditions and higher fuel prices moderated the increase in emissions (EPA 2007a).

California is the second largest contributor in the U.S. of greenhouse gases and the sixteenth largest in the world (CEC 2006). In 2004, California produced 500 MMTCO₂e (CEC 2007), including imported electricity and excluding combustion of international fuels and carbon sinks or storage, which is approximately 7 percent of U.S. emissions. The major source of greenhouse gases in California is transportation, contributing 41 percent of the State’s total greenhouse gas emissions (CEC 2006). Electricity generation is the second largest source, contributing 22 percent of the State’s greenhouse gas emissions (CEC 2006).

Table 1: Greenhouse Gases

Greenhouse Gas	Description and Physical Properties	Health Effects	Sources
Water Vapor	Water vapor is the most abundant, important, and variable greenhouse gas. In the atmosphere, it maintains the climate necessary for life.	There are no adverse health effects from water vapor. Some pollutants dissolve in it, which can enter the human body through the water vapor.	Sources include evaporation from the ocean and other water bodies, sublimation of ice and snow, and transpiration from plants.
Ozone (O ₃)	Ozone is a short-lived local greenhouse gas and photochemical pollutant. Tropospheric ozone changes contribute to radiative forcing on a global scale. GWPs for short-lived greenhouse gases, such as ozone and aerosols, are not defined by the IPCC.	Respiratory system irritation, reduction of lung capacity, asthma aggravation, inflammation of and damage to lung cells, aggravated cardiovascular disease, and/or permanent lung damage. Ozone also damages natural ecosystems such as forests and agricultural crops.	Ozone is formed from reactions of ozone precursors (nitrogen oxides [NO _x] and volatile organic compounds [VOC]) and sunlight in the atmosphere. VOC and NO _x are emitted from automobiles, solvents, and fuel combustion.
Aerosols	Aerosols are particulate matter suspended in the air. They are short-lived and remain in the atmosphere for about a week. Aerosols warm the atmosphere by absorbing heat and cool the atmosphere by reflecting light, with radiative forcing (RF) cooling effects of -1.2 W m^{-2} . There is a low scientific understanding of the RF of individual aerosols, such as black carbon. Black carbon can cause warming from deposition on snow ($+0.1 \text{ W m}^{-2}$) and from suspensions in air ($+0.2 \text{ W m}^{-2}$). Reddy and Boucher (2007) identified a GWP of 761 for black carbon. Global cooling potentials for other aerosols in a metric similar to the GWP are not available.	Particulate matter can be inhaled directly into the lungs where it can be absorbed into the bloodstream. It is a respiratory irritant and can cause coughing, bronchitis, lung disease, respiratory illnesses, increased airway reactivity, and exacerbation of asthma. Particulate matter may have direct effects on the health, capacity, and productivity of the heart. Recent mortality studies have shown a statistically significant direct association between mortality and daily concentrations of particulate matter in the air. Non-health adverse effects include reduced visibility and soiling of property.	Sulfate aerosols are emitted when fuel containing sulfur is burned. Black carbon (or soot) is emitted during biomass burning and incomplete combustion of fossil fuels (such as diesel fuel).
Methane (CH ₄)	Methane is a flammable gas and is the main component of natural gas. GWP = 21.	There are no ill health effects from methane. Methane is violently reactive with oxidizers, halogens, and some halogen-containing compounds. Methane is an asphyxiant and may displace oxygen in an enclosed space.	A natural source of methane is from the anaerobic decay of organic matter. Methane is extracted from geological deposits (natural gas fields). Other sources are from landfills, fermentation of manure, and cattle.
Nitrous oxide (N ₂ O)	Nitrous oxide is also known as laughing gas and is a colorless greenhouse gas. GWP = 310.	Higher concentrations can cause dizziness, euphoria, and sometimes-mild hallucinations.	Microbial processes in soil and water, fuel combustion, and industrial processes.

Table 1: Greenhouse Gases (Cont.)

Greenhouse Gas	Description and Physical Properties	Health Effects	Sources
Carbon dioxide (CO ₂)	Carbon dioxide is an odorless, colorless, natural greenhouse gas. GWP = 1.	Outdoor levels of carbon dioxide are not high enough to result in negative health effects. The National Institute for Occupational Safety and Health reference exposure levels of 5,000 ppm (averaged over 10 hours in a 40-hour workweek) and 30,000 ppm (averaged over 15 minutes), where health problems could include: headache; dizziness; skin tingling; breathing difficulty; increased heart rate, cardiac output, or blood pressure; coma; asphyxia; and/or convulsions.	Carbon dioxide is emitted from natural and anthropogenic sources. Natural sources include decomposition of dead organic matter: respiration of bacteria, plants, animals, and fungus; evaporation from oceans; and volcanic outgassing. Anthropogenic sources are from burning coal, oil, natural gas, and wood. The concentration in 2005 was 379 ppm, which is an increase of about 1.4 ppm per year since 1960.
Chloro-fluorocarbons (CFCs)	CFCs are gases formed synthetically by replacing all hydrogen atoms in methane or ethane with chlorine and/or fluorine atoms. CFCs are nontoxic, nonflammable, insoluble, and chemically unreactive in the troposphere (the level of air at the earth's surface). GWPs range from 3,800 to 8,100.	CFCs are no longer being used; therefore, it is not likely that adverse health effects would be experienced. Nonetheless, in confined indoor locations, working with CFCs is thought to result in death by cardiac arrhythmia (heart frequency too high or too low) or asphyxiation.	CFCs were first synthesized in 1928 for use as refrigerants, aerosol propellants, and cleaning solvents. They destroy stratospheric ozone; therefore, the Montreal Protocol on Substances that Deplete the Ozone Layer stopped their production in 1987.
Hydro-fluorocarbons (HFCs)	The HFCs with the largest measured atmospheric concentrations are HFC-23 and HFC-134a (10 ppt) and HFC-152a (1 ppt). GWPs: HFC-23 = 11,700, HFC-134a = 1,300, HFC-152a = 140.	Most HFCs do not have health effects associated with them. However, HFC-134a has a chronic inhalation exposure of 80 mg/m ³ ; the critical effect is Leydig cell hyperplasia.	HFCs are synthetic manmade chemicals that are used as a substitute for CFCs in applications such as automobile air conditioners and refrigerants.
Per-fluorocarbons (PFCs)	PFCs have stable molecular structures and only break down by ultraviolet rays about 60 kilometers above Earth's surface. Because of this, PFCs have very long lifetimes, between 10,000 and 50,000 years. GWPs range from 6,500 to 9,200.	High concentrations of CF ₄ may cause confusion, headache, and effects on the cardiovascular system, resulting in cardiac disorders. Concentrations of CF ₄ in the atmosphere are 70 ppt, which are too low to cause health effects.	Two main sources of PFCs are primary aluminum production and semiconductor manufacturing.
Sulfur hexafluoride	Sulfur hexafluoride is an inorganic, odorless, colorless, and nontoxic, nonflammable gas. Concentrations in the 1990s were about 4 ppt. It has the highest GWP of any gas evaluated, 23,900.	High concentrations in confined areas can present a hazard of suffocation because it displaces the oxygen needed for breathing.	It is manmade and used for insulation in electric power transmission equipment, in the magnesium industry, in semiconductor manufacturing, and as a tracer gas.

ppm – parts per million; ppt = parts per trillion (measure of concentration in the atmosphere); GWP = global warming potential

Compiled from a variety of sources, including: EPA 1995, EPA 2003, EPA 2003b, EPA 2006b, IPCC 2007, NIOSH 1989, NIOSH 1997, NIOSH 2005, OSHA 2003

2.2 - Regulatory Environment

2.2.1 - International and Federal

International and federal agreements have been enacted to deal with global climate change issues. In 1988, the United Nations and the World Meteorological Organization established the Intergovernmental Panel on Climate Change to assess “the scientific, technical and socio-economic information relevant to understanding the scientific basis of risk of human-induced climate change, its potential impacts, and options for adaptation and mitigation” (IPCC 2004).

On March 21, 1994, the United States joined a number of countries around the world in signing the United Nations Framework Convention on Climate Change. Under the Convention, governments do the following: gather and share information on greenhouse gas emissions, national policies, and best practices; launch national strategies for addressing greenhouse gas emissions and adapting to expected impacts, including the provision of financial and technological support to developing countries; and cooperate in preparing for adaptation to the impacts of climate change (UNFCCC 2007).

A particularly notable result of the United Nations Framework Convention on Climate Change efforts is a treaty known as the Kyoto Protocol, which went into effect on February 16, 2005. When countries sign the treaty, they demonstrate their commitment to reduce their emissions of greenhouse gases or engage in emissions trading. More than 170 countries are currently participating in the Protocol. Industrialized countries are required to reduce their greenhouse gas emissions by an average of five percent below their 1990 levels by 2012.

The reduction targets established in the Kyoto Protocol can be met by reducing domestic greenhouse gas emissions, or by utilizing three mechanisms allowed under the Kyoto Protocol: Emissions Trading, Joint Implementation, and the Clean Development Mechanism. Joint Implementation is a mechanism for transfer of emissions permits from one Annex B country to another. The Clean Development Mechanism allows project-based emission reduction activities in developing countries. Certificates are generated through this system from projects that lead to certifiable emissions reductions that would otherwise not occur,

In 1998, United States Vice President Al Gore symbolically signed the Protocol; however, in order for the Protocol to be formally ratified, the United States Congress must approve it. Congress did not do this during the Clinton Administration.

In October 1993, President Clinton announced his Climate Change Action Plan, which had a goal to return greenhouse gas emissions to 1990 levels by the year 2000. This was to be accomplished through 50 initiatives that relied on innovative voluntary partnerships between the private sector and government aimed at producing cost-effective reductions in greenhouse gas emissions.

The U.S. EPA currently does not regulate greenhouse gas emissions from motor vehicles.

Massachusetts v. EPA (Supreme Court Case 05-1120) was argued before the United States Supreme Court on November 29, 2006, in which it was petitioned that EPA regulate four greenhouse gases, including carbon dioxide, under Section 202(a)(1) of the Clean Air Act. A decision was made on April 2, 2007, in which the Supreme Court held that petitioners have a standing to challenge the EPA and that the EPA has statutory authority to regulate emissions of greenhouse gases from new motor vehicles.

President Bush attended the Group of Eight (G8) 2008 Summit, which is an annual meeting attended by the leaders of eight countries, Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States of America, and the President of the European Commission. The summit resolved with a broad pledge to work toward cutting greenhouse gas emissions by 50 percent by 2050. However, five developing nations at the meeting - China, India, Brazil, Mexico, and South Africa - issued their own statement rejecting this pledge.

G-8 Leaders agreed that actions by all major economies are essential for tackling climate change while also doing the following (WH 2008):

- Looking forward to and endorsing the positive contribution of the Major Economies Leaders Meeting to the UN Framework Convention on Climate Change process;
- Seeking to share with all parties of the UN Framework Convention on Climate Change the vision of moving to a low-carbon society, and together consider and adopt the goal of achieving at least a 50 percent reduction of global emissions by 2050, recognizing the need for contributions by all major economies;
- Recognizing that an effective post-2012 climate change regime will require all major economies, developed and developing, to commit to meaningful mitigation actions bound in a new international agreement;
- Welcoming the establishment of the Clean Technology Fund proposed by President Bush in September 2007, towards which the United States is pledging \$2 billion over three years;
- Committing to increasing investment in clean energy technology research and development, with G-8 members who have so far pledged over \$10 billion annually in direct government-funded research and development;
- Calling for enhanced efforts in the WTO Doha Round to eliminate tariff and non-tariff barriers to environmental goods and services with a view to significantly expanding dissemination of clean technology and services; and
- Agreeing to maximize implementation in each country of the International Energy Agency 25 recommendations on energy efficiency and supporting the new International Partnership for Energy Efficiency Cooperation.

2.2.2 - California

There has been significant legislative and regulatory activity regarding climate change and greenhouse gases in California, as discussed below.

Title 24. Although it was not originally intended to reduce greenhouse gases, California Code of Regulations Title 24 Part 6: California's Energy Efficiency Standards for Residential and Nonresidential Buildings, was first adopted in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficient technologies and methods. The latest amendments were made in October 2005 and currently require new homes to use half the energy they used only a decade ago. Energy efficient buildings require less electricity; therefore, increased energy efficiency reduces fossil fuel consumption and decreases greenhouse gas emissions.

AB 1493. California Assembly Bill 1493 (Pavley), enacted on July 22, 2002, required the ARB to develop and adopt regulations that reduce greenhouse gases emitted by passenger vehicles and light duty trucks. Regulations adopted by the ARB would apply to 2009 and later model year vehicles. The ARB estimates that the regulation would reduce climate change emissions from the light-duty passenger vehicle fleet by an estimated 18 percent in 2020 and by 27 percent in 2030 (ARB 2004). However, the regulation has been stalled by automaker lawsuits and by the U.S. EPA's refusal to grant California an implementation waiver. California is suing the federal government over the unprecedented failure to grant the waiver. Therefore, AB 1493 is not currently in effect.

Executive Order S-3-05. California Governor Arnold Schwarzenegger announced on June 1, 2005, through Executive Order S-3-05, the following reduction targets for greenhouse gas emissions:

- By 2010, reduce greenhouse gas emissions to 2000 levels;
- By 2020, reduce greenhouse gas emissions to 1990 levels; and
- By 2050, reduce greenhouse gas emissions to 80 percent below 1990 levels (CA 2005).

To meet these targets, the Governor directed the Secretary of the California EPA to lead a Climate Action Team (CAT) made up of representatives from the Business, Transportation, and Housing Agency; the Department of Food and Agriculture; the Resources Agency; the Air Resources Board; the Energy Commission; and the Public Utilities Commission. The CAT's Report to the Governor in 2006 contains recommendations and strategies to help ensure the targets in Executive Order S-3-05 are met (CAT 2006).

The Governor signed **Executive Order S-01-07** on January 18, 2007. The order mandates that a statewide goal shall be established to reduce the carbon intensity of California's transportation fuels by at least 10 percent by 2020. It also requires that a Low Carbon Fuel Standard for transportation fuels be established for California.

SB 1368. In 2006, the State Legislature adopted Senate Bill 1368 (SB 1368), which was subsequently signed into law by the Governor. SB 1368 directs the California Public Utilities Commission to adopt a performance standard for greenhouse gas emissions for the future power purchases of California utilities. SB 1368 seeks to limit carbon emissions associated with electrical energy consumed in California by forbidding procurement arrangements for energy longer than five years from resources that exceed the emissions of a relatively clean, combined cycle natural gas power plant. Due to the carbon content of its fuel source, a coal-fired plant cannot meet this standard because such plants emit roughly twice as much carbon as natural gas, combined cycle plants. Accordingly, the new law will effectively prevent California's utilities from investing in, otherwise financially supporting, or purchasing power from new coal plants located in or out of the State. Thus, SB 1368 will lead to dramatically lower greenhouse gas emissions associated with California's energy demand, as SB 1368 will effectively prohibit California utilities from purchasing power from out of state producers that cannot satisfy the performance standard for greenhouse gas emissions required by SB 1368.

SB 97 was passed in August 2007 and added Section 21083.05 to the Public Resources Code. The code states "(a) On or before July 1, 2009, the Office of Planning and Research shall prepare, develop, and transmit to the Resources Agency guidelines for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions as required by this division, including, but not limited to, effects associated with transportation or energy consumption. (b) On or before January 1, 2010, the Resources Agency shall certify and adopt guidelines prepared and developed by the Office of Planning and Research pursuant to subdivision (a)." Section 21097 was also added to the Public Resources Code. It indicates that the failure adequately analyzing the effects of greenhouse gases in a document related to the environmental review of a transportation project funded under the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 does not create a cause of action for a violation. However, SB 97 does not safeguard non-transportation funded projects from court challenges for omitting a climate change analysis.

AB 32. In 2006, the California State Legislature enacted **AB 32**, the California Global Warming Solutions Act of 2006. AB 32 focuses on reducing greenhouse gas emissions in California. Greenhouse gases, as defined under AB 32, include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. AB 32 requires that greenhouse gases emitted in California be reduced to 1990 levels by the year 2020. ARB is the State agency charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases.

The ARB Board approved the 1990 greenhouse gas emissions level of 427 million metric tons of carbon dioxide equivalent (MMTCO₂e) on December 6, 2007. Therefore, in 2020, emissions in California are required to be at or below 427 MMTCO₂e.

Under the current “business as usual” scenario, statewide emissions are increasing at a rate of approximately 1 percent per year as noted below. Also shown are the average reductions needed from all statewide sources (including all existing sources) to reduce greenhouse gas emissions back to 1990 levels.

- 1990: 427 MMTCO₂e
- 2004: 480 MMTCO₂e (an average 11% reduction needed to achieve 1990 base)
- 2008: 495 MMTCO₂e (an average 14% reduction needed to achieve 1990 base)
- 2020: 600 MMTCO₂e “Business As Usual” (an average 29% reduction needed to achieve 1990 base)

Under AB 32, the ARB published its Final Expanded List of Early Action Measures to Reduce Greenhouse Gas Emissions in California (ARB 2007). Discrete early action measures are currently underway or are enforceable by January 1, 2010. Early action measures are regulatory or non-regulatory and are currently in progress or to be initiated by the ARB in the 2007 to 2012 timeframe. The ARB has 44 early action measures that apply to the transportation, commercial, forestry, agriculture, cement, oil and gas, fire suppression, fuels, education, energy efficiency, electricity, and waste sectors. Of those early action measures, nine are considered discrete early action measures, as they are regulatory and enforceable by January 1, 2010. The ARB estimates that the 44 recommendations are expected to result in reductions of at least 42 MMTCO₂e by 2020, representing approximately 25 percent of the 2020 target. CEQA is only mentioned once in the Early Action Measures report. The California Air Pollution Control Officer’s Association suggested that ARB work with local air districts on approaches to review greenhouse gas impacts under the CEQA process, including significance thresholds for greenhouse gases for projects and to develop a process for capturing reductions that result from CEQA mitigations. ARB’s response to this recommendation in the report is as follows: “the Governor’s Office of Planning and Research is charged with providing statewide guidance on CEQA implementation. With respect to quantifying any reductions that result from project level mitigation of greenhouse gas emissions, we would like to see air districts take a lead role in tracking such reductions in their regions” (ARB 2007).

The ARB released a Climate Change Proposed Scoping Plan in October 2008. The Plan “proposes a comprehensive set of actions designed to reduce overall greenhouse gas emissions in California, improve our environment, reduce our dependence on oil, diversify our energy sources, save energy, create new jobs, and enhance public health” (ARB 2008). The Plan will be presented to the ARB Board for approval at its meeting in December 2008. The measures in the Scoping Plan approved by the ARB Board will be developed over the next two years and be in place by 2012.

SB 375 passed the Senate on August 30, 2008 and was signed by the Governor on September 30, 2008. According to SB 375, the transportation sector is the largest contributor of greenhouse gas emissions and contributes over 40 percent of the greenhouse gas emissions in

California and automobiles and light trucks alone contribute almost 30 percent. SB 375 indicates that greenhouse gases from automobiles and light trucks can be reduced by new vehicle technology but significant reductions from changed land use patterns and improved transportation are necessary. SB 375 states, “Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32”. SB 375 does the following: 1) requires metropolitan planning organizations to include sustainable community strategies in their regional transportation plans for reducing greenhouse gas emissions, 2) aligns planning for transportation and housing, and 3) creates specified incentives for the implementation of the strategies. Concerning CEQA, SB 375, section 21159.28 states the following:

- (a) If a residential or mixed-use residential project is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board pursuant to subparagraph (I) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code has accepted the metropolitan planning organization’s determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets. If the project incorporates the mitigation measures required by an applicable prior environmental document, then any findings or other determinations for an exemption, a negative declaration, a mitigated negative declaration, a sustainable communities environmental assessment, an environmental impact report, or addenda prepared or adopted for the project pursuant to this division shall not be required to reference, describe, or discuss (1) growth inducing impacts; or (2) any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network.
- (b) Any environmental impact report prepared for a project described in subdivision (a) shall not be required to reference, describe, or discuss a reduced residential density alternative to address the effects of car and light-duty truck trips generated by the project.
- (c) “Regional transportation network”, for purposes of this section, means all existing and proposed transportation system improvements, including the State transportation system, that were included in the transportation and air quality conformity modeling, including congestion modeling, for the final regional transportation plan adopted by the metropolitan planning organization, but shall not include local streets and roads. Nothing in the foregoing relieves any project from a requirement to comply with any conditions, exactions, or fees for the mitigation of the project’s impacts on the structure, safety, or operations of the regional transportation network or local streets and roads.
- (d) A residential or mixed-use residential project is a project where at least 75 percent of the total building square footage of the project consists of residential use or a project that is a transit priority project as defined in Section 21155.

2.2.3 - Local and Regional

San Joaquin Valley Air Pollution Control District

The project is in the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD). In August 2008, the SJVACPD's Governing Board adopted the Climate Change Action Plan (CCAP 2008a). The CCAP directed the Air Pollution Control Officer to develop guidance documents to assist land-use and other permitting agencies in addressing greenhouse gas emissions as part of the CEQA process. As well as to investigate the development of a greenhouse gas banking program, enhance the existing emissions inventory process to include greenhouse gas emissions reporting consistent with new State requirements, and administer voluntary greenhouse gas emission reduction agreements. These items would then be brought before the SJVAPCD Governing Board for their consideration.

The SJVAPCD prepared a staff report dated November 2008 (CCAP 2008b). The intent of the staff report is to provide a starting point for developing the items called for in the CCAP approved in August 2008. The staff report provides a summary of background information on climate change, the current regulatory environment surrounding greenhouse gas emissions, and the various concepts in addressing the potential impacts of climate change. This staff report evaluates methodologies for estimating impacts, and summarizes mitigation measures. The staff report indicates that there are many potentially valid approaches and therefore no specific approach is being recommended at this time. Instead, the staff report presents several alternative methodologies for addressing greenhouse gas impacts that are being developed and vetted by other agencies.

The methodologies that it discusses are from the ARB, California Office of Planning and Research, California Air Pollution Control Officers Association (CAPCOA), Association of Environmental Professionals (AEP), South Coast Air Quality Management District (SCAQMD), and the Bay Area Air Quality Management District (AQMD). Some of these methodologies are discussed in Section 3 below, Thresholds of Significance. The SJVAPCD does not identify any thresholds at this time.

City of Lodi

Resolution 2006-205

Resolution 2006-205, A Resolution of the Lodi City Council Endorsing the California Municipal Utilities Association's Principles Addressing Greenhouse Gas Reduction Goals, was adopted on November 15, 2006 (LODI 2006). The City Council endorses the California Municipal Utilities Association's (CMUA) principles addressing reduction goals for greenhouse gas. Some of the measures include the following:

- develop a greenhouse gas reduction plan;
- invest in energy efficiency then pursue renewable energy supplies and other non-greenhouse gas emitting energy sources;
- support mandatory greenhouse gas reporting;

- provide measurement and verification of programs that reduce greenhouse gas emissions; and
- provide education to customers on ways they can reduce greenhouse gas emissions and provide assistance where feasible.

The Electric Utility Department staff believes that the adoption of the principals will send a positive message and assist in legislative advocates in future discussions surrounding climate change regulation and legislation.

General Plan

The current City of Lodi General Plan is dated 1991. The 2004 EIR presents General Plan goals and policies that are relevant to air quality on pages 116 through 117. Pages 75 through 77 2007 EIR Revisions also outlines the measures that would promote efficient energy use and energy conservation.

Development Code

Page 77 of the 2007 EIR Revisions indicates that the City's Draft Development Code specifies the use of efficient irrigation systems and drought-tolerant landscaping, which would reduce energy use in water pumping.

2.3 - Emissions Trading and Carbon Offset Programs

Current and future emissions trading programs as well as carbon-offset programs are discussed below.

2.3.1 - Emissions Trading Programs

An emissions trading (or cap and trade) program is an approach for controlling emissions by providing economic incentives for reducing emissions. Typically, a limit (or cap) is placed on the quantity of greenhouse gas emissions that can be emitted per year. The source emitters are then issued permits by the governing authority for a certain allowance of emissions. Source emitters can reduce their own emissions and sell the excess or they can continue to emit high levels and purchase credits from another facility (a trade). There are several uncertainties regarding trading programs. Allowances need to be set at proper levels when a cap and trade program is initialized. Another uncertainty is deciding who is regulated (i.e., power plants, transportation sector, etc.).

Existing Carbon Trading Program

The European Union Greenhouse Gas Emission Trading Scheme (EU ETS) is one of three mechanisms under the Kyoto Protocol to reduce emissions in the European Union. The other two mechanisms are called Joint Implementation and the Clean Development Mechanism. The EU ETS is examined herein to provide background information on how a trading system in California or the United States may work or end up over time. Note that the EU ETS does not apply to or reduce emissions generated in the United States.

The EU ETS commenced operation in 2005 as the largest multi-country, multi-sector greenhouse gas emission-trading program worldwide. The mandatory trading system covers over 11,500 facilities in Europe (EUETS 2007). The EU ETS covers half of the European Union's emissions of carbon dioxide and 40 percent of its total greenhouse gas emissions.

The National Allocation Plans determine the total quantity of carbon dioxide emissions that Member States grant to their companies, which can then be sold or bought by the companies themselves. This means each Member State must decide how many allowances to allocate in total for a trading period and how those allowances will be distributed. The first trading period runs from 2005-2007, the second one from 2008-2012, and the third one will start in 2013 (EUETS 2007). The first trading period covered only carbon dioxide emissions from large emitters in the power and heat generation industry and in selected energy-intensive industrial sectors: combustion plants, oil refineries, coke ovens, iron and steel plants and factories making cement, glass, lime, bricks, ceramics, pulp, and paper. The second period will also include nitrous oxide emissions.

The transportation sector and direct emissions from the commercial and residential sector are not included in the cap (MAC 2007). The EU relies on policies and measures apart from the emissions trading system to reduce emissions from uncovered sectors. For example, taxes in the EU on gasoline can climb to over \$6 per gallon, which is considerably higher than those found in California (MAC 2007).

The number of second period allowances is less than the first phase period. In the United Kingdom, the reduction in allowances for Phase II is to be borne by Large Electricity Producers, as in Phase I, because the public can carry the cost by increased energy rates (DEFRA 2007).

The allowances allotted through the EU ETS can be traded at Carbon Trading Exchanges, including but not limited to the following: European Climate Exchange; European Energy Exchange; Energy Exchange Austria; Nord Pool; and Bluenext. The price per metric ton in the European markets is currently around 20 Euros (\pm \$29).

Future Carbon Trading Programs

Future trading programs currently being developed include the Western Climate Initiative, the Regional Greenhouse Gas Initiative, and a cap and trade system for California.

Western Climate Initiative

The Western Climate Initiative was signed on February 26, 2007. The following states are partners: Arizona, California, Montana, New Mexico, Oregon, Utah, and Washington. British Columbia, Manitoba, Ontario, and Quebec, Canada are also partners. Partners plan to collaborate to identify, evaluate, and implement ways to reduce greenhouse gas emissions in the states collectively and to achieve related co-benefits. The Initiative published its regional greenhouse gas reduction goals on August 22, 2007, which include a reduction of 15 percent below 2005 levels by 2020 (WCI 2007).

The WCI has prepared documents on the variety of approaches that can be used within the trading program. The document titled, *Design Recommendations for the WCI Regional Cap-and-Trade Program*, was published on September 23, 2008.

Regional Greenhouse Gas Initiative

The Regional Greenhouse Gas Initiative is an agreement between nine northeastern states to institute a mandatory carbon dioxide reduction program. The goal of the Regional Greenhouse Gas Initiative is to reduce the member states carbon dioxide production from the power sector by 10 percent between 2009 and 2018. The program will cover fossil fuel electricity generation stations larger than 25 megawatts (RGGI 2008).

Cap and Trade Program in California

California is exploring the possibility of a cap and trade system for greenhouse gases. The Market Advisory Committee to the ARB published recommendations for designing a mandatory greenhouse gas cap and trade system for California (MAC 2007), as follows:

- The program should eventually include all major greenhouse gas-emitting sectors of the economy in the cap-and-trade program.
- To address emissions associated with imported electricity within a State-based cap-and-trade program, the Committee recommends a “first-seller approach”. Under this approach, the entity that first sells electricity in the State is responsible to meet the compliance obligation established under the greenhouse gas cap-and-trade program.
- The Committee recommends a combined approach in which some share of allowances is allocated free of charge initially, while the remaining allowances are auctioned. The percentage of allowances auctioned should then increase over time.
- The Committee recommends that California’s cap-and-trade program recognize offsets generated both within and outside the State’s borders.
- California should encourage linkages with other mandatory greenhouse gas cap-and-trade systems.
- The Committee recommends the use of very stringent criteria for determining whether activities qualify as offsets (MAC 2007).

The program could include the upstream transportation sector, which would regulate petroleum refiners and importers of refined products. It could also cover the distribution of natural gas.

2.3.2 - Carbon Offset Programs

Carbon offset programs allow entities to purchase carbon offsets. Carbon offsets are designed to fund programs that reduce greenhouse gas emissions, such as digesters on dairy farms that capture and reuse methane gas. There are different sources for purchasing carbon offsets, as discussed below.

Chicago Climate Exchange

The Chicago Climate Exchange (CCX) is currently North America's only marketplace for integrating voluntary legally binding emissions reductions with emissions trading and offsets (CCX 2008). The commodity traded at CCX is the Carbon Financial Instrument contract, each of which represents one MTCO₂e. Trading volumes have increased since the CCX was established in 2003. The price of a Carbon Financial Instrument has ranged from \$1 to \$4.50 per MTCO₂e. The price on February 13, 2008 was \$4.45. The price on November 7, 2008 was \$1.20 per share.

Entities can also become members of the CCX. Members agree to reduce their direct emissions by 2010 by 6 percent. Direct emissions result from the on-site combustion of fossil fuels, such as natural gas to power industrial operations and gasoline to operate vehicle fleets. Indirect emissions result from energy purchases, such as electricity, and their corresponding emissions.

A third party annually verifies the offsets, available through the CCX. The types of offsets available through the CCX include the following:

- Agricultural methane;
- Coal mine methane;
- Landfill methane;
- Agricultural soil carbon;
- Rangeland soil carbon management;
- Forestry;
- Renewable energy; and
- Ozone depleting substance destruction.

Carbon Finance at the World Bank

The World Bank is facilitating the development of a carbon market through managing carbon funds to finance sustainable development in developing countries (WB 2006). One of the funds is called the Prototype Carbon Fund, which promotes sustainable development and has 29.8 million metric tons of carbon dioxide equivalents under contract.

Independent Offset Acquisition

A company can choose to obtain its own offsets independently, either by developing its own emission reduction projects or by securing long-term rights from another emitter. The benefits of acquiring offsets independently could mean that any economic benefits that arise from the projects could potentially be shared with the purchaser. However, there could be long lead times for the offset projects, which could mean that the benefits may not be available until after 2011 or later. Also, offset developers may not be interested in selling or may request an unreasonably large price for such offsets. The administrative costs of independent offset acquisition may also be higher than obtaining them directly from an offset provider. There is also risk in that the offset project may reduce fewer emissions than anticipated.

The types of projects that developers can obtain are similar to those offered by the offset providers, and include renewable energy projects (solar or wind), agricultural projects (installation of biodigesters, which trap methane released and convert it to electricity), or landfill gas recovery.

SECTION 3: THRESHOLDS OF SIGNIFICANCE

CEQA requires that Lead Agencies inform decision makers and the public regarding potential significant environmental effects of proposed projects and feasible ways that environmental damage can be avoided or reduced, through feasible mitigation measures and/or project alternatives. The Lead Agencies must also disclose the reasons why a project is approved if significant environmental effects are involved (CEQA Guidelines Section 15002). CEQA also requires Lead Agencies to evaluate potential environmental effects based on, to the fullest extent possible, scientific and factual data (CEQA Guidelines Section 15064[b]). Significance conclusions must be based on substantial evidence, which includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts (CEQA Guidelines Section 15064f [5]).

There are currently no adopted thresholds of significance or modelling methodology established by any State or regional regulatory agency for measuring the impact of climate change on or from a project. However, the ARB has published a draft report containing thresholds for greenhouse gases for industrial projects and commercial/residential projects (ARB 2008b). The proposed threshold for commercial/residential projects is a four-tiered approach. If the project is exempt under existing statutory or categorical exemptions, the project is less than significant. Tier 2 indicates that the project is less than significant if the project complies with a previously approved plan that addresses greenhouse gas emissions, satisfies (15064(h)(3)), and has all of the following attributes:

- Meets a community level greenhouse gas target consistent with the statewide emissions limit in AB 32 and, where the plan will apply beyond 2020, Executive Order S-3-05;
- Is consistent with a transportation related greenhouse gas reduction target adopted by ARB pursuant to SB 375;
- Includes a greenhouse gas inventory and mechanisms to regularly monitor and evaluate emissions;
- Includes specific, enforceable greenhouse gas requirements;
- Incorporates mechanisms that allow the plan to be revised in order to meet targets; and
- Has a certified final CEQA document (see 15152(f)).

If the project does not meet the second tier, then the analysis goes to the third tier. The project would be less than significant if the project:

- a) Meets all of the below minimum performance standards, or includes equivalent mitigation measures. Construction: meets an interim ARB performance standard for construction-related emissions. Operations: meets an energy use performance standard defined as California Energy Commissions (CECs) Tier II Energy Efficiency goal; meets an interim

ARB performance standard for water use; meets an interim ARB performance standard for waste; meets an interim ARB performance standard for transportation; and

- b) The project, with performance standards or equivalent mitigation, will emit no more than X metric tons CO₂e/yr (criteria to be developed).

Note that the ARB draft threshold has not identified a numerical threshold for commercial/residential projects at this time, as indicated in the third tier “X metric tons CO₂e/yr”.

On January 8, 2008, CAPCOA released a paper to provide a common platform of information and tools for public agencies. The disclaimer states that it is not a guidance document but a resource to enable local decision makers to make the best decisions they can in the face of incomplete information during a period of change. The paper indicates that it is an interim resource and does not endorse any particular approach. It discusses three groups of potential thresholds, including a no significance threshold, a threshold of zero, and a non-zero threshold (CAPCOA 2008). The non-zero quantitative thresholds as identified in the paper range from 900 to 50,000 metric tons per year.

The Governor’s Office of Planning and Research (OPR) is planning to publish new CEQA Guidelines pursuant to SB 97 by July 1, 2009, which will provide regulatory guidance on the analysis and mitigation of greenhouse gas emissions in CEQA documents. In the interim, OPR published a Technical Advisory, which offers informal guidance regarding the steps lead agencies should take to address climate change in their CEQA documents (OPR 2008). The paper indicates that each public agency needs to develop its own approach for climate change analyses. The steps for the analysis include the following: identify and quantify greenhouse gas emissions; assess the significance of impact; and identify alternatives and/or mitigation measures to reduce the impacts. The advisory does not specify thresholds or approaches for the analysis.

While this report is not a CEQA document, this document analyzes the project’s impact on climate change using typically accepted methods to provide a qualitative and quantitative analysis of the project’s climate change impact.

SECTION 4: IMPACT ANALYSIS

The following impact analysis addresses climate change on a project and cumulative level. Impacts to the project from climate change are also addressed.

4.1 - Project-Level Analysis

4.1.1 - Existing Greenhouse Gas Emissions

The project site is currently fallow and was previously used in cultivation for row crops. The energy inputs for the previous row crop operation included direct energy consumption for farm machinery and water pumps, and indirect energy bound in fertilizers and pesticides. The total energy requirements for a typical row crop (e.g., wheat) are about 8.0 million BTU per acre per year, which translates to 320 million BTU per year for the entire project site (2007 EIR Revisions). However, the energy output of the food grown on the project site is approximately seven times that of the energy input (2007 EIR Revisions). It is unknown at this time how much ethanol or alternative energy the project site could produce through agriculture.

4.1.2 - Inventory of Greenhouse Gases - Construction

The project would emit greenhouse gases from upstream emission sources (the manufacture of building materials such as cement) and direct sources (combustion of fuels from worker vehicles and construction equipment).

An upstream emission source (also known as life cycle emissions) refers to emissions that were generated during the manufacture of products to be used for construction of the project. Upstream emission sources for the project include but are not limited to the following: emissions from the manufacture of cement; emissions from the manufacture of steel; and/or emissions from the transportation of building materials in other countries. The upstream emissions were not estimated because they are not within the control of the project and to do so would be speculative at this time. Additionally, the CAPCOA White Paper on CEQA & Climate Change supports this conclusion by stating, "The full life-cycle of GHG [greenhouse gas] emissions from construction activities is not accounted for ... and the information needed to characterize [life-cycle emissions] would be speculative at the CEQA analysis level" (CAPCOA 2008). Therefore, pursuant to CEQA Guidelines Section 15144 and 15145, upstream /life cycle, emissions are speculative and no further discussion is necessary.

Greenhouse gas emissions from construction were estimated using URBEMIS2007. The emissions of carbon dioxide from project construction equipment and worker vehicles are shown in Table 2 below. Emissions of nitrous oxide and methane are negligible. The emissions are from all phases of construction.

Table 2: Construction Exhaust Carbon Dioxide Emissions

Phase	Carbon Dioxide Emissions (tons)	Emissions (MTCO ₂ e)
Grading	45	41
Drainage basin	49	44
Wal-Mart construction	397	360
Remaining center construction	290	263
Total	781	708

MTCO₂e = metric tons of carbon dioxide equivalent, converted from tons by multiplying by 0.9072 and the global warming potential of 1.

Source of carbon dioxide emissions: URBEMIS2007 output in Appendix A.

Emissions of black carbon from diesel fueled vehicles and equipment are shown in Table 3. Black carbon is part of the "aerosol" group of short-lived greenhouse gas emissions. The methods to quantify black carbon are still uncertain at this time; therefore, estimates as presented below have a low level of scientific certainty.

Table 3: Construction Exhaust Black Carbon Emissions

Phase	PM _{2.5} Exhaust Emissions (tons)	Black Carbon Emissions (MTCO ₂ e)
Grading	0.03	16
Drainage basin	0.01	5
Wal-Mart construction	0.14	75
Remaining center construction	0.13	70
Total	0.31	166

MTCO₂e = metric tons of carbon dioxide equivalent, converted from tons by multiplying by 0.9072 and multiplying by global warming potential (760) and multiplying by the percent of black carbon in PM_{2.5}, 77.7 percent.

Source of PM_{2.5} emissions: URBEMIS2007 output in Appendix A.

A summary of the total greenhouse gas emissions is presented in Table 4. As shown in Table 4, emissions total 874 MTCO₂e from all phases.

Table 4: Total Construction Greenhouse Gas Emissions

Phase	Emissions (MTCO ₂ e)		
	Carbon Dioxide'	Black Carbon'	Total'
Grading	41	16	57
Drainage basin	44	5	49
Wal-Mart construction	360	75	435
Remaining center construction	263	70	333
Total	708	166	874

Sources:

- 1) Table 2
- 2) Table 3
- 3) Carbon dioxide plus black carbon emissions

4.1.3 - Inventory of Greenhouse Gases - Operation

Operational emissions are emissions that would occur over the life of the project. They include emissions from motor vehicles that would access the project, natural gas combustion, indirect emissions from electricity generation used to provide power to the project, indirect emissions from transporting water to the project, aerosols (from the exhaust of diesel vehicles and trucks) and refrigerants (air conditioning and refrigerators).

Upstream greenhouse gases are emitted during transportation and manufacturing of the products that would be sold at the project site. Some of the goods sold at Wal-Mart stores are manufactured or they are grown in other countries and/or other parts of the United States. For example, products made in China are transported to the United States via ocean going vessels and distributed to warehouses via train or trucks. However, the greenhouse gases from these upstream sources are speculative because it is impossible to quantify those emission sources from every product that could be sold at the project. Therefore, pursuant to CEQA Guidelines Section 15144 and 15145, upstream /life cycle, emissions are speculative and no further discussion is necessary.

The emissions from motor vehicles were estimated using the URBEMIS2007 model. The trip generation rates and unit sizes used to estimate the emissions are from the Traffic Impact Study (FP 3004). The fleet mix is from the SJVAPCD Recommended Standard Changes to URBEMIS Default Values (SJVAPCD 3007). The pass-by trips were obtained from the Traffic Impact Study. The primary trip and diverted trip are calculated from the remainder of the percentage divided by two. The trip generation rates and pass-by trips for the various uses are shown in Table 5.

Table 5: Trip Generation and Pass-by Trips

Land Use	Size (thousand square feet)	Trip Generation Rate (trips per day)	Pass-by Trip Percentage
Wal-Mart	226.89	56.02	17
Retail	75.96	42.94	34
Fast Food Restaurant	9.69	496.12	49
High Turnover Restaurant	7.5	127.15	43
Pharmacy	14.79	88.16	49
Bank	5.16	156.48	47

Source: Traffic Impact Study (FP 2004)

The weighted average trip length of 6 miles was estimated using variables from the Traffic Impact Study and the Economic Impact/Urban Decay Analysis, which is contained in the 2007 EIR Revisions (BAE 2007). Figure 8 in the Traffic Impact Study, Near-Term plus Project Trip Distribution, provides percentages for the trip distribution to each direction in the trade area. These percentages are shown in Table 6.

The Urban Decay Analysis contains a graphic of the proposed project trade area (Figure 1 in BAE 2007). This graphic defines the trade area, which is the “geographic region that encompasses most of a retail outlet’s customers” (BAE 2007). This definition is based on the location of other existing and planned Wal-Mart Supercenters, with most shoppers assumed to travel to the nearest Supercenter for their shopping. The distances from the project site to the edge of the trade area are shown in Table 6. Using the distance to the edge of the trade area presents a worst-case scenario, as the trip length would be shorter for closer originations. The weighted average is shown in Table 6 and is 6.0 miles per trip.

Table 6: Trip Length Estimation

Direction	Percentage ¹	Miles per Trip ²	Weighted Average (miles) ³
West	18	2.8	0.5
East to Route 88*	25	1.3	1.8
East to edge of trade area*	8	17.3	1.4
North	29	5	1.5
South	20	4	0.8
Total	100	--	6.0

Sources:

- 1) Traffic Impact Study (FP 2004)
- 2) Review of Figure 1 in the Economic Impact/Urban Decay Analysis (BAE 2007)
- 3) Multiplication of percentage and miles per trip

* Determined based on aerial photography; most development is west of Route 88.

Wal-Mart utilizes "super" high efficiency packaged HVAC units. While the industry standard Energy Efficiency Ratio (EER) is 9.0, its units are rated at between 12.1 to 14.3. These units range between 4-17% more efficient than required by California Title 24. Wal-Mart has Converted to more ozone-friendly refrigerants as they become available and currently uses R404a for its refrigeration equipment. For air conditioning, it has converted to R410a refrigerant. (Personal communication, Hans Kaufman, Perkowitz + Ruth Architects, November 11, 2008.)

Harry Bizios, Vice President & General Manager of Lennox Worldwide Commercial Heating & Cooling stated the following regarding Wal-Mart:

"Wal-Mart has been the undisputed leader in pioneering the path for conversion of HVAC purchase requirements from R-22 refrigerant to R-410a, a more environmentally responsible choice. Wal-Mart was the first major retailer to convert to R-410a, changing 100 percent of both their new construction and replacement projects to R410a in January 2004. Wal-Mart's decision to take this strong early leadership position has positively influenced several other retailers to analyze their options and make the conversion to R410a as well.

The large volume of R410a HVAC products produced for Wal-Mart has given Lennox the experience level and expertise to develop and produce a full range of R410a products across our entire commercial product line. Lennox is proud to have more experience in producing R410a commercial product than any other manufacturer and we are grateful to Wal-Mart for leading us in this environmentally responsible endeavor."

The project would consume energy for interior and exterior lighting, venting/heating/air conditioning units (HVAC), refrigeration, electronics systems and appliances, security systems, among other things. The 2007 EIR Revisions estimated that the use of electricity for the project would be approximately 4.42 gigawatt-hours per year. When the electricity is generated, greenhouse gas emissions are generated as well. These emissions were generated using statewide average emission factors for carbon dioxide, methane, and nitrous oxide as shown in the spreadsheet in Appendix A. The 2007 EIR Revisions also estimated natural gas usage to be 12.6 million cubic feet per year. The emissions associated with natural gas are estimated as shown in the spreadsheets contained in Appendix A.

The operational emissions are shown in Table 7. As shown, the main source of emissions is from motor vehicles that will access the project site. Note that only the main sources of emissions are shown in the table. Minor emissions (i.e., landscaping equipment) are not shown.

Table 7: Project Operational Greenhouse Gas Emissions

Source	Emissions (MTCO ₂ e/year)
Motor vehicles	10,800
Indirect electricity	1,616
Aerosols	386
Natural gas	683
Water transport	36
Refrigerants	1,506
Total	15,017

MTCO₂e = metric tons of carbon dioxide equivalent
Source of emissions: Appendix A.

Negligible Greenhouse Gas Emissions

The project does not contribute substantially to water vapor because water vapor concentrations in the upper atmosphere are primarily due to climate feedbacks rather than emissions from project-related activities.

Ozone is a greenhouse gas; however, unlike the other greenhouse gases, ozone in the troposphere is relatively short-lived and can be reduced in the troposphere on a daily basis. Therefore, it is assumed that project emissions of ozone precursors would not significantly contribute to climate change.

As mentioned previously, there is a ban on chlorofluorocarbons; therefore, the project would not generate emissions of these greenhouse gases and they are not considered any further in this analysis.

Perfluorocarbons and sulfur hexafluoride are typically used in industrial applications, none of which would be used by the project. Therefore, it is not anticipated that the project would emit any of these greenhouse gases.

4.1.4 - Inventory of Possible Demolition of Existing Wal-Mart

The existing Wal-Mart could be demolished pursuant to a Condition of Approval. The greenhouse gas emissions from this demolition are estimated.

The existing Wal-Mart is approximately 120,000 square feet; therefore, assuming that the pile of rubbish would be 3 feet high, which results in 360,000 cubic feet of material would be demolished. It is assumed that 1/6 of the material would be transported in one day. It is assumed that the deposition area would be 40 miles away round trip. It is assumed that the demolition would be hauled away in six days. The emissions were estimated using the URBEMIS2007 model.

The emissions from this demolition are estimated and presented in Table 8.

Table 8: Existing Wal-Mart Demolition Emissions

Activity	Emissions (MTCO ₂ e)		
	Carbon Dioxide	Black Carbon	Total
Demolition Off Road Diesel	8	3	11
Demolition On Road Diesel	12	3	15
Demolition Worker Trips	0	0	0
Fine Grading	11	3	14
Total	31	9	40

Sources:

See Appendix B for URBEMIS output.

4.1.5 - Mitigation Measures in Other Impact Areas

The following measures from other impact areas in the EIR would reduce greenhouse gas emissions.

Traffic and Circulation

- H8** The project applicant shall work with and provide fair share funding to the City of Lodi Grapeline Service and the San Joaquin Regional Transit District to expand transit service to the project.
- H9** Modify the project site plan to: 1) provide a bus bay and passenger shelter at the proposed transit stop; and 2) include a second transit stop in the eastern portion of the project near Lower Sacramento Road.
- H11** Pedestrian walkways and crosswalks shall be provided to serve Pads 8, 9, and 12 in order to complete the internal pedestrian circulation system.

Benefits Mitigation measures H8, H9, and H11 would encourage the customers and employees to take public transit and walk to and within the project site, which would reduce greenhouse gas emissions from motor vehicles.

Noise

- I5** Short-term noise impacts shall be reduced through implementation of the following measures: limiting the hours of construction; proper muffling and maintenance of equipment; prohibition of unnecessary idling; noise shielding of stationary equipment and location of such equipment away from sensitive receptors; selection of quiet equipment; notification to neighbors of construction schedule; and designation of a 'noise disturbance coordinator' to respond to noise complaints.

Benefits Mitigation measure I5 would require maintenance of construction equipment and the prohibition of idling. Construction equipment in good repair emits fewer greenhouse gas emissions. The prohibition of unnecessary idling will reduce unnecessary emissions of greenhouse gases.

Air Quality

J3 Project design measures shall be implemented to reduce project area source emissions, and a Transportation Demand Management (TDM) plan should be implemented to reduce project traffic and resulting air emissions; however, these measures would not reduce the impact to a less than significance level.

Benefits This measure would reduce greenhouse gas emissions from motor vehicles. The 3004 EIR indicates that the upper limit of trip reduction through TDM measures, under ideal conditions, is about 20 percent. For the project, where TDM effectiveness is limited by several factors the effectiveness of the above air quality mitigation measures in reducing daily trips is estimated to be five percent.

4.1.6 - Project Design Features that Reduce Operational Emissions

Project design features to be implemented during operation that improve energy efficiency, reduce waste, and reduce energy from transportation were discussed in the 2007 EIR Revisions. The current design of the project is more efficient than the store design in 2004. The following voluntary design features are to be implemented into the project. Additional project design features are identified in the letter to the City of Lodi from Wal-Mart dated October 6, 2008, which is attached as Appendix C.

Waste Reductions

The following feature would reduce greenhouse gas emissions associated with mineral extraction and product manufacturing.

- Wal-Mart would use a minimum of 10 percent recycled materials during construction of its building.
- Wal-Mart would recycle used cardboard and waste oil during operation,
- Recyclable material would be collected. The project would have sufficient interior and exterior storage for recyclables.
- When feasible, food waste and landscaping material would be composted.
- A minimum of 50 percent of the waste during construction would be recycled or reused. This includes construction of the project and demolition of the existing Wal-Mart building, if that is to occur.

Energy Efficiency

The following project design features would reduce indirect greenhouse gas emissions from the generation of electricity and/or natural gas, some of which are obtained from page 81 of the 3007 EIR Revisions.

- The project would incorporate California Energy Code Title 24 requirements, including insulation for doors, pipes, walls and ceilings, and appliances, etc.
- The project would use skylight/dimming systems, which operate to automatically dim lights and ultimately shut them off as daylight increases. This results in an estimated electricity saving of 25 to 35 percent for lighting. During the late night hours, electricity is reduced by dimming lighting.
- Super high-efficiency packaged HVAC (heating and cooling) units with a minimum Energy Efficiency Ratio value of 10.5 shall be used, which are 4 to 17 percent more efficient than typical units.
- The project would reclaim the “heat of rejection” from its refrigeration equipment to generate hot water. This eliminates the need for three 80-gallon hot water heaters per facility.
- Building signage would use light emitting diodes (LED) lighting for internal illumination, which is 70 percent more energy-efficient than fluorescent lighting.
- Wal-Mart’s refrigeration units would use LED lighting, or a more efficient technology if one is developed in the future.
- Restrooms would use high efficiency urinals and toilets.
- Buildings greater than 20,000 square feet shall have one skylight per 1,000 square feet of interior building space.
- Lodi Electric obtains 22 percent of its power supply from renewable sources such as geothermal. When large hydroelectric facilities are included, the City’s percentage of renewable sources increases to 45 percent, although hydroelectric power is excluded from the State’s definition of renewable sources.

Transportation

The following project design features would reduce greenhouse gas emissions associated with vehicle miles traveled, some of which are discussed on page 83 of the 2007 EIR Revisions.

- Produce grown within the State of California would be sold when feasible.
- The project would include opportunities for transit use with bus routes running along Kettleman Lane and Lower Sacramento Road, with two new bus stops to be constructed within the project site to facilitate convenient access to transit. Community bulletin boards within the

larger stores such as Wal-Mart would facilitate carpooling and vanpooling for employees, as well as transit information and incentives.

- The project would install new sidewalks along Kettleman Lane and Lower Sacramento Road frontages, with pedestrian linkages and dedicated pathways connecting all of the project stores and restaurants.
- The project would include construction of Class I on-street bicycle lanes along the project frontages on Kettleman Lane and Lower Sacramento Road, and on both sides of Westgate Drive.
- Bicycle racks would be installed in front of all of the project's retail buildings in accordance with City zoning requirements.
- The presence of restaurants on the project site would provide opportunities for employees and customers to stay onsite for meals instead of traveling to off-site locations.

To Satisfy Mitigation Measure Requirements

The following were identified in the 2004 EIR as ways to satisfy the requirements of mitigation measures 51 and 53 (pages 120, 122, and 123 of the 2004 EIR and pages 54 and 55 in the Final EIR). The project would implement these as project design features to satisfy the requirements of those mitigation measures. Only the measures that reduce greenhouse gas emissions are noted. For clarification, some of the language of these project design features has been modified to be more specific.

The features in response to mitigation measure J1, pertaining to emissions during construction, are as follows:

- Equipment not in use for more than ten minutes should be turned off.
- Whenever feasible and cost effective, use electrically driven equipment (provided they are not run via a portable generator set).
- All diesel engines shall be shut off when not in use on the premises to reduce emissions from idling.
- Prior to the issuance of construction contracts, the City of Lodi shall perform a review of new technology, as it relates to heavy-duty equipment, in consultation with the construction contractor, to determine what if any advances in emission reduction are available for use and feasible (including economic feasibility).

Features in response to mitigation measure J3, pertaining to emissions during operation, are as follows:

- Use energy efficient design including automated control systems for heating/air conditioning and energy efficiency.

- Utilize lighting controls and energy-efficient lighting in buildings.
- White membrane roofs with a minimum solar reflectivity of 78 would be used for a minimum of 75 percent of the roof surface. This would lower the cooling load by about 8 percent.
- Provide deciduous trees on the south and westerly facing sides of buildings.
- Provide low nitrogen oxide (NO_x) emitting and/or high efficiency water heaters.
- Reserve appropriate easements to provide for future improvements such as bus turnouts, loading areas, and shelters.
- Designation of an on-site TDM coordinator.
- Implement a carpool/vanpool program (e.g., provide carpool ridematching for employees, assistance with vanpool formation, provision of vanpool vehicles, etc.).
- Maintenance of a bulletin board would be provided for onsite employees
- A minimum of one locker for every three employees would be provided in each store.
- The project ingress and egress would be designed to allow the most effective traffic flow to minimize vehicle idling.
- The project retailers would ensure that the amount of time diesel delivery vehicles idle on site does not exceed 10 to 15 minutes.
- Provide preferential parking spaces for those employees who participate in carpooling or vanpooling.
- Sidewalks and bike paths should be installed throughout as much of the project as possible and should be connected to any nearby open space areas, parks, schools, commercial areas, etc.

4.1.7 - Existing Conditions of Approval that Reduce Emissions

The following are existing conditions of approval that would reduce greenhouse gas emissions. They are from the document dated October 8, 2008. Only the items that would reduce emissions are shown.

- D. All applications for Site Plan and Architectural Review Committee consideration shall comply with the following conditions:
 - 2. Submit a construction landscape plan consistent with the submitted conceptual landscape plan. The applicant shall also insure that the overall ratio of trees, including perimeter landscaping is equal to one tree for every four parking spaces. Further, said plan shall demonstrate that the City's requirement for parking lot shading is met.

3. The applicant shall select and note on all plans common tree species for the parking lot and perimeter areas from the list of large trees as identified in the Local Government Commission’s “Tree Guidelines for the San Joaquin Valley”.
 4. All drive-through eating facilities shall have a “double service window” configuration and pullout lane to minimize auto emissions.
- F. The following items are conditions of approval for the vesting tentative parcel map, all to be accomplished prior to, or concurrent with, final parcel map filing unless noted otherwise:
4. Provide a private access easement providing a clear path of travel for pedestrian traffic from the public right-of-way to all parcels within the boundaries of the map in conformance with ADA requirements.

4.1.8 - Greenhouse Gas Reduction Options

Although not required by statute or regulation, there are many voluntary greenhouse gas reduction strategies available for projects to reduce greenhouse gas emissions, some of which are assessed below to determine the applicability and feasibility of such reduction measures for the proposed project.

OPR

The Governor’s Office of Planning and Research (OPR) is planning on publishing new CEQA Guidelines by July 1, 2009, which will provide regulatory guidance on the analysis and mitigation of greenhouse gas emissions in CEQA documents. In the interim, OPR published a Technical Advisory, which offers informal guidance regarding the steps lead agencies should take to address climate change in their CEQA documents. The Advisory contains examples of mitigation measures used by some public agencies to reduce greenhouse gas emissions provided for illustrative purposes only.

As shown in Table 9, the example measures are either not applicable, not feasible, or are consistent with project design features and/or mitigation measures contained in other impact sections of the EIR.

Table 9: Office of Planning and Research Example Mitigation Measures

Example Measure	Project Applicability or Feasibility
<p>Land Use and Transportation</p> <p>Implement land use strategies to encourage jobs/housing proximity, promote transit-oriented development, and encourage high-density development along transit corridors. Encourage compact, mixed-use projects, forming urban villages designed to maximize affordable housing and encourage walking, bicycling and the use of public transit systems.</p>	<p>Consistent. Project design features encourage walking, bicycling, and the use of public transit systems.</p>

Table 9: Office of Planning and Research Example Mitigation Measures (Cont.)

Example Measure	Project Applicability & Feasibility
Encourage infill, redevelopment, and higher density development, whether in incorporated or unincorporated settings.	Not feasible; not a project objective.
Encourage new developments to integrate housing, civic and retail amenities (jobs, schools, parks, and shopping opportunities) to help reduce VMT resulting from discretionary automobile trips.	Not feasible; the project does not contain the development of residential uses.
Apply advanced technology systems and management strategies to improve operational efficiency of transportation systems and movement of people, goods and services.	Not applicable. However, it is likely that the business uses on the project site would attempt to maximize the efficiency of their transportation systems to save money.
Incorporate features into project design that would accommodate the supply of frequent, reliable and convenient public transit.	Consistent. The project is incorporating pedestrian and bicycle features.
Implement street improvements that are designed to relieve pressure on a region's most congested roadways and intersections.	The traffic impacts were addressed in the 2004 EIR.
Limit idling time for commercial vehicles, including delivery and construction vehicles.	Consistent with California Air Resources Board regulatory measure, which reduces emissions by limiting idling of heavy-duty diesel vehicles (ARB 2005). The driver of any vehicle subject to this section: (1) shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location; and (2) shall not idle a diesel-fueled auxiliary power system (APS) for more than 5 minutes to power a heater, air conditioner, or any ancillary equipment: on the vehicle if it has a sleeper berth and the truck is located within 100 feet of a restricted area (homes and schools).
Urban Forestry	
Plant trees and vegetation near structures to shade buildings and reduce energy requirements for heating/cooling.	The project design incorporates trees.
Preserve or replace onsite trees (that are removed due to development) as a means of providing carbon storage.	Not applicable. There are minimal existing trees on the project site.
Green Buildings	

Table 9: Office of Planning and Research Example Mitigation Measures (Cont.)

Example Measure	Project Applicability & Feasibility
Encourage public and private construction of LEED (Leadership in Energy and Environmental Design) certified (or equivalent) buildings.	Not feasible. However, the project will be compliant with Title 24 energy efficiency requirements, which are much more stringent than requirements in other states. The 2005 Title 24 standards for nonresidential construction provide an 8.5 percent reduction in electrical demand compared with the 2001 standards. The California Energy Commission is in the process of adopting 2008 Title 24 standards, which will go into effect in 1009. For nonresidential buildings, the 2008 standards reduce electrical demand an additional 7.2 percent and reduce natural gas demand by 9.5 percent (CEC 2007b).
Energy Conservation Policies and Actions	
Recognize and promote energy saving measures beyond Title 24 requirements for residential and commercial projects.	Consistent with project design features that increase energy efficiency.
Where feasible, include in new buildings facilities to support the use of low/zero carbon-fueled vehicles, such as the charging of electric vehicles from green electricity sources.	The market demand is not such at the current time to support this type of measure. If/when the market changes, electrical hookups can be easily installed.
Educate the public, schools, other jurisdictions, professional associations, business and industry about reducing greenhouse gas emissions.	Not a project objective.
Replace traffic lights, streetlights, and other electrical uses to energy efficient bulbs and appliances.	Not applicable; however, it is likely that any new traffic lights would be energy efficient.
Purchase Energy Star equipment and appliances for public agency use.	Not applicable.
Incorporate on-site renewable energy production, including installation of photovoltaic cells or other solar options.	Not feasible; see text in Table 10, number 9 for more details.
Execute an Energy Savings Performance Contract with a private entity to retrofit public buildings. This type of contract allows the private entity to fund all energy improvements in exchange for a share of the energy savings over time.	Not applicable.
Design, build, and operate schools that meet the Collaborative for High Performance Schools (CHPS) best practices.	Not applicable.
Retrofit municipal water and wastewater systems with energy efficient motors, pumps and other equipment, and recover wastewater treatment methane for energy production.	Not applicable.
Convert landfill gas into energy sources for use in fueling vehicles, operating equipment, and heating buildings.	Not applicable.

Table 10: Consistency with Proposed Scoping Plan Reduction Measures (Cont.)

ARB Proposed Scoping Plan Reduction Measure	Project Consistency or Applicability
<p>4. Renewable Portfolio Standard Achieve 33 percent renewable energy mix statewide. Renewable energy sources include (but are not limited to) wind, solar, geothermal, small hydroelectric, biomass, anaerobic digestion, and landfill gas.</p>	<p>Consistent. Lodi Electric obtains 22 percent of its power supply from renewable sources such as geothermal. When large hydroelectric facilities are included, the City's percentage of renewable sources increases to 45 percent.</p>
<p>5. Low Carbon Fuel Standard Develop and adopt the Low Carbon Fuel Standard.</p>	<p>Not applicable. When this measure is initiated, the standard would be applicable to the fuel used by vehicles that would access the project site.</p>
<p>6. Regional Transportation Transportation-Related Greenhouse Gas Targets Develop regional greenhouse gas emissions reduction targets for passenger vehicles.</p>	<p>Not applicable.</p>
<p>7. Vehicle Efficiency Measures Implement light-duty vehicle efficiency measures.</p>	<p>Not applicable. When this measure is initiated, the standards would be applicable to the light-duty vehicles that would access the project site.</p>
<p>8. Goods Movement Implement adopted regulations for the use of shore power for ships at berth. Improve efficiency in goods movement activities.</p>	<p>Not applicable.</p>
<p>9. Million Solar Roofs Program Install 3,000 MW of solar-electric capacity under California's existing solar programs.</p>	<p>Not feasible because of the following barriers: - The roof area that can be devoted to solar panels is restricted because of the configuration of the roof, the required clearance values, and set back requirements. - The need to reduce skylight areas to increase solar panel capacity would increase energy demand and would result in a negative energy penalty since the energy reduction value for Wal-Mart's daylight harvesting system exceeds the photovoltaic capacity it replaces.</p>
<p>10. Medium Medium/Heavy /Heavy-Duty Vehicles Adopt medium and heavy-duty vehicle efficiency measures.</p>	<p>Not applicable. When this measure is initiated, the standards would be applicable to the vehicles that would access the project site.</p>
<p>11. Industrial Emissions Require assessment of large industrial sources to determine whether individual sources within a facility can cost-effectively reduce greenhouse gas emissions and provide other pollution reduction co-benefits. Reduce greenhouse gas emissions from fugitive emissions from oil and gas extraction and gas transmission. Adopt and implement regulations to control fugitive methane emissions and reduce flaring at refineries.</p>	<p>Not applicable.</p>

Table 10: Consistency with Proposed Scoping Plan Reduction Measures (Cont.)

ARB Proposed Scoping Plan Reduction Measure	Project Consistency or Applicability
12. High Speed Rail Support implementation of a high-speed rail system.	Not applicable.
13. Green Building Strategy Expand the use of green building practices to reduce the carbon footprint of California's new and existing inventory of buildings.	Consistent with project design features that increase energy efficiency.
14. High Global Warming Potential Gases Adopt measures to reduce high global warming potential gases.	Not applicable. When this measure is initiated, it would be applicable to the high GWP gases that would be used by the project (such as in air conditioning and refrigerators).
15. Recycling and Waste Reduce methane emissions at landfills. Increase waste diversion, composting, and commercial recycling. Move toward zero-waste.	Consistent with project design features that reduce waste.
16. Sustainable Forests Preserve forest sequestration and encourage the use of forest biomass for sustainable energy generation.	Not applicable.
17. Water Continue efficiency programs and use cleaner energy sources to move and treat water.	Consistent with project design features.
18. Agriculture In the near-term, encourage investment in manure digesters and at the five-year Scoping Plan update determine if the program should be made mandatory by 2020.	Not applicable.
Source of ARB Proposed Scoping Plan Reduction Measure: ARB 2008. Source of Project Consistency or Applicability: Michael Brandinan Associates	

Offsite Greenhouse Gas Reduction Options

This report previously discussed an existing cap-and-trade program in the European Union as well as potential future cap-and-trade programs through the Western Climate Initiative, the Regional Greenhouse Gas Initiative, and a future program in California through the ARB. There is currently no mandatory cap-and-trade program within the project area. The emissions generated by the proposed project would not likely be covered under a cap-and-trade program, even if both the ARB Cap-and-Trade system and the Western Climate Initiative Cap-and-Trade system were initiated. At this time, entities can offset their greenhouse gas emissions by voluntarily purchasing offsets, which consist of programs that reduce greenhouse gas emissions offsite. Examples of programs that reduce greenhouse gas emissions include installation of digesters on dairy farms to capture the methane released or installation of a wind farm to generate “clean” electricity.

Offset Uncertainties and Criticisms

There are a number of uncertainties associated with purchasing offsets, including the permanence, price fluctuations, ownership, verification, and additionality (which means that additional steps are taken to reduce greenhouse gas emissions beyond business as usual).

The permanence of the offsets refers to how long the offset is valid: Are the offsets only good for a year, or are they good as long as the offset project is running? What if the offset is used to purchase land and plant trees? Would the trees be cut or burned down?

Another uncertainty is regarding price fluctuations. The current carbon offset market in the United States varies in price from \$4.50 to \$11 per metric ton. The price in the European market is currently as high as \$30 per metric ton. One of the reasons for the variation in pricing could be because there is a mandatory cap-and-trade system in the European Union. Some indicate, "considerable uncertainty exists regarding the long-term outlook for carbon and energy markets, driven by the dynamic and the complex relationships between these markets" (PC 2008). Additionally, it is unknown if the CCX is going to allow for trading beyond the year 2010.

Ownership of the offsets is important, so that they are not re-sold. Registration of the offsets is a method used to ensure that the offsets are not sold more than once.

Verification is an important step to make sure the offsets are real. However, there is no universally accepted standard for verification, which has led to various verification methodologies. Many third party verification companies use their own internal methods (that are often proprietary) to verify offsets. This can lead to uncertainty regarding the validity of the offsets.

As stated, additionality refers to additional steps taken to reducing greenhouse gas emissions beyond business as usual. For example, was a solar powered farm going to be constructed anyway, or is the carbon market providing the funding necessary to build it? Determining additionality can be highly speculative and uncertain. There are "additionality tests," which attempt to determine if an offset project is additional:

- Regulatory Test: does the project go beyond legal requirements'?
- Financial Test: is the project economically viable without offset revenues?
- Barriers Test: are there significant non-financial barriers that a project needs to overcome'?
- Common Practice Test: does the project go beyond common business practices'?
- Timing Test: was the project started after a certain date'? (CC 2006)

There is also some uncertainty associated with the benefits realized by carbon offsets, or the quantification of the offsets. Similarly, there is uncertainty associated with the quantification of the emissions that are offset.

Many of the offset trading schemes that are available do not reduce emissions in California. The threshold used in this climate change analysis for the project is to not hinder or delay implementation of AB 32. Offsetting emissions outside of California, while reducing global greenhouse gas emissions, would not provide assurance that the offsets would help California meet AB 32 reduction goals.

Another source that documents the concerns about the offset market is AB 1851, a bill introduced on January 29, 2008, by Assembly Member Nava. AB 1851 has not passed and is going through the legislative process. As it was amended on August 22, 2008 by the Senate, "(c) While voluntary greenhouse gas emission reductions can contribute to efforts to reduce global warming, consumers and other members of the public have few protections or standardized methods by which to ensure that they are purchasing or obtaining emission reduction credits that actually reduce greenhouse gases, reduce global warming, and improve the environment. (d) The purposes of this division are to protect the consumer and to ensure that the benefits to the environment through the sale of legitimate greenhouse gas emission reduction credits, offsets, or similar products are realized".

Feasibility of Offsetting Project Emissions

There are a number of opportunities to offset greenhouse gas emissions. However, there are also serious uncertainties and criticisms associated with the current offset market.

The SJVAPCD, in its Climate Change Action Plan (CCAP 2008a, b) states, "...The CCAP authorized the Air Pollution Control officer (APCO) to develop guidance documents to assist land use agencies and other permitting agencies in addressing greenhouse gas emissions as part of the CEQA process, investigate the development of a greenhouse gas banking program, enhance the existing emissions inventory process to include greenhouse gas emissions reporting consistent with new state requirements, and administer voluntary greenhouse gas emission reduction agreements" (CCAP 2008b).

The CCAP authorized the APCO to develop regulations and procedures for a greenhouse gas emission reduction banking system. This voluntary banking system, the San Joaquin Valley Carbon Exchange (SJVCE), would provide a mechanism for the voluntary banking of GHG emission in the San Joaquin Valley. The outcome of stakeholder meetings will be considered when determining if the SJVCE should be developed. At the conclusion of such meetings, the SJVAPCD may determine that a rule to establish a SJVCE should be developed or that a SJVCE is not warranted.

At the time that this report was written, the SJVCE has not been developed. It is unknown when the SJVCE would be developed. Additionally, there is no numerical threshold in which to use to determine how many offsets would be required. Therefore, at this time, it is not feasible to purchase offsets for the project.

In the future, the ARB may instigate a cap-and-trade program for emissions associated with electricity generation and natural gas distribution. If that occurs, the prices for these commodities would likely increase. The cap-and-trade system for these emissions would likely lead to either improvements in the methods for electricity generation and natural gas distribution or the purchase of offsets.

4.1.9 - Inventory after Reductions

The project will emit greenhouse gas emissions during construction and operation. As discussed in Section 4.1.6, project design features will reduce the project's energy consumption, waste, and transportation related emissions during operation. Mitigation measures in other impact areas of the 2004 EIR will reduce emissions from construction and operation.

The surrounding uses are important to a climate change analysis because it presents a picture of whether or not the customers are likely to drive to the project site and how far they might drive. The project consists of retail uses; therefore, it would service the retail needs of residential land uses. To the immediate east and northeast of the project site are commercial uses. To the south and to the west are agricultural uses and rural residential. Review of aerial photography indicates the project site is located on the outskirts of the developed area. There appears to be low density and medium density residential areas within a radius three miles north and east of the project site.

Typically, residential uses precede retail uses. The residential near the project site is low and medium density residential, which typically attracts the types of retail uses that are proposed by the project. Higher density urban type development typically does not attract the type of businesses and the design proposed by the project. The retail proposed by the project services the existing and proposed customers in the City of Lodi. If the City had developed denser residential with permanent open space and permanent agriculture, other types of retail could have had a market within the City. However, that is not the case for the City of Lodi. The project is simply servicing the existing customer type base and doing so, will reduce vehicle miles traveled by those customers to other destinations possibly outside of the City.

The use of vehicle miles traveled (VMT) has been suggested by some as a step to quantify greenhouse gas emissions. No accepted, technically sound methodology exists that would allow the City to determine how many vehicle trips, or vehicle miles traveled, associated with the project, as determined through the traffic models used in this analysis are truly "new" trips, as opposed to trips coming to and from the project site instead of traveling to and from some other site or sites, or "new" VMT.

There are other similar businesses as the project within close proximity of the project site, such as a Target at the northeast corner of Kettleman and Lower Sacramento Road. However, the 2007 EIR Revisions indicate that the project will not cause significant urban decay in the area. Therefore, the project will provide retail uses to the existing demand, thereby potentially reducing the vehicle miles traveled to locations outside of the City.

The Land Use and Planning section of the 2007 EIR Revisions discusses the potential displacement of retail uses in the City of Lodi from implementation of the project. Specifically, there is an existing Wal-Mart located in Sunwest Plaza that will relocate to the Lodi Shopping Center. The Sunwest Plaza is located across the street from the project site. The 2007 EIR Revisions indicate that if a tenant were not found for the existing Wal-Mart space within a specific amount of time, it would require demolition. This demolition would result in greenhouse gas emissions. It is unknown what would be constructed on the Sunwest site if the existing Wal-Mart building were demolished; therefore, those emissions cannot be subtracted from the project's emissions.

The project would not significantly hinder or delay California's ability to meet the reduction targets contained in AB 32 because it is consistent with AB 32 Scoping Plan measures and the project is providing retail uses for the existing demand generated by the low and medium density residential uses near the project site. The operational emissions after reductions from project design features are shown in Table 11.

Table 11 : Project Operational Greenhouse Gas Emissions (After Reductions)

Source	Emissions (MTCO ₂ e per year)			Reductions (%)
	Before Reduction	Reduction	After Reductions	
Motor vehicles	10,800	-540	10,260	5
Indirect electricity	1,616	-485	1,131	30
Aerosols	386	-20	366	5
Natural gas	683	-205	478	30
Water transport	26	0	26	0
Refrigerants	1,506	-151	1,355	10
Total	15,017	-1,401	13,616	--

MTCO₂e = metric tons of carbon dioxide equivalents
Sources: See Appendix A.

4.2 - Cumulative-Level Analysis

Section 15130(b) of the CEQA Guidelines states the following:

The following elements are necessary to an adequate discussion of significant cumulative impacts: 1) Either: (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or (B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or area wide conditions contributing to the cumulative impact.

Even a very large individual project cannot generate enough greenhouse gas emissions that measurably influence climate change. It is a project's incremental contribution combined with the cumulative increase of all other sources of greenhouse gases that together cause climate change impacts. However, the theory that an increase of one molecule of an air pollutant constitutes a significant increase (one-molecule theory) should not be the basis of a de-facto significance threshold, as discussed in the decision for *Community for a Better Environment v. California Resources Agency* (103 Cal. App. 4th 98 (2002)): "...this does not mean, however, that any additional effect in a nonattainment area for that effect necessarily creates a significant cumulative impact; the 'one [additional] molecule rule' is not the law".

While climate change is a global issue and each contribution of greenhouse gases may have a cumulative effect, there is no established methodology available to determine either the magnitude or the significance of the effect of an individual project on this global issue. As a result, the conclusions reached by any attempt to do so would be speculative. According to CEQA Guidelines 15145, "if, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate the discussion of the impact". The assessment of cumulative climate change impacts, which are project impacts plus all the other "cumulative" projects, is speculative for the following reasons.

No Greenhouse Gas Reduction Plan

Large-scale assessments and emission reduction strategies must be formulated to evenly address greenhouse gas emissions on a regional level that includes land use patterns, energy generation and consumption, transportation, water transport, waste disposal, and the other major sources of greenhouse gas emissions. A region-specific plan would create the basis of a cumulative threshold and provide a platform for cumulative analysis on the project level. There is no approved plan that covers the jurisdiction of the project that discusses climate change or greenhouse gases; therefore, the plan approach is not viable at this time. State and local agencies are currently developing strategies to reduce greenhouse gases in their jurisdictions; however, these strategies are not complete at this time.

No List of Projects

The list of cumulative projects for climate change is unknown; it could conceivably include all projects around the globe. Guidelines for establishing the radius for global climate change have not yet been adopted. Without such guidelines, it is impossible to know how big the impact study area is supposed to be. For example, does the list of projects include those only within a one-mile radius of the project, or does it include projects within the entire air basin, or the State of California? For this reason, the "project list" approach for conducting a CEQA cumulative impacts analysis is not feasible.

The greenhouse gas emissions from the project would be small compared to globally generated emissions. California's entire anthropogenic contribution is less than two percent of the global emissions based on 2004 estimates. Therefore, although there are not quantitative thresholds to use, it

is noteworthy that the project's contribution as a percentage of global emissions and/or California emissions would be exceedingly small.

Model Availability

Available climate change models are not sensitive enough to be able to predict the effect of a single project on global temperatures and the resultant effect on climate; therefore, they cannot be used to evaluate the significance of a project's impact. Thus, insufficient information and predictive tools exist to assess whether a single project would result in a significant impact on global climate. For these reasons, determining the significance of the project's impact on global climate would involve undue speculation.

SECTION 5: REFERENCES

The following references were used in the preparation of this analysis and are referenced in the text and/or were used to provide the author with background information necessary for the preparation of thresholds and content.

- AEP 2007 Association of Environmental Professionals. Principal Authors Michael Hendrix and Cori Wilson. Alternative Approaches to Analyzing Greenhouse Gas Emissions and Global Climate Change in CEQA Documents. June 29, 2007.
- ARB 2005 California Environmental Protection Agency. California Air Resources Board. Air Quality and Land Use Handbook: A Community Health Perspective. April 2005. www.arb.ca.gov/ch/landuse.htm, Accessed in May, 2008.
- ARB 2007 California Air Resources Board. Expanded List of Early Action Measures to Reduce Greenhouse Gas Emissions in California Recommended for Board Consideration. October 2007. www.arb.ca.gov/cc/ccea/meetings/ea_final_report.pdf, Accessed April 8, 2008.
- ARB 2008 California Air Resources Board. Climate Change Proposed Scoping Plan, a framework for change. October 2008. www.arb.ca.gov/cc/scopingplan/document/scopingplandocument.htm
- ARB 2008b California Air Resources Board. Preliminary Draft Staff Proposal Recommended Approaches for Setting interim Significance Thresholds for Greenhouse Gases under the California Environmental Quality Act. www.arb.ca.gov/cc/localgov/ceqa/meetings/102708/prelimdraftproposalI02408.pdf
- BAE 2007 Bay Area Economics, prepared for the City of Lodi. Economic Impact/Urban Decay Analysis for Proposed Lodi Shopping Center in Lodi, CA. October 2007. Published as Appendix B in the 2007 EIR Revisions.
- CA 2004 State of California, Executive Order S-20-04. July 27, 2004. <http://www.dot.ca.gov/hq/energy/ExecOrderS-20-04.htm>, Accessed April 8, 2008.
- CA 2005 State of California, Executive Order S-3-05. June 1, 2005. <http://www.dot.ca.gov/hq/energy/ExecOrderS-3-05.htm>, Accessed April 8, 2008.
- CA 2006 State of California. August 31, 2006. Assembly Bill No. 32. www.arb.ca.gov/cc/docs/ab32text.pdf, Accessed April 8, 2008.
- CAPCOA 2008 California Air Pollution Control Officers Association. January 2008. CEQA & Climate Change, Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act. www.capcoa.org/, Accessed April 8, 2008.
- CAT 2006 State of California, Environmental Protection Agency, Climate Action Team. March 2006. Climate Action Team Report to Governor Schwarzenegger and

- tho California Legislature.
www.climatechange.ca.gov/climate_action_team/reports/index.html, Accessed April 8, 2008.
- CC 2006 Clean Air, Cool Planet. A Consumer's Guide to Retail Carbon Offset Providers. 3006. www.cleanair-coolplanet.org/ConsumersGuidetoCarbonOffsets.pdf, Accessed April 8, 2008.
- CCAP 2008a San Joaquin Valley Air Pollution Control District. Approve the District's Climate Change Action Plan. August 21, 2008.
www.valleyair.org/board_meetings/GB/agenda_minutes/Agenda/2008/August/Item%208/Agenda%20Item_8.pdf
- CCAP 2008b San Joaquin Valley Air Pollution Control District. Climate Change Action Plan, November 2008. www.valleyair.org/Workshops/postings/2008/11-18-08/Microsoft%20Word%20-%20CAPP%20Scoping%20Report%202008Nov12.pdf
- CCCC 2006 California Climate Change Center. Our Changing Climate, Assessing the Risks to California: A Summary Report from the California Climate Change Center. July 2006. CEC-500-2006-077.
www.climatechange.ca.gov/publications/biennial_reports/index.html, Accessed November 6, 2008.
- CCX 2008 Chicago Climate Exchange. www.chicagoclimatex.com/, Accessed April 8, 2008.
- CEC 2006 California Energy Commission. December 2006. Inventory of California Greenhouse Gas Emissions and Sinks: 1990 to 2004. Staff Final Report. CEC-600-2006-013-SF. <http://www.energy.ca.gov/2006publications/CEC-600-2006-013/CEC-600-2006-013-SF.PDF>, Accessed April 8, 2008.
- CEC 2007 California Energy Commission. January 23, 2007. Memorandum Regarding Revisions to the 1990 to 2004 Greenhouse Gas Inventory Report, Published in December 2006. http://www.energy.ca.gov/2006publications/CEC-600-2006-013/2007-01-23_GHG_INVENTORY_REVISIONS.PDF, Accessed April 8, 2008.
- CEC 2007b Prepared for the California Energy Commission, Prepared by Architectural Energy Corporation. Impact Analysis, 2008 Update to the California Energy Efficiency Standards for Residential and Nonresidential Buildings. November 7, 2007.
www.energy.ca.gov/title24/2008standards/rulemaking/documents/2007-11-07_IMPACT_ANALYSIS.PDF Accessed November 8, 2008.
- CIWMB 2003 California Integrated Waste Management Board. City of Lodi Meets Waste Diversion Goal: Escalon and Tracy seek additional time. January 16, 2003.
www.ciwmb.ca.gov/Pressroom/2003/January/5.htm
- DEFRA 2007 Department for Environment, Food, and Rural Affairs, United Kingdom. EU Emissions Trading Scheme. Approved Phase II National Allocation Plan, 2008-2012.
www.defra.gov.uk/environment/climatechange/trading/eu/phase2/pdf/nap-phase2.pdf, Accessed April 8, 2008.

- EPA 1995 U.S. Environmental Protection Agency. Integrated Risk Information System 1,1,1,2-Tetrafluoroethane (CASRN 811-97-2). http://cfpub.epa.gov/iris/quickview.cfm?substance_nmbr=0656, Accessed April 8, 2008.
- EPA 2003 U.S. Environmental Protection Agency, Office of Air and Radiation. June 2003. Ozone: Good up high bad nearby. EPA-451-K-03-001. www.epa.gov/air/ozonepollution/pdfs/ozonegb.pdf, Accessed April 8, 2008
- EPA 2006a U.S. Environmental Protection Agency, Office of Atmospheric Programs. April 2006. The U.S. Inventory of Greenhouse Gas Emissions and Sinks: Fast Facts. <http://epa.gov/climatechange/emissions/downloads06/06FastFacts.pdf>, Accessed April 8, 2008.
- EPA 2006b U.S. Environmental Protection Agency. 2006. High Global Warming Potential Gases. Science. <http://www.epa.gov/highgwp/scientific.html>, Accessed April 8, 2008.
- EPA 2007a U.S. Environmental Protection Agency. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2005. Executive Summary. April 2007. USEPA #430-R-07-002 <http://www.epa.gov/climatechange/emissions/usinventoryreport.html>, Accessed April 8, 2008.
- EUETS 2007 European Union Against Climate Change, EU Emissions Trading: an Open System Promoting Global Innovation. 2007. http://ec.europa.eu/environment/climat/pdf/bali/eu_action.pdf, Accessed April 8, 2008.
- FP 2004 Fehr & Peers. Final Report Lodi Shopping Center Traffic Impact Study. July 2004. Contained within the Draft Environmental Report for the Lodi Shopping Center, August 2004, Volume II.
- IPCC 2000 Intergovernmental Panel on Climate Change. Good Practice Guidance and Uncertainty Management in National Greenhouse Gas Inventories. May 2000. Aircraft Emissions. www.ipcc-nggip.iges.or.jp/public/gp/bgp/2_5_Aircraft.pdf
- IPCC 2001 Intergovernmental Panel on Climate Change. Climate Change 2001: The Scientific Basis. Contribution of Working Group I to the Third Assessment Report of the Intergovernmental Panel on Climate Change [Houghton, J.T., Y. Ding, D.J. Griggs, M. Noguer, P.J. van der Linden, X. Dai, K. Maskell, and C.A. Johnson (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, 881pp. www.grida.no/CLIMATE/IPCC_TAR/WG1/index.htm, Accessed April 8, 2008.
- IPCC 2004 Intergovernmental Panel on Climate Change. 2004. 16 Years of Scientific Assessment in Support of the Climate Convention. December 2004. www.ipcc.ch/pdf/10th-anniversary/anniversary-brochure.pdf Accessed April 8, 2008.
- IPCC 2007 Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis,

- K.B. Avcryt, M.Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, <http://www.ipcc.ch/ipccreports/ar1-wg.htm>, Accessed November 6, 2008.
- JAC 2002 Jacobson, Mark Z. Atmospheric Pollution, History, Science, and Regulation. Cambridge University Press, New York. 2002.
- LODI 2004 City of Lodi. Prepared by PMC. Draft Environmental Impact Report for the Lodi Shopping Center. August 2004. Volumes I and II.
- LODI 2006 City of Lodi. Resolution No. 2006-205. A Resolution of the Lodi City Council Endorsing the California Municipal Utilities Association's Principles Addressing Greenhouse Gas Reduction Goals. <http://publicdocs.lodi.gov/Docs/RESOLUTIONS/2006/res2006-205.pdf>
- LODI 2007 City of Lodi. Prepared by PMC. Draft Revisions to the Environmental Impact Report for the Lodi Shopping Center. (2007 EIR Revisions) October 2007.
- MAC 2007 Market Advisory Committee for the California Air Resources Board. Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California. June 30, 2007. www.climatechange.ca.gov/documents/2007-06-29_MAC_FINAL_REPORT.PDF. Accessed April 8, 2008.
- NIOSH 1989 Department of Health and Human Services, Centers for Disease Control & Prevention, the National Institute for Occupational Safety and Health. Preventing Death from Excessive Exposure to Chlorofluorocarbon 113 (CFC-113). NIOSH ALERT: May 1989. DHHS (NIOSH) Publication No. 89-109. <http://www.cdc.gov/niosh/89-109.html>, Accessed April 8, 2008.
- NIOSH 1997 Department of Health and Human Services, Centers for Disease Control & Prevention, the National Institute for Occupational Safety and Health. International Safety Cards. Tetrafluoromethane. www.cdc.gov/niosh/ipcsneng/neng0575.html, Accessed April 8, 2008.
- NIOSH 2005 Department of Health and Human Services, Centers for Disease Control & Prevention, the National Institute for Occupational Safety and Health. Carbon Dioxide. September 2005. <http://www.cdc.gov/niosh/npg/npgd0103.html>, Accessed April 8, 2008.
- NRC 2005 National Research Council of the National Academies, Climate Research Committee, Board on Atmospheric Sciences and Climate, Committee on Radiative Forcing Effects on Climate. Radiative Forcing of Climate Change: Expanding the Concept and Addressing Uncertainties. The National Academies Press, Washington, D.C.
- OPR 2008 Governor's Office of Planning and Research. Technical Advisory. CEQA AND CLIMATE CHANGE: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review. June 19, 2008. www.opr.ca.gov/index.php?a=ceqa/index.html
- OSHA 2003 United States Department of Labor, Occupational Safety and Health Administration. Safety and Health Topics: Methane. www.osha.gov/dts/chemicalsampling/data/CH_250700.html, Accessed April 8, 2008.

- PC 2008 Point Carbon. 2008. Post-2012 Carbon and Energy Market Scenarios: A powerful new report by Point Carbon. www.pointcarbon.com/Research%20&%20Advisory/Advisory%20services/Recent%20Reports/category1532.html, Accessed April 8, 2008.
- RCGI 2008 Regional Greenhouse Gas Initiative. 2008. www.rggi.org/, Accessed April 8, 2008.
- SB 97 California Senate Bill 97. Passed August 21, 2007. http://info.sen.ca.gov/pub/07-08/bill/sen/sb_0051-0100/sb_97_bill_20070821_enrolled.pdf, Accessed April 8, 2008.
- SJVAPCD 2006 San Joaquin Valley Air Pollution Control District. District Recommended URBEMIS Construction Fleet Calculator. May 16, 2006. Version 1.1. <http://www.valleyair.org/ISR/Resources.htm>
- SJVAPCD 2007 San Joaquin Valley Air Pollution Control District. Recommended Standard Changes to URBEMIS Default Values. Updated August 2, 2007. www.valleyair.org/ISR/Documents/District%20Recommended%20Changes%20to%20URBEMIS.pdf
- UNFCCC 2006 United Nations Framework Convention on Climate Change. 2006. Greenhouse Gas Emissions Data, Predefined Queries, Annex I Parties - greenhouse gas total without LULUCF (land use, land-use change, and forestry). http://unfccc.int/ghg_emissions_data/predefined_queries/items/3841.php, Accessed April 8, 2008.
- UNFCCC 2007 United Nations Framework Convention on Climate Change. Essential Background. http://unfccc.int/essential_background/convention/items/2627.php, Accessed April 8, 2008.
- WB 2006 World Bank. 2006. Carbon Finance for Sustainable Development, <http://carbonfinance.org/docs/CFU-AR-2006.pdf>, Accessed April 8, 2008.
- WCI 2007 Western Climate Initiative. August 22, 2007. Statement of Regional Goal. <http://www.westernclimateinitiative.org/ewebeditpro/items/O104F13006.pdf>, Accessed April 8, 2008.
- WH 2008 White House. G8 Summit 2008. www.whitehouse.gov/g8/2008/
- WP 2008 Washington Post, David Fahrenthold. January 28, 2008. Value of U.S. House's Carbon Offsets is Murky. <http://www.washingtonpost.com/wp-dyn/content/article/2008/01/27/AR2008012702400.html>, Accessed April 8, 2008.

Appendix A: Greenhouse Gas Emission Spreadsheets and URBEMIS 2007 Model Output

Summary of Operational Greenhouse Gases

Lodi Shopping Center
 Prepared by Michael Brandman Associates
 Buildout Year 2009

Source	<i>Emissions (tons per year)</i>				<i>Emissions (MTCO2e/year)</i>		
	Carbon Dioxide	Nitrous Oxide	Methane	Other	Emissions	Reduction (%)	Total after Reductions
Motor vehicles	11,138	2.22	3.75		10,800	5%	10,260
Indirect electricity	1,778	0.01	0.01		1,616	30%	1,131
Aerosols				0.72	386	5%	366
Natural gas	751	0.00	0.07		683	30%	478
Water transport	29	0.00	0.00		26		26
Refrigerants				0.66	1,506	10%	1,355
Total	13,696	2.23	3.83	1.38	15,016		13,617
Global warming potential	1	310	21	varies			

Emissions converted from tons per year to metric tons of carbon dioxide equivalents (MTCO2e) per year by using the formula:
 (tons of gas) x (global warming potential) x (0.9072 metric tons)

Vehicle Miles Traveled 63,385

Starting Emissions	2.67 lbs/day	0.0013 tons/day	0.49 tons/year
Running Emissions	17.89 lbs/day	0.0089 tons/day	3.26 tons/year
Total	20.56 lbs/day	0.0103 tons/day	3.75 tons/year

Vehicle Percentages

Vehicle Type	Percent	Non-Catalyst	Catalyst	Diesel
Light Auto	51.6%	1.1%	98.7%	0.2%
Light Truck < 3,750 lbs	22.2%	2.0%	96.0%	2.0%
Light Truck 3,751- 5,750	16.1%	1.2%	98.1%	0.7%
Med Truck 5,751- 8,500	6.4%	1.4%	95.9%	2.7%
Lite-Heavy 8,501-10,000	0.2%	0.0%	81.8%	18.2%
Lite-Heavy 10,001-14,000	0.1%	0.0%	66.7%	33.3%
Med-Heavy 14,001-33,000	0.7%	0.0%	20.0%	80.0%
Heavy-Heavy 33,001-60,000	0.6%	0.0%	11.1%	88.9%
Line Haul > 60,000 lbs	0.0%	0.0%	0.0%	100.0%
Urban Bus	0.1%	0.0%	50.0%	50.0%
Motorcycle	1.3%	68.8%	31.2%	0.0%
School Bus	0.0%	0.0%	0.0%	100.0%
Motor Home	0.7%	7.1%	85.7%	7.2%

Running Emission Factors (g/mile)

Vehicle Type	Type	Non-Catalyst	Catalyst	Diesel
Light Auto	LDA	0.1931	0.1127	0.0161
Light Truck < 3,750 lbs	LDT1	0.2253	0.1448	0.0161
Light Truck 3,751- 5,750	LDT2	0.2253	0.1448	0.0161
Med Truck 5,751- 8,500	MDV	0.2253	0.1448	0.0161
Lite-Heavy 8,501-10,000	LHDT1	0.2012	0.1448	0.0805
Lite-Heavy 10,001-14,000	LHDT2	0.2012	0.1448	0.0805
Med-Heavy 14,001-33,000	MHDT	0.2012	0.1448	0.0805
Heavy-Heavy 33,001-60,000	HHDT	0.2012	0.1448	0.0805
Line Haul > 60,000 lbs	LHV	0.2012	0.1448	0.0805
Urban Bus	UB	0.2012	0.1448	0.0805
Motorcycle	MCY	0.2092	0.2092	0.2092
School Bus	SBUS	0.2012	0.1448	0.0805
Motor Home	MH	0.2012	0.1448	0.0805

Running Emissions (pounds per day)

Vehicle Type	Non-Catalyst	Catalyst	Diesel
Light Auto	0.15	8.00	0.00
Light Truck < 3,750 lbs	0.14	4.30	0.01
Light Truck 3,751- 5,750	0.06	3.19	0.00
Med Truck 5,751- 8,500	0.03	1.24	0.00
Lite-Heavy 8,501-10,000	0.00	0.03	0.00
Lite-Heavy 10,001-14,000	0.00	0.01	0.00
Med-Heavy 14,001-33,000	0.00	0.03	0.06
Heavy-Heavy 33,001-60,000	0.00	0.01	0.06
Line Haul > 60,000 lbs	0.00	0.00	0.00
Urban Bus	0.00	0.01	0.01
Motorcycle	0.26	0.12	0.00
School Bus	0.00	0.00	0.00
Motor Home	0.01	0.12	0.01
Total	0.66	17.07	0.16

Mobile Emissions - Methane

Lodi Shopping Center
 Prepared by Michael Brandman Associates
 Buildout Year 2009

Total Trips 23843

Starting Emission Factors (g/start)

Vehicle Type	Type	Non-Catalyst	Catalyst	Diesel
Light Auto	LDA	0.059	0.009	-0.003
Light Truck < 3,750 lbs	LDTI	0.067	0.099	-0.004
Light Truck 3,751- 5,750	LDT2	0.067	0.099	-0.004
Med Truck 5,751- 8,500	MDV	0.067	0.099	-0.004
Lite-Heavy 8,501-10,000	LHDT1	0.147	0.215	-0.004
Lite-Heavy 10,001-14,000	LHDT2	0.147	0.215	-0.004
Med-Heavy 14,001-33,000	MHDT	0.147	0.215	-0.004
Heavy-Heavy 33,001-60,000	HHDT	0.147	0.215	-0.004
Line Haul > 60,000 lbs	LHV	0.147	0.215	-0.004
Urban Bus	UB	0.147	0.215	-0.004
Motorcycle	MCY	0.024	0.024	0.033
School Bus	SBUS	0.147	0.215	-0.004
Motor Home	MH	0.147	0.215	-0.004

Trip Distribution

Vehicle Type	Type	Non-Catalyst	Catalyst	Diesel
Light Auto	LDA	135.3	12143.0	24.6
Light Truck < 3,750 lbs	LDTI	105.9	5081.4	105.9
Light Truck 3,751- 5,750	LDT2	46.1	3765.8	26.9
Med Truck 5,751- 8,500	MDV	21.4	1463.4	41.2
Lite-Heavy 8,501-10,000	LHDT1	0.0	39.0	8.7
Lite-Heavy 10,001-14,000	LHDT2	0.0	15.9	7.9
Med-Heavy 14,001-33,000	MHDT	0.0	33.4	133.5
Heavy-Heavy 33,001-60,000	HHDT	0.0	15.9	127.2
Line Haul > 60,000 lbs	LHV	0.0	0.0	0.0
Urban Bus	UB	0.0	11.9	11.9
Motorcycle	MCY	213.3	96.7	0.0
School Bus	SBUS	0.0	0.0	0.0
Motor Home	MH	11.8	143.0	12.0
Total		533.7	22809.5	499.8

Starting Emissions (pounds per day)

Vehicle Type	Type	Non-Catalyst	Catalyst	Diesel
Light Auto	LDA	0.0176	0.2404	-0.0002
Light Truck < 3,750 lbs	LDTI	0.0156	1.1067	-0.0009
Light Truck 3,751- 5,750	LDT2	0.0068	0.8202	-0.0002
Med Truck 5,751- 8,500	MDV	0.0031	0.3187	-0.0004
Lite-Heavy 8,501-10,000	LHDT1	0.0000	0.0185	-0.0001
Lite-Heavy 10,001-14,000	LHDT2	0.0000	0.0075	-0.0001
Med-Heavy 14,001-33,000	MHDT	0.0000	0.0158	-0.0012
Heavy-Heavy 33,001-60,000	HHDT	0.0000	0.0075	-0.0011
Line Haul > 60,000 lbs	LHV	0.0000	0.0000	0.0000
Urban Bus	UB	0.0000	0.0056	-0.0001
Motorcycle	MCY	0.0113	0.0051	0.0000
School Bus	SBUS	0.0000	0.0000	0.0000
Motor Home	MH	0.0038	0.0677	-0.0001
Total		0.0582	2.6138	-0.0043

- Source of running emission factors: U.S. Environmental Protection Agency. Climate Leaders Greenhouse Gas Inventory Protocol. Core Module Guidance. Direct Emissions from Mobile Combustion Sources. October 2004.
 - Source of vehicle percentages: URBEMIS default values.
 - Source of starting emissions: U.S. Environmental Protection Agency. Prepared by ICF Consulting. EPA420-P-04-016. Update of Methane and Nitrous Oxide Emission Factors for On-Highway Vehicles. November 2004.

Mobile Emissions - Nitrous Oxide
 Lodi Shopping Center
 Prepared by Michael Brandman Associates
 Buildout Year 2009

Unmitigated

Page 1
 6-Nov-08

Vehicle Miles Traveled 63,385

Starting Emissions	4.17 lbs/day	0.0021 tons/day	0.76 tons/year
Running Emissions	7.99 lbs/day	0.0040 tons/day	1.46 tons/year
Total	12.16 lbs/day	0.0061 tons/day	2.22 tons/year

Vehicle Percentages

Vehicle Type	Percent	Non-Catalyst	Catalyst	Diesel
Light Auto	51.6%	1.1%	98.7%	0.2%
Light Truck < 3,750 lbs	22.2%	2.0%	96.0%	2.0%
Light Truck 3,751-5,750	16.1%	1.2%	98.1%	0.7%
Med Truck 5,751-8,500	6.4%	1.4%	95.9%	2.7%
Lite-Heavy 8,501-10,000	0.2%	0.0%	81.8%	18.2%
Lite-Heavy 10,001-14,000	0.1%	0.0%	66.7%	33.3%
Med-Heavy 14,001-33,000	0.7%	0.0%	20.0%	80.0%
Heavy-Heavy 33,001-60,000	0.6%	0.0%	11.1%	88.9%
Line Haul > 60,000 lbs	0.0%	0.0%	0.0%	100.0%
Urban Bus	0.1%	0.0%	50.0%	50.0%
Motorcycle	1.3%	68.8%	31.2%	0.0%
School Bus	0.0%	0.0%	0.0%	100.0%
Motor Home	0.7%	7.1%	85.7%	7.2%

Running Emission Factors (g/mile)

Vehicle Type	Type	Non-Catalyst	Catalyst	Diesel
Light Auto	LDA	0.0166	0.0518	0.0161
Light Truck < 3,750 lbs	LDT1	0.0208	0.0649	0.0322
Light Truck 3,751-5,750	LDT2	0.0208	0.0649	0.0322
Med Truck 5,751-8,500	MDV	0.0208	0.0649	0.0322
Lite-Heavy 8,501-10,000	LHDT1	0.0480	0.1499	0.0483
Lite-Heavy 10,001-14,000	LHDT2	0.0480	0.1499	0.0483
Med-Heavy 14,001-33,000	MHDT	0.0480	0.1499	0.0483
Heavy-Heavy 33,001-60,000	HHDT	0.0480	0.1499	0.0483
Line Haul > 60,000 lbs	LHV	0.0480	0.1499	0.0483
Urban Bus	UB	0.0480	0.1499	0.0483
Motorcycle	MCY	0.0073	0.0073	0.0073
School Bus	SBUS	0.0480	0.1499	0.0483
Motor Home	MH	0.0480	0.1499	0.0483

Running Emissions (pounds per day)

Vehicle Type	Non-Catalyst	Catalyst	Diesel
Light Auto	0.01	3.68	0.00
Light Truck < 3,750 lbs	0.01	1.93	0.02
Light Truck 3,751-5,750	0.01	1.43	0.01
Med Truck 5,751-8,500	0.00	0.56	0.01
Lite-Heavy 8,501-10,000	0.00	0.03	0.00
Lite-Heavy 10,001-14,000	0.00	0.01	0.00
Med-Heavy 14,001-33,000	0.00	0.03	0.04
Heavy-Heavy 33,001-60,000	0.00	0.01	0.04
Line Haul > 60,000 lbs	0.00	0.00	0.00
Urban Bus	0.00	0.01	0.00
Motorcycle	0.01	0.00	0.00
School Bus	0.00	0.00	0.00
Motor Home	0.00	0.13	0.00
Total	0.05	7.82	0.12

Mobile Emissions - Nitrous Oxide

Lodi Shopping Center
 Prepared by Michael Brandrnan Associates
 Buildout Year 2009

Total Trips 23843

Starting Emission Factors (g/start)

Vehicle Type	Type	Non-Catalyst	Catalyst	Diesel
Light Auto	LDA	0.028	0.072	0.000
Light Truck < 3,750 lbs	LDT1	0.032	0.093	-0.001
Light Truck 3,751- 5,750	LDT2	0.032	0.093	-0.001
Med Truck 5,751- 8,500	MDV	0.032	0.093	-0.001
Lite-Heavy 8,501-10,000	LHDT1	0.070	0.194	-0.002
Lite-Heavy 10,001-14,000	LHDT2	0.070	0.194	-0.002
Med-Heavy 14,001-33,000	MHDT	0.070	0.194	-0.002
Heavy-Heavy 33,001-60,000	HHDT	0.070	0.194	-0.002
Line Haul > 60,000 lbs	LHV	0.070	0.194	-0.002
Urban Bus	UB	0.070	0.194	-0.002
Motorcycle	MCY	0.012	0.012	0.012
School Bus	SBUS	0.070	0.194	-0.002
Motor Home	MH	0.070	0.194	-0.002

Trip Distribution

Vehicle Type	Type	Non-Catalyst	Catalyst	Diesel
Light Auto	LDA	135.3	12143.0	24.6
Light Truck < 3,750 lbs	LDT1	105.9	5081.4	105.9
Light Truck 3,751- 5,750	LDT2	46.1	3765.8	26.9
Med Truck 5,751- 8,500	MDV	21.4	1463.4	41.2
Lite-Heavy 8,501-10,000	LHDT1	0.0	39.0	8.7
Lite-Heavy 10,001-14,000	LHDT2	0.0	15.9	7.9
Med-Heavy 14,001-33,000	MHDT	0.0	33.4	133.5
Heavy-Heavy 33,001-60,000	HHDT	0.0	15.9	127.2
Line Haul > 60,000 lbs	LHV	0.0	0.0	0.0
Urban Bus	UB	0.0	11.9	11.9
Motorcycle	MCY	213.3	96.7	0.0
School Bus	SBUS	0.0	0.0	0.0
Motor Home	MH	11.8	143.0	12.0
Total		533.7	22809.5	499.8

Starting Emissions (pounds per day)

Vehicle Type	Type	Non-Catalyst	Catalyst	Diesel
Light Auto	LDA	0.0083	1.9235	0.0000
Light Truck < 3,750 lbs	LDT1	0.0075	1.0397	-0.0002
Light Truck 3,751- 5,750	LDT2	0.0032	0.7705	-0.0001
Med Truck 5,751- 8,500	MDV	0.0015	0.2994	-0.0001
Lite-Heavy 8,501-10,000	LHDT1	0.0000	0.0166	0.0000
Lite-Heavy 10,001-14,000	LHDT2	0.0000	0.0068	0.0000
Med-Heavy 14,001-33,000	MHDT	0.0000	0.0142	-0.0006
Heavy-Heavy 33,001-60,000	HHDT	0.0000	0.0068	-0.0006
Line Haul > 60,000 lbs	LHV	0.0000	0.0000	0.0000
Urban Bus	UB	0.0000	0.0051	-0.0001
Motorcycle	MCY	0.0056	0.0026	0.0000
School Bus	SBUS	0.0000	0.0000	0.0000
Motor Home	MH	0.0018	0.0610	-0.0001
Total		0.0280	4.1462	-0.0017

. Source of running emission factors: U.S. Environmental Protection Agency. Climate Leaders Greenhouse Gas Inventory Protocol, Core Module Guidance. Direct Emissions from Mobile Combustion Sources. October 2004.
 . Source of vehicle percentages: URBEMIS default values.
 . Source of starting emissions: U.S. Environmental Protection Agency. Prepared by ICF Consulting. EPA420-P-04-016. Update of Methane and Nitrous Oxide Emission Factors for On-Highway Vehicles. November 2004.

Electricity - Indirect Emissions

Project: Lodi Shopping Center
Prepared by: Michael Brandman Associates
Prepared on: 11/6/2008

Project Electricity Use

4.42 GWh/year
4420 MWh/year

Greenhouse Gas	Emission Factor	Emissions	Emissions
	(pounds per MWh/year)	(pounds/year)	(tons/year)
Carbon dioxide	804.54	3,556,067	1,778
Methane	0.0067	30	0.015
Nitrous oxide	0.0037	16	0.008

Emission factor source: California Climate Action Registry.
General Reporting Protocol. Reporting Entity-Wide Greenhouse
Gas Emissions. Version 2.2, March 2007.
www.climateregistry.org

Project Electricity Use Source: 4.42 gigawatt-hours per year from
Draft Revisions to the Environmental Impact Report for the Lodi
Shopping Center dated October 2007. The estimation is from the
national average of 13 kilowatt hours per square foot per year for
commercial uses.

Electricity Use in Typical Urban Water Systems

Project: Lodi Shopping Center
 Prepared by: Michael Brandman Associates
 Prepared on: 11/6/2008

	kWh/MG	
	Northern California	Southern California
Water Supply and Conveyance	150	8,900
Water Treatment	100	100
Water Distribution	1,200	1,200
Wastewater Treatment	2,500	2,500
Totals	3,950	12,700

From California's Water Energy Relationship, CEC 2005

	Millions Gallons	
	Gallons per day	(MG) per year
Water Usage	49397	18.029905

	kWh		MWh
Energy Usage	71,218		71

Greenhouse Gas	Indirect Electricity Emission Factor		
	(pounds per MWh/year)	Emissions (pounds/year)	Emissions (tons/year)
Carbon dioxide	804.54	57,298	29
Methane	0.0067	0.48	0.000
Nitrous oxide	0.0037	0.26	0.000

Emission factor for electricity source:
 California Climate Action Registry. General Reporting Protocol. Reporting Entity-Wide Greenhouse Gas Emissions. Version 2.2, March 2007. www.climateregistry.org

CEC 2005: California Energy Commission. California's Energy-Water Relationship. Final Staff Report. November 2005. CEC-700-2005-011-SF

Water use from the 2004 EIR, page 132.

Natural Gas Combustion

Lodi Shopping Center

Prepared by Michael Brandman Associates

11/6/2008

Gas	Type of Land Use	Natural Gas usage for Project (SCF/year)*	Emission Factor (g CO2/SCF)**	Emission Factor (g/MMBTU)**	Heating Value of Natural Gas (BTU/SCF)**	Emissions (tons per year)	Emissions (pounds per day)
Carbon Dioxide	Retail/Shopping	12,600,000	54.2	N/A	N/A	751	4116
Methane	Retail/Shopping	12,600,000	N/A	4.75	1020	0.07	0.37
Nitrous Oxide	Retail/Shopping	12,600,000	N/A	0.095	1020	0.001	0.01
Total							

Units	Carbon Dioxide	Nitrous Oxide	Methane
pounds per day	4116	0.01	0.37
tons per year	751	0.001	0.07
Global warming potential	1	310	21
MTCO2e/year	681	0.38	1.28

* Source of natural gas usage from the Draft Revisions to the Environmental Impact Report for the Lodi Shopping Center, October 2007

** USEPA, 2004: Direct Emissions from Stationary Combustion Sources, Climate Leaders Greenhouse Inventory Protocol, Core Model Guidance, October 2004

Emissions of CH₄, N₂O = Emission Factor x Heating Value of Natural Gas x Natural Gas Usage x Number of Units/Square Feet

Air Conditioning and Refrigeration Fugitive Emissions

Project: Lodi Shopping Center
 Prepared by: Michael Brandman Associates
 Prepared on: 11/6/2008

Type of Unit	Refrigerant	Units	Capacity of Unit (kg)	Annual Leak Rate in percent of capacity	Emissions (kg/year)	Emissions (tons/year)	Global Warming Potential	Metric Tons c O ₂ Equiv./year
Commercial Refrigeration	r404a	3	250	35.0%	262.5	0.289	3300	864
Commercial A/C	r410a	68	50	10%	340.0	0.374	1890	641
Total						0.663		1,506

Source:

U.S. Environmental Protection Agency, Climate Leaders. May 2008. Direct HFC and PFC Emissions from Use of Refrigeration and Air Conditioning Equipment. EPA430-K-03-004. <http://www.epa.gov/stateply/documents/resources/mfgrfg.pdf>, Accessed in July 2008.

Source of number of units: It was assumed that there would be one HVAC unit per 5,000 square feet.

Source of global warming potential: http://www.engineeringtoolbox.com/Refrigerants-Environment-Properties-d_1220.html and http://www.engineeringtoolbox.com/refrigerants-properties-d_145.html

Aerosols

Project: Lodi Shopping Center
Prepared by: Michael Brandman Associates
Prepared on: 11/6/2008

From URBEMIS2007:

Operation 0.72 tons per year

	MOBILE6 results (g/mile)	Percent of Total	Operation (tons per year)
Elemental/black carbon	0.0383	77.7%	0.56
Organic carbon	0.0108	21.9%	0.16
Sulfates	0.0002	0.4%	0.00
Total	0.0493	100%	0.72

	Global Warming Potential	Operation Emissions (MTCO2e/year)
Black carbon	760	386
Organic carbon		0
Sulfates		0
Total		386

Sources

The global warming potential for black carbon is from the following article: Reddy, M. S., and O. Boucher 2007 Climate impact of black carbon emitted from energy consumption in the world's regions, Geophys. Res. Lett., 34, L11802, doi:10.1029/2006GL028904.

Note that the global cooling potentials for organic carbon and sulfates are unknown at this time.

The URBEMIS2007 values are from the URBEMIS2007 output. Note that the operational PM2.5 estimates do not contain road dust.

The percent carbon is from the MOBILE6 output, which follows. The MOBILE6 values for the LDDV truck type are used for this analysis because the ECARBON percentage is the highest.

* MOBILE6 Input file

* Purpose: to generate percent of components in diesel exhaust

* Author: CBW, Michael Brandman Associates 8/2008

* Reference for DIESEL SULFUR

California code of Regulations, Title 13, Division 3,
Chapter 5, Article 2, Section 2281, Sulfur Content of Diesel Fuel
(This is required input but does not impact the air toxic calculations)

* Reference for FUEL RVP, GAS AROMATIC, GAS OLEFIN, GAS BENZENE, E200, and E300

* The California Reformulated Gasoline Regulations,
Title 13, California Code of Regulations, Sections 2250-2273.5
Effective April 9, 2005

<http://www.arb.ca.gov/fuels/gasoline/040905carfgreg.pdf>

Linear interpolations were used for conversion of T50 to E200 and T90 to E300

$T50 = (125.3846 - E200)/0.3769$

$T90 = (196.1538 - E300)/0.3538$

MOBILE6 INPUT FILE :

PARTICULATES

RUN DATA

EXPAND EXHAUST

NO REFUELING

SCENARIO REC : Aerosols
PARTICULATE EF : PMGZML.CSV PMGDR1.CSV PMGDR2.CSV PMDZML.CSV PMDDR1.CSV PMDDR2.CSV
PARTICLE SIZE : 2.5
MIN/MAX TEMP : 40. 90.
CALENDAR YEAR : 2010
DIESEL SULFUR : 15
FUEL RVP : 7.0
GAS AROMATIC% : 35.0
GAS OLEFIN% : 10.0
GAS BENZENE% : 1.1
E200 : 42.5
E300 : 79.4

END OF RUN

 * MOBILE6.2.03 (24-Sep-2003) *
 * Input file: PROJECTS/AEROSOL.IN (file 1, run 1). *

* #####
 * Aerosols
 * File 1, Run 1, scenario 1.
 * #####

Calendar Year: 2010
 Month: Jan.
 Gasoline Fuel Sulfur Content: 30. ppm
 Diesel Fuel sulfur Content: 15. ppm
 Particle Size Cutoff: 2.50 Microns
 Reformulated Gas: No

vehicle Type:	LDGV	LDGT12	LDGT34	LDGT	HDGV	LDDV	LDDT	HDDV	MC	All Veh
GVWR:		<6000	>6000	(All)						
WT Distribution:	0.3540	0.3855	0.1315		0.0357	0.0003	0.0019	0.0856	0.0054	1.0000

Composite Emission Factors (g/mi):										
Lead:	0.0000	0.0000	0.0000	0.0000	0.0000				0.0000	0.0000
GASPM:	0.0037	0.0037	0.0040	0.0038	0.0348				0.0142	0.0046
ECARBON:						0.0383	0.0235	0.1077		0.0093
OCAREON:						0.0108	0.0339	0.0546		0.0047
SO4:	0.0003	0.0005	0.0005	0.0005	0.0015	0.0002	0.0003	0.0009	0.0001	0.0005
Total Exhaust PM:	0.0040	0.0042	0.0046	0.0043	0.0363	0.0492	0.0577	0.1633	0.0143	0.0191
Brake:	0.0053	0.0053	0.0053	0.0053	0.0053	0.0053	0.0053	0.0053	0.0053	0.0053
Tire:	0.0020	0.0020	0.0020	0.0020	0.0022	0.0020	0.0020	0.0065	0.0010	0.0024
Total PM:	0.0114	0.0115	0.0119	0.0116	0.0438	0.0566	0.0650	0.1751	0.0206	0.0268
SO2:	0.0068	0.0088	0.0114	0.0095	0.0167	0.0029	0.0056	0.0132	0.0033	0.0091
NH3:	0.1017	0.1013	0.1005	0.1011	0.0451	0.0068	0.0068	0.0270	0.0113	0.0923

Urbemis 2007 Version 9.2.4

Detail Report for Annual Construction Unmitigated Emissions (Tons/Year)

File Name: C:\MBA\Client\35550001 Lodi Wal-Mart\Mass Site Grading.urb924

Project Name: Lodi Shopping Center - Mass Grading

Project Location: San Joaquin County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

CONSTRUCTION EMISSION ESTIMATES (Annual Tons Per Year, Unmitigated)

	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5 Total</u>	<u>CO2</u>
2009	0.55	0.03	0.57	45.46
Mass Grading 11/21/2009-12/31/2009	0.55	0.03	0.57	45.46
Mass Grading Dust	0.55	0.00	0.55	0.00
Mass Grading Off Road Diesel	0.00	0.03	0.03	43.61
Mass Grading On Road Diesel	0.00	0.00	0.00	0.00
Mass Grading Worker Trips	0.00	0.00	0.00	1.85

Phase Assumptions

Phase: Mass Grading 11/21/2009 - 12/31/2009 - Mass Site Grading

Total Acres Disturbed: 36.18

Maximum Daily Acreage Disturbed: 9.04

Fugitive Dust Level of Detail: Default

20 lbs per acre-day

On Road Truck Travel (VMT): 0

Off-Road Equipment:

1 Graders (174 hp) operating at a 0.61 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 8 hours per day

2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Detail Report for Annual Construction Unmitigated Emissions (Tons/Year)

File Name: C:\MBA\Client\35550001 Lodi Wal-Mart\Drainage Basin.urb924

Project Name: Lodi Shopping Center - Drainage Basin

Project Location: San Joaquin County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

CONSTRUCTION EMISSION ESTIMATES (Annual Tons Per Year, Unmitigated)

	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5 Total</u>	<u>CO2</u>
2009	0.04	0.01	0.06	48.81
Mass Grading 12/01/2009-12/31/2009	0.04	0.01	0.06	48.81
Mass Grading Dust	0.04	0.00	0.04	0.00
Mass Grading Off Road Diesel	0.00	0.00	0.00	0.00
Mass Grading On Road Diesel	0.00	0.01	0.02	48.81
Mass Grading Worker Trips	0.00	0.00	0.00	0.00

Phase Assumptions

Phase: Mass Grading 12/1/2009 - 12/31/2009 - Mass Site Grading

Total Acres Disturbed: 3.65

Maximum Daily Acreage Disturbed: 0.91

Fugitive Dust Level of Detail: Default

20 lbs per acre-day

On Road Truck Travel (VMT): 1054.26

Off-Road Equipment:

11/21/2008 12:33:25 PM

Urbemis 2007 Version 9.2.4

Detail Report for Annual Construction Unmitigated Emissions (Tons/Year)

File Name: C:\MBA\Client\35550001 Lodi Wal-Mart\Wal Mart Construction.urb924

Project Name: Lodi Shopping Center - Wal Mart Construction

Project Location: San Joaquin County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

CONSTRUCTION EMISSION ESTIMATES (Annual Tons Per Year, Unmitigated)

	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5 Total</u>	<u>CO2</u>
2010	0.00	0.14	0.14	396.54
Building 01/11/2010-11/11/2010	0.00	0.13	0.14	380.23
Building Off Road Diesel	0.00	0.12	0.12	177.52
Building Vendor Trips	0.00	0.01	0.01	40.09
Building Worker Trips	0.00	0.00	0.01	162.62
Coating 10/11/2010-11/11/2010	0.00	0.00	0.00	2.90
Architectural Coating	0.00	0.00	0.00	0.00
Coating Worker Trips	0.00	0.00	0.00	2.90
Asphalt 10/27/2010-11/11/2010	0.00	0.01	0.01	13.41
Paving Off-Gas	0.00	0.00	0.00	0.00
Paving Off Road Diesel	0.00	0.01	0.01	6.79
Paving On Road Diesel	0.00	0.00	0.00	5.39
Paving Worker Trips	0.00	0.00	0.00	1.23

Phase Assumptions

Phase: Paving 10/27/2010 - 11/11/2010- Type Your Description Here

Acres to be Paved: 9.04

Off-Road Equipment:

4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day

Page: 2

11/21/2008 12:33:25 PM

- 1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
- 2 Paving Equipment (104 hp) operating at a 0.53 load factor for 6 hours per day
- 1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day

Phase: Building Construction 1/11/2010 - 11/11/2010- Type Your Description Here

Off-Road Equipment:

- 1 Cranes (399 hp) operating at a 0.43 load factor for 6 hours per day
- 2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
- 1 Generator Sets (49 hp) operating at a 0.74 load factor for 8 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day
- 3 Welders (45 hp) operating at a 0.45 load factor for 8 hours per day

Phase: Architectural Coating 10/11/2010 - 11/11/2010- Type Your Description Here

- Rule: Residential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 130
- Rule: Residential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 130
- Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250
- Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

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Urbemis 2007 Version 9.2.4

Detail Report for Annual Construction Unmitigated Emissions (Tons/Year)

File Name: C:\MBA\Client\35550001 Lodi Wal-Mart\Remaining Center Construction.urb924

Project Name: Lodi Shopping Center - Remaining Shopping Center Construction

Project Location: San Joaquin County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

CONSTRUCTIONEMISSION ESTIMATES (Annual Tons Per Year, Unmitigated)

	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5 Total</u>	<u>CO2</u>
2010	0.00	0.13	0.14	290.37
Building 01/11/2010-11/11/2010	0.00	0.13	0.13	278.57
Building Off Road Diesel	0.00	0.12	0.12	177.52
Building Vendor Trips	0.00	0.00	0.00	19.98
Building Worker Trips	0.00	0.00	0.00	81.07
Coating 10/11/2010-11/11/2010	0.00	0.00	0.00	1.45
Architectural Coating	0.00	0.00	0.00	0.00
Coating Worker Trips	0.00	0.00	0.00	1.45
Asphalt 10/27/2010-11/11/2010	0.00	0.01	0.01	10.35
Paving Off-Gas	0.00	0.00	0.00	0.00
Paving Off Road Diesel	0.00	0.01	0.01	7.63
Paving On Road Diesel	0.00	0.00	0.00	1.49
Paving Worker Trips	0.00	0.00	0.00	1.23

Phase Assumptions

Phase: Paving 10/27/2010 - 11/11/2010 - Type Your Description Here

Acres to be Paved: 2.5

Off-Road Equipment:

4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day

Page: 2

11/21/2008 12:33:53 PM

- 1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
- 1 Paving Equipment (104 hp) operating at a 0.53 load factor for 8 hours per day
- 1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 1/11/2010 - 11/11/2010- Type Your Description Here

Off-Road Equipment:

- 1 Cranes (399 hp) operating at a 0.43 load factor for 6 hours per day
- 2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
- 1 Generator Sets (49 hp) operating at a 0.74 load factor for 8 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day
- 3 Welders (45 hp) operating at a 0.45 load factor for 8 hours per day

Phase: Architectural Coating 10/11/2010 - 11/11/2010- Type Your Description Here

- Rule: Residential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 130
- Rule: Residential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 130
- Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250
- Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

Detail Report for Annual Operational Unmitigated Emissions (Tons/Year)

File Name: C:\MBA\Client\35550001 Lodi Wal-Mart\Lodi.urb924

Project Name: Lodi Shopping Center

Project Location: San Joaquin County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

OPERATIONAL EMISSION ESTIMATES (Annual Tons Per Year, Unmitigated)

Source	PM25	CO2
High turnover (sit-down) rest.	0.02	367.88
Fast food rest. w/o drive thru	0.11	1,677.86
Bank (with drive-through)	0.02	290.88
Pharmacy/drugstore with drive through	0.03	453.76
Wal-Mart	0.45	6,913.75
Retail	0.09	1,434.74
TOTALS (tons/year, unmitigated)	0.72	11,138.87

Includes correction for passby trips

Does not include double counting adjustment for internal trips

Analysis Year: 2009 Season: Annual

Emfac: Version : Emfac2007 V2.3 Nov 1 2006

11/21/2008 12:46:26 PM

Summary of Land Uses

Land Use Type	Acreage	Trip Rate	Unit Type	No. Units	Total Trips	Total VMT
High turnover (sit-down) rest.		127.15	1000 sq ft	7.50	953.63	2,062.98
Fast food rest. w/o drive thru		496.12	1000 sq ft	9.69	4,807.40	9,335.50
Bank (with drive-through)		156.48	1000 sq ft	5.16	807.44	1,627.55
Pharmacy/drugstore with drive through		88.16	1000 sq ft	14.79	1,303.89	2,532.02
Wal-Mart		56.02	1000 sq ft	226.87	12,709.26	39,687.20
Retail		42.94	1000 sq ft	75.96	3,261.72	8,139.30
					23,843.34	63,384.55

Vehicle Fleet Mix

Vehicle Type	Percent Type	Non-Catalyst	Catalyst	Diesel
Light Auto	51.6	2.0	97.6	0.4
Light Truck < 3750 lbs	22.2	4.3	88.7	7.0
Light Truck 3751-5750 lbs	16.1	1.4	98.1	0.5
Med Truck 5751-8500 lbs	6.4	0.9	99.1	0.0
Lite-Heavy Truck 8501-10,000 lbs	0.2	0.0	71.4	28.6
Lite-Heavy Truck 10,001-14,000 lbs	0.1	0.0	42.9	57.1
Med-Heavy Truck 14,001-33,000 lbs	0.7	9.1	18.2	72.7
Heavy-Heavy Truck 33,001-60,000 lbs	0.6	0.0	0.0	100.0
Other Bus	0.0	0.0	0.0	0.0
Urban Bus	0.1	0.0	0.0	100.0
Motorcycle	1.3	73.7	26.3	0.0
School Bus	0.0	0.0	0.0	100.0
Motor Home	0.7	10.0	80.0	10.0

Travel Conditions

	Residential			Commercial		
	Home-Work	Home-Shop	Home-Other	Commute	Non-Work	Customer
Urban Trip Length (miles)	6.0	6.0	6.0	6.0	6.0	6.0
Rural Trip Length (miles)	16.8	7.1	7.9	14.7	6.6	6.6
Trip speeds (mph)	35.0	35.0	35.0	35.0	35.0	35.0
% of Trips - Residential	32.9	18.0	49.1			
% of Trips - Commercial (by land use)						
High turnover (sit-down) rest.				5.0	2.5	92.5
Fast food rest. w/o drive thru				5.0	2.5	92.5
Bank (with drive-through)				2.0	1.0	97.0
Pharmacy/drugstore with drive through				2.0	1.0	97.0
Wal-Mart				2.0	1.0	97.0
Retail				2.0	1.0	97.0

Operational Changes to Defaults

Home-based work urban trip length changed from 10.8 miles to 6 miles

Home-based shop urban trip length changed from 7.3 miles to 6 miles

Home-based other urban trip length changed from 7.5 miles to 6 miles

Commercial-based commute urban trip length changed from 9.5 miles to 6 miles

Commercial-based non-work urban trip length changed from 7.35 miles to 6 miles

Commercial-based customer urban trip length changed from 7.35 miles to 6 miles

Appendix B: Existing Wal-Mart Demolition URBEMIS output

Urbemis 2007 Version 9.2.4

Detail Report for Annual Construction Unmitigated Emissions (Tons/Year)

File Name:

Project Name: Lodi Existing Wal-Mart Demolition

Project Location: San Joaquin County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

CONSTRUCTION EMISSION ESTIMATES (Annual Tons Per Year, unmitigated)

	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5 Total</u>	<u>0.2</u>
2009	0.04	0.01	0.06	34.41
Demolition 06/01/2009- 06/06/2009	0.02	0.01	0.02	22.66
Fugitive Dust	0.02	0.00	0.02	0.00
Demo Off Road Diesel	0.00	0.00	0.00	8.69
Demo On Road Diesel	0.00	0.00	0.00	13.43
Demo Worker Trips	0.00	0.00	0.00	0.54
Fine Grading 06/08/2009- 0611912009	0.03	0.01	0.03	11.75
Fine Grading Dust	0.03	0.00	0.03	0.00
Fine Grading Off Road Diesel	0.00	0.01	0.01	11.24
Fine Grading On Road Diesel	0.00	0.00	0.00	0.00
Fine Grading Worker Trips	0.00	0.00	0.00	0.51

Phase Assumptions

Phase: Demolition 6/1/2009 - 6/6/2009 - Default Fine Site Grading Description

Building Volume Total (cubic feet): 359148

Building Volume Daily (cubic feet): 60066

On Road Truck Travel (VMT): 1112.33

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

Page: 2

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3 Other Equipment (190 hp) operating at a 0.62 load factor for 8 hours per day
1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day
2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Fine Grading 6/8/2009 - 6/19/2009 - Default Paving Description

Total Acres Disturbed: 5.51

Maximum Daily Acreage Disturbed: 1.38

Fugitive Dust Level of Detail: Default

20 lbs per acre-day

On Road Truck Travel (VMT): 0

Off-Road Equipment:

■ Graders (174 hp) operating at a 0.61 load factor for 6 hours per day
1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 6 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day
1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Urbemis 2007 Version 9.2.4

Detail Report for Annual Construction Unmitigated Emissions (Tons/Year)

File Name:

Project Name: Lodi Existing Wal-Mart Demolition

Project Location: San Joaquin County

On-Road Vehicle Emissions Based on: Version :Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

CONSTRUCTION EMISSION ESTIMATES (Annual Tons Per Year, Unmitigated)

	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5 Total</u>	<u>CO2</u>
2009	0.04	0.01	0.06	34.41
Demolition 06/01/2009- 06/06/2009	0.02	0.01	0.02	22.66
Fugitive Dust	0.02	0.00	0.02	0.00
Demo Off Road Diesel	0.00	0.00	0.00	8.69
Demo On Road Diesel	0.00	0.00	0.00	13.43
Demo Worker Trips	0.00	0.00	0.00	0.54
Fine Grading 06/08/2009- 06/19/2009	0.03	0.01	0.03	11.75
Fine Grading Dust	0.03	0.00	0.03	0.00
Fine Grading Off Road Diesel	0.00	0.01	0.01	11.24
Fine Grading On Road Diesel	0.00	0.00	0.00	0.00
Fine Grading Worker Trips	0.00	0.00	0.00	0.51

Phase Assumptions

Phase: Demolition 6/1/2009 - 6/6/2009 - Default Fine Site Grading Description

Building Volume Total (cubic feet): 359148

Building Volume Daily (cubic feet): 60066

On Road Truck Travel (VMT): 1112.33

Off-Road Equipment:

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

Page: 2

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- 3 Other Equipment (190 hp) operating at a 0.62 load factor for 8 hours per day
- 1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day
- 2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Fine Grading 6/8/2009 - 6/19/2009 - Default Paving Description

Total Acres Disturbed: 5.51

Maximum Daily Acreage Disturbed: 1.38

Fugitive Dust Level of Detail: Default

20 lbs per acre-day

On Road Truck Travel (VMT): 0

Off-Road Equipment:

- 1 Graders (174 hp) operating at a 0.61 load factor for 6 hours per day
- 1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 6 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day
- 1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Appendix C: Additional Project Design Features

Real Estate and Design

J. Kelly Collier SR., DM.

October 6, 2008

Rad Bartlam
Community Development
City of Lodi
221 West Pine Street
Lodi, California 95241-1910

Re: Response to the April 30, 2008 Letter from Lodi First Reaardina the Proposed Walmart in the Lodi Shopping Center

Dear Mr. Bartlam:

Thank you for the opportunity to respond to some of the information included in the April 30, 2008 letter from Lodi First to the City of Lodi Mayor and City Council concerning the proposed Walmart in the Lodi Shopping Center. In that letter, Lodi First discusses Walmart's HE test program and the energy efficiency of its stores, and requests that Walmart develop an "HE.5" building standard for all new Supercenters, including presumably the proposed Lodi Supercenter. Please note that all "HE.5" design initiatives will be incorporated into the "HE.6" test program (the next progression of "HE.5"). As a result, this letter focuses on the "HE.6" test program, the results of which will be implemented into the Lodi project.

First and foremost, our environmental goals are simple and straightforward: To be supplied 100 percent by renewable energy, create zero waste, and sell products that sustain our environment. We have established ourselves as a leader in the retail industry in implementing sustainable business practices that address global warming and reduce the energy demand footprint of our stores.

Walmart is passionately committed to finding ways to build stores that can reduce its impact on the environment. In fact, we are regularly fine-tuning green technologies in order to implement them into future business plans. Our partnership with the University of California Davis Energy Efficiency Center is an example of our dedication. Charles Zimmerman, a Walmart Vice President, sits on the Center's board and is spearheading the company's efforts to improve the energy efficiency of Walmart's stores through its HE test program, which is just that – a test program.

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Our goal is ensure that the Lodi community has a premier energy-efficient store that will incorporate many features that it has developed through the HE test program. The Lodi Supercenter will contain the most current green technologies available to Walmart at the time it is built. Such features may include:

- Integrated Water Source Form Refrigeration

Refrigeration will be water cooled to lower the condensing temperatures for maximum efficiency. Waste heat from this refrigeration process is utilized for heating the outside air (see air handling unit description below) in addition to domestic hot water for the kitchen areas.

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Outside air will be conditioned thru dedicated outdoor air systems (DOAS) via *two* air handling units (AHUs). This leaves sensible only cooling for the RTU system since all of the moisture is removed with the ventilation air, eliminating high humidity conditions.

Cooling for the AHUs is achieved in two stages. The first stage is entirely through indirect evaporative cooling (IDEC). Each AHU is equipped with a scavenger type indirect evaporative cooler and provides conditioned ventilation air in accordance with Title 24. Most of the time, this is all that is required to meet the space sensible cooling needs. Previously conditioned exhaust air from the sales floor is directed through the scavenger as process air, further increasing the efficiency of the IDEC component and extending its useful hours.

The second stage of cooling utilizes a traditional direct expansion (DX) coil and is further broken down into stages to include some design efficiency improvements. For the first stage of DX cooling, one DX condenser coil is located in the IDEC waste air stream to lower the required condensing temperature. The second stage simply utilizes a traditional air-cooled coil. With the ventilation air pre-cooled by the scavenger IDEC, the load on the mechanical cooling system is further decreased.

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Staging the cooling and heating ensures that we take advantage of any and all "free" energy available before initiating any mechanical based cooling or fossil fuel based heating.

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- Night Dimming: The store will dim lighting to approximately 65% illumination during the late night hours.
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- Central Energy Management: Walmart stores are equipped with an energy management system that is monitored and controlled from the Home Office in Bentonville, Arkansas. The system enables Walmart to monitor energy usage 24 hours per day, seven days per week.
- Water Heating: The waste heat from the refrigeration equipment will be captured to heat water for the kitchen preparation areas of the store. This represents energy savings of 165 million BTU's per year.
- White Roofs: The store will have a white single-ply surface to optimize reflection and minimize heat gain to the building. The high solar reflectivity of this membrane results in lowering the "cooling" load by about 10%
- Interior Lighting Retrofit Program: All lighting in the store would utilize T-8 fluorescent lamps and electronic ballasts, which are the most efficient lighting on the market. Also, the entire store uses only "low-mercury" lamps, which are not considered to be a hazardous material and are considered to be very "green friendly." Although these lamps can be disposed of with no special precautions, out of concern for the environment, Walmart has volunteered to recycle these lamps instead of simply placing them in a landfill.
- LED Signage Illumination: All illuminated signage on the building exterior uses LED lighting. This application of LED technology is over 70% more energy-efficient than fluorescent illumination. With longer lamp life, using LEDs significantly reduces the need to manufacture and dispose of fluorescent lamps.
- Recycling:

Walmart stores include huge amounts of recycled material. (A) Steel recycling: Current construction standards on Walmart buildings include a substantial amount of recycled steel. Stores are built with nearly 100% recycled structural steel. Walmart structural steel suppliers use high efficient electric arc furnaces that use 50% less energy to manufacture recycled steel. Using recycled steel means less mining for new steel, and it is a material that can be readily recycled again if the building is demolished. (B) Recycled Plastic: All of the plastic baseboards, and many of the plastic shelving, are manufactured from recycled material.

This store, and all new Walmart stores, will be designed and equipped to recycle the following materials:

- Oil - over 20 million gallons per year
- Tires - 23 million tires per year
- Auto Batteries - 19 million per year
- Cardboard - 6.4 billion pounds in 2005
- Vegetable Oil - each new store has an indoor tank used to collect oil from cooking processes for recycling
- Single-use Cameras - 47 million per year collected at our photo processing centers
- Plastic Waste - on 2/1/06 we rolled-out a chain wide program for "sandwich bale" recycling of plastics, e.g., bags, garment bags, shrink wrap, bubble pack, etc.
- Silver - our photo labs capture silver from the photo processing

- Flyash in Concrete: The concrete in Walmart stores contains 10% flyash, an industrial byproduct from coal fired power generation processes, to reduce greenhouse gas emissions.
- Water-Conserving Fixtures: Restroom sinks include sensor-activated low flow faucets. The low flow faucets reduce usage by 77%. The sensors save approximately 20% over similar manual operated systems.
- Ozone-Friendly Refrigerants: Walmart has converted to less ozone-depleting refrigerants as they become available. It uses R404a for the refrigeration equipment. For air conditioning, Walmart has converted to R410a refrigerant.
- Non-PVC Roofs: Walmart stores do not include PVC roofs. Recognizing environmental concerns with the manufacture and disposal of PVC (polyvinyl chloride), Walmart has eliminated all PVC roofing from its new stores.
- Integrally Colored Concrete Floors: The store will include integrally colored concrete finish. The use of concrete floors is more environmentally friendly than the use of carpet and vinyl tile finishes. This not only addresses environmental concerns with the manufacture and disposal of PVC, it also reduces the need for most chemical cleaners, wax, and wax strippers.

By incorporating these measures into the proposed Lodi store, Walmart is reducing the energy demand of the store, thereby reducing its energy demand footprint.

* * * * *

Walmart has a company-wide strategy to reduce the energy demand footprint of its stores by incorporating features that result in energy reduction, reclamation/reuse, and energy efficiency in every store. By implementing this strategy, the proposed Lodi store will exceed California's Title 24 requirements and reduce energy consumption. Lodi residents can be assured that Walmart is driving sustainable practices into every facet of its business model – such as store design, packaging and product offerings – leading the charge to creating a sustainable future for all.

Thank you again for the opportunity to submit this letter.

Sincerely,

Kelly Collier
Sr. Design Manager

Appendix D: Resume



Cori Wilson

Project Manger, Air Quality Specialist

Overview

- * 4 Years Experience
- * Bachelor's degree, Environmental Science - University of Washington. Bothell

Cori Wilson is an Air Quality Specialist with four years of experience in the authorship of air quality analyses, climate change analyses, airport compatibility analyses, and numerous CEQA documents. Cori was a primary author on a paper prepared on behalf of the California Association of Environmental Professionals regarding analyzing climate change in the context of CEQA. She lends her expertise in air quality models - including AERMOD, ISCST3, CALINE4, EMFAC, and URBEMIS - to numerous EIR project teams. Cori's analyses are known for their technical accuracy, thoughtful mitigation measures, and innovative approaches,

Recent Experience in Climate Change Analyses

Gosford Village Shopping Center and the Panama Lane Shopping Center, City of Bakersfield. The Gosford Village and the Panama Lane shopping centers are two projects within a three mile radius of each other both consisting of a Wal-Mart and related commercial shopping centers. These analyses were among the first climate change analyses in the State of California. The analyses included a greenhouse gas emissions inventory and project consistency with strategies prepared by the California Climate Action Team to meet the emission reduction targets in Executive Order S-3-05. Project specific thresholds were derived and mitigation measures were suggested to reduce impacts to less than significant levels.

Tentative Tract Map 62757, City of Lancaster. The project consists of the subdivision of approximately 160 acres into 650 residential lots. A Global Climate Change Analysis was prepared that quantified the emissions anticipated from construction and operation of the project. Mitigation measures were tailored to the project and an environmentally superior alternative was selected.

Highland Fairview Logistics, City of Moreno Valley. The project consists of the construction of 2.4 million square feet of logistics, 200,000 square feet of commercial, and a retail component. A comprehensive project analysis included an emissions inventory and an onsite and offsite (carbon offsets) mitigation measure feasibility analysis. The cumulative analysis included a description of the potential of the project to contribute to the emissions associated with international trade.

Edgewater Communities, City of Chino. The project involves the construction of residential units on land previously designated for open space and agriculture. A climate change analysis and an air quality analysis were conducted. The climate change analysis included a discussion on smart land use and the conversion of agriculture to sprawling communities. A significance conclusion for project-level impacts was determined and a speculative finding for cumulative-level impacts was identified.

Granite Mine Expansion, City of Twentynine Palms. The project involved the expansion of an existing sand and gravel mine with accompanying concrete and asphalt facilities. Emissions associated with the concrete and cement manufacturing industries were explored in the Climate Change Analysis report. Greenhouse gas emissions from the proposed expansion were quantified. Compliance with California emission reduction strategies was determined and a level of significance was identified.

Wildomar Gateway, City of Wildomar. A Climate Change Analysis was prepared for the project, which involved the construction of a Wal-Mart and additional facilities. Project specific thresholds were derived to determine the level of significance in regard to the project's impact on climate change as well as the impact of climate change to the project. Mitigation measures were developed and project design features were highlighted that reduced impacts.

Martin Ranch EIR, City of San Bernardino. The Climate Change Analysis included a greenhouse gas emissions inventory, development of project specific thresholds, and development of mitigation measures.

Rich Haven Specific Plan, City of Ontario. The Climate Change Analysis included a greenhouse gas emission inventory (methane and nitrous oxides) for the existing uses, cattle and hog farming. Greenhouse gas emissions from the proposed residential and commercial uses were also estimated and the net increase of carbon dioxide equivalents with project implementation was determined. Project specific thresholds were derived to determine the level of significance in regard to the project's impact on climate change as well as the impact of climate change to the project. Mitigation measures were developed and project design features were highlighted that reduced impacts to less than significant.

Stonefield Tentative Tract Map 18393, Chino Hills. Air Quality Analysis and Climate Change Analysis Reports were prepared for the project, which consists of the development of 28 single family residential units in a location with variable terrain. The Air Quality Analysis contained an assessment of regional and localized impacts. The Climate Change Analysis assessed the impacts of climate change, particularly water consumption, on the project and greenhouse gas emissions from the project.

Burriss and Lincoln Basins Reconfiguration and Five Coves Pipeline Project, Orange County Water District. An Air Quality and Climate Change Analysis Report was prepared for the project, which involved the reconfiguration of two groundwater recharge basins and the construction of a pipeline system. A detailed construction analysis quantified emissions and recommended mitigation measures to reduce impacts to less than significant. The Climate Change Analysis took into account the "adaptation" the project was doing by mitigating the effects of climate change by recharging the groundwater basins.

Creekside Marketplace, Fremont. An air quality section of the DEIR was prepared for the project, which consists of 524,000 square feet of commercial uses near an existing landfill. Criteria pollutants and greenhouse gas emissions were estimated from the project and significance findings were determined pursuant to City direction.

Rialto Commerce Center, City of Rialto. The proposed project consists of the construction and operation of 3,659,000 square feet of industrial and warehouse uses on 158.9 acres. Greenhouse gas emissions were estimated from the project, a significance finding was determined, and mitigation measures were suggested.

Silverlakes Recreational Complex, Norco. The proposed project consists of a variety of multi-use recreational facilities including soccer fields, equestrian showgrounds, and/or a community event. Criteria and greenhouse gas emissions were estimated, significance findings were identified, and mitigation measures were suggested.

Public Safety Enterprise Communication Project, Riverside County. An Air Quality Analysis Report and a Climate Change Analysis Report were prepared for the proposed project, which involved the expansion of the County's communication system through the construction of 45 radio tower sites. The analyses took into account the fact that the project sites spanned two air districts and three air basins by expanding the background information and utilizing appropriate thresholds where necessary.

Professional Affiliations

- * Urban Land Institute, 2006-2007
- * Association of Environmental Professionals, Inland Empire Chapter, 2005-2008

Professional Publications and Presentations

Alternative Approaches to Analyzing Greenhouse Gas Emissions and Global Climate Change in CEQA Documents. Cori was a primary author on this paper prepared on behalf of the California Association of Environmental Professionals. The paper outlined various approaches that a Lead Agency could take to address climate change and greenhouse gases in a CEQA document. The paper also contained a summary of climate change legislation, CEQA requirements, and mitigation to reduce impacts. The paper was finalized on June 29, 2007, and incorporated comments from the environmental sector and the building sector.

“Clear Skies Ahead: Clearing the Smog about Air Quality Analysis.” In 2006, Steve Smith (SCAQMD), Michael Hendrix, David Mitchell, and Cori Wilson, presented at the Association of Environmental Professionals State Conference, Newport Beach, California. Cori Wilson organized and moderated the presentation as well as presented. The presentation was focused on air quality analyses for CEQA documents and presented information regarding the background air quality, the regulatory environment surrounding air quality, and described step by step how to answer the questions contained in Appendix G of the CEQA guidelines.

“A Planner’s Guide to Air Quality Issues in Land Use Planning.” In 2006, Theresa Fuentes, Joe O’Bannon, Michael Hendrix, and Cori Wilson presented at the American Planning Association, California Chapter Conference, Orange County, California. The presentation was organized by Cori Wilson and focused on the California Air Resources Board’s Air Quality and Land Use Handbook (Handbook). It presented background information regarding the development of the Handbook as well as its findings and recommendations for placement of sensitive receptors next to large air pollutant generators, such as freeways, ports, airports, rail, and warehouses. The presentation also outlined case studies of projects where sensitive receptors were placed near large air pollutant generators and the potential solutions that arose.

“Global Climate Change, CEQA, and NEPA.” In 2007, by request of the California State Lands Commission, Steven Jenkins and Cori Wilson presented on various topics of climate change, including the background, legislation, and recent litigation. A multi-step approach for assessing global climate change in NEPA documents was also discussed.

“Global Climate Change and CEQA.” Cori Wilson presented to a panel of builders and engineers working on Highland Fairview projects in 2007. The focus of the presentation was to outline the approach to address the impacts to global climate change. Recent litigation and legislation on global climate change was discussed to support the reasoning behind the inclusion of the analysis in CEQA documents. Mitigation, project design features, and project alternatives to reduce global climate change impacts were suggested.

“A Change in the Air.” Cori Wilson and Chandra Krout from CTG Energetics presented at the Building Industry Show on November 16, 2007 on addressing climate change impacts in CEQA documents,

Expert Witness at Ontario Municipal Board Hearing in Thunder Bay, Ontario, Canada. Cori Wilson was an expert witness on air quality and odor topics at a hearing for a project in Canada. October 1- 12, 2007.

Attachment D

Real Estate and

Development

October 6, 2008

Rad Bartlam
Community Development
City of Lodi
221 West Pine Street
Lodi, California 95241-1910

Re: Response to the April 30, 2008 Letter from Lodi First Reardina the Proposed Walmart in the Lodi Shopping Center

Dear Mr. Bartlam:

Thank you for the opportunity to respond to some of the information included in the April 30, 2008 letter from Lodi First to the City of Lodi Mayor and City Council concerning the proposed Walmart in the Lodi Shopping Center. In that letter, Lodi First discusses Walmart's HE test program and the energy efficiency of its stores, and requests that Walmart develop an "HE.5" building standard for all new Supercenters, including presumably the proposed Lodi Supercenter. Please note that all "HE.5" design initiatives will be incorporated into the "HE.6" test program (the next progression of "HE.5"). As a result, this letter focuses on the "HE.6" test program, the results of which will be implemented into the Lodi project.

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- Silver- our photo labs capture silver from the photo processing

City Council Minutes

12-10-08

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, DECEMBER 10, 2008**

A. Call to Order / Roll Call

The Special Meeting of the City Council was called to order by Mayor Hansen at 6:34 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Public Hearings

B-1 Public Hearing to Consider the Appeals of Browman Development Company and Wal-Mart Stores, Inc. Regarding the Decision of the Planning Commission to Not Certify the Final Revised Environmental Impact Report Regarding the Lodi Shopping Center Project Located at 2640 West Kettleman Lane (CD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider the appeals of Browman Development Company and Wal-Mart Stores, Inc., regarding the decision of the Planning Commission to not certify the final revised Environmental Impact Report (EIR) regarding the Lodi Shopping Center project located at 2640 West Kettleman Lane.

Brett Jolley, representative of Lodi First from Herum and Crabtree, requested that the meeting be continued to another location, possibly Hutchins Street Square, in light of the individuals who still remained outside the building and the weather. Mayor Hansen stated access into the building was provided on a first come, first serve basis, the current location is suited for Internet and television purposes, and everyone who wishes to provide comment will have an opportunity to do so.

Alexis Palosi, representative of Browman Development Company, stated access into the building was based on safety limitations and first come first serve. Ms. Palosi urged a rotation of the speakers to all those who wish to speak to have an opportunity to do so.

City Attorney Schwabauer stated everyone will have an ability to address the Council and provide public comment. In response to Council Member Hitchcock, Mr. Schwabauer stated there is no case law that requires an agency to provide a larger room for a hearing. Mr. King stated the process was addressed on a first come first serve basis as best as possible in light of the concerns enumerated at the Planning Commission meeting.

Council Member Hitchcock made a motion, second by Council Member Mounce, to change the date and venue of the public hearing.

The above motion **failed** by the following vote and the hearing proceeded:

Ayes: Council Member Hitchcock and Council Member Mounce

Noes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Absent: None

City Manager King briefly introduced the subject matter of the appeal regarding the Lodi Shopping Center.

Community Development Director Rad Bartlam provided a PowerPoint presentation regarding the appeal of the Lodi Shopping Center. He specifically discussed the final revised EIR, background, zoning and vicinity map, aerial view, summary of environmental and other impacts including energy and agricultural, additional project objectives, alternative project location, and landscape plan.

In response to Council Member Hitchcock, Mr. Bartlam stated the City Council previously approved the additional square footage at Reynolds Ranch, the updated memorandum stated the impacts did not rise to the level of significant impacts, and Bay Area Economics did the same level of analysis for initial and additional reviews.

In response to Council Member Hitchcock, Mr. Bartlam stated there is no specific relationship between the proposed project and Mervyns with respect to blight. Mr. Bartlam stated economics are looked at generally and with urban decay there may be a business that closes causing some graffiti and vandalism over a period of time. Mr. Bartlam stated declining sales and closures alone do not rise to the level of urban decay as retail capacity in and outside the City, along with other factors, are considered.

In response to Council Member Hitchcock, Mr. Bartlam stated the appellants submitted a letter, which outlines the proposed building activities; although, absent actual plans, the LEED certification possibilities of the project are unknown. Mr. Bartlam stated certain conditions may be implemented as a part of the use permit.

In response to Mayor Hansen, Mr. Bartlam confirmed that the City Council previously reviewed the project, certified the EIR, after which the proponents took the matter to court, the court found the report to be deficient in the areas of urban decay and energy, the remainder of the report was found to be sufficient, and the court ordered the City to void project approvals pending correction of the insufficiencies, which is what brings the matter before the Council at this time.

Mayor Hansen, pursuant to requirements for quasi-judicial matters, disclosed he spoke with Steve Herum of Herum and Crabtree, Chris Podesto of Food 4 Less, Daryl Browman as the developer of the project, and Erin Rios and Jessica Berg of Wal-Mart. Mayor Pro Tempore Katzakian disclosed he spoke with Daryl Browman and Chris Podesto. Council Member Hitchcock disclosed she spoke with Daryl Browman. Council Member Mounce disclosed she spoke with Daryl Browman and Chris Podesto. Council Member Johnson disclosed he spoke with Chris Podesto and Daryl Browman.

In response to Mayor Hansen, Mr. King confirmed that the City Council has the minutes from the Planning Commission and some Commissioners are present for questions if needed. Mr. Schwabauer stated that the matter is quasi-judicial and there cannot be a commitment to a specific position prior to making a decision.

Planning Commission Chair Wendel Kiser provided a brief summary of the Planning Commission meeting discussing the vote of 5-1-1 (opposed, favor, absent), questions regarding LEED building and similar standards, tax revenue generation, urban decay, job creation and loss, Measure R application, average wage of employees, agricultural mitigation, effects of the Reynolds Ranch approval, sales tax generation, and AB 32 application for energy.

In response to Council Member Hitchcock, Mr. Kiser stated a majority of the Planning Commission did not necessarily disagree with the project, but felt that the concerns and questions that were raised were not addressed in a clear enough manner to feel comfortable with an approval of the report.

Daryl Browman, the developer of the project, provided a brief presentation regarding the proposed project. He specifically discussed the project encompassing 20 to 30 businesses in addition to Wal-Mart, the history of the company as a member of the community for 16 years, original development of Wal-Mart at Kettleman Lane and Lower Sacramento Road, the intent to build projects for long-term viability for 20 or more years with non-merchant development, 99% to 100% occupancy with existing owned projects, similar projects in surrounding cities in Central Valley and Bay Area, overall project vacancy in current projects, letters of support from current tenants, the goal of solidifying the intersection as a dominant retail area, statistics illustrated in the Navigant report, potential for increased sales tax and building permits, expansion of the trade area, and adequate address of the issues in the environmental warranting a certification.

Andrea Leisy, attorney for Browman Development Company, stated she received a letter from the opponents of the project today, the opponents are limited to addressing only the issues of energy and urban decay procedurally and the entire EIR is not open for review. Ms. Leisy stated the City has evidence to support the baseline analysis and a review of every possible change is not necessary.

In response to Council Member Hitchcock, Mr. Browman stated the sales tax data in the Navigant report is factual, he is experienced in building around discount retailers and tenants, his focus is to expand the trade area, supercenters do more sales business than regular Wal-Mart, the synergy in a given trade area creates more business with additional tenants such as Best Buy, and the existing Food 4 Less was originally doing half the volume.

In response to Council Member Johnson, Mr. Browman stated he is not able to provide specific names of possible tenants due to corporate approvals, the current building has no restrictions, there is approximately 85% tenant occupancy pending availability dates, the current building is owned by Browman which provides incentive for occupation along with other tenant support, new development from the ground up is more expensive focused on right tenant, new development from ground up is much more expensive even if existing building is demolished due to initial site approvals, and certain retailers are going to continue to expand regardless of the market conditions.

In response to Council Member Mounce, Mr. Browman confirmed that smaller businesses are struggling more in the economy than retailers, the \$190,000 increase from the current Wal-Mart to a Supercenter Wal-Mart, and referenced the methodology used for sales tax revenue. Mr. King confirmed that cost is approximately the equivalent to an officer with a car and stated it is important to consider sales tax revenue for the existing building.

In response to Mayor Pro Tempore Katakian, Mr. Browman stated the four corners of Kettleman Lane and Lower Sacramento Road can be seen as a destination for the outside community as well.

In response to Council Member Hitchcock, Mr. Browman stated the next nearest Wal-Mart in relation to Target is in Modesto and Riverbank draws as far as Sonora, although Riverbank does not have a Wal-Mart.

Brett Jolley provided a presentation and specifically discussed the issue of whether the EIR is sufficient enough to certify and return to the court, the Planning Commission's decision to not certify the EIR based on a lack of information, the role of the Planning Commission, the City's requirement to return to court to discharge the writ, possible remand to Planning Commission, the need to address urban decay with regard to an inaccurate environmental setting and redevelopment area inclusion, findings in an EIR based on sufficient evidence rather than insufficient evidence, the lack of adequate alternatives which do not meet the two prong test, four other alternatives which may be included for Reynolds Ranch, east Lodi redevelopment area,

reduced size alternatives, and a high efficiency model supercenter.

Don Mooney, attorney for Citizens for Open Government, provided a presentation and specifically discussed the second lawsuit for previous approvals, an existing agreement regarding reserving prior claims, no res judicata application for third party claims after recertification or those claims reserved and litigated, all documentation provided to Council to be a part of the administrative record, greenhouse gas emissions application, technical report to the Planning Commission describing requirements to address emissions based on California Environmental Quality Act (CEQA) requirements, the Planning Commission finding of insufficient information, and need to remand to the Planning Commission for further review.

In response to Council Member Hitchcock, Mr. Mooney explained the Planning Commission decision stating there was not enough information goes to evidence as the standard of review is whether or not there is sufficient evidence and the Planning Commission determined it was insufficient.

In response to Council Member Hitchcock, Mr. Jolley discussed the 22-page letter submitted for review, clarification regarding insufficient evidence versus substantial evidence and the related issues of law, CEQA is to be liberally construed, overriding considerations for substantial evidence although there is no direct case on point, the conclusion of the Stanislaus case finding great weight should be given to Planning Commission decisions, the need for the EIR to look at a reasonable range of alternatives, mitigation for significant impacts, and the lack of enforceable measures for energy features in the project.

In response to Council Member Johnson, Mr. Jolley stated redevelopment ties in with urban decay because there is a need to look at what the situation is on the ground, and the EIR ignores the fact that the east side has a redevelopment area that was approved by Council, which finds blight in the east side of town.

In response to Council Member Johnson, Mr. Bartlam stated the City Council rescinded the prior redevelopment approval approximately five to six years ago.

In response to Council Member Johnson, Mr. Jolley stated blight in the east side is not analogous to Mervyns and the economy because there is an obligation to consider impacts on the community at large and the fact that Lodi does have blight needs to be considered.

In response to Mayor Hansen, Mr. Jolley stated he cannot predict what a court will do at this time, he can only address the legal concerns, and other cities have returned similar decisions to the Planning Commission, although he has not specifically seen the case with an EIR.

Andrea Leisy discussed the independent discretion of the City Council to act in certifying the EIR, CEQA address of social concerns if reasonably foreseeable and current reference in baseline analysis, considerations regarding competition and vacancies, the importance of the climate change address which does not require a global level analysis, water supply assessment application for specific projects only, and the inability to include Reynolds Ranch as an alternative because the developer does not own the land.

Mr. Jolley stated res judicata is not applicable because citizens can bring up other issues including global warming and gas emissions for AB 32 and the cut off time is generally the release of the draft EIR.

Mr. Mooney stated the greenhouse gas emissions are a part of the EIR and not only comments, additional building permits may be to growth including factors requiring review in the EIR, and

water supply requirements and the number of potential employees must be addressed as well.

In response to Council Member Hitchcock, Mr. Mooney stated if there was a growth in building permits it would need to be addressed in the EIR as a growth inducing factor. Mayor Hansen opened the public hearing to receive public comment.

Jack Gorton spoke in favor of the proposed certification based on possible benefits to the poor in the community.

Alan Flemming spoke in opposition to the proposed certification based on concerns regarding the lack of support for organized youth sports from Wal-Mart and the existing support from local businesses.

Mark Anaforian spoke in opposition to the proposed certification based on concerns regarding the negative affect on other businesses, lack of sales tax generation, employment numbers leveling off in a few years, increased foot traffic, and option to expand in existing space.

Pedro Cahue spoke in opposition to the proposed certification based on general concerns.

Rolando Aguilar spoke in favor of the proposed certification based on Mr. Browman being a good employer and properly maintaining landscaping for existing properties.

Rick Croffer spoke in opposition to the proposed certification based on concerns regarding location and negative effect on roads.

Victor DeMelo spoke in favor of the proposed certification based on the success of current Browman tenants and job creation in retail and construction.

Robert Evans spoke in opposition to the proposed certification based on concerns regarding the economy, job salaries and full-time status, current tenant vacancies, and lack of sales tax with only the addition of groceries.

Russ Tanner spoke in favor of the proposed certification, as an employee for 14 years, based on Wal-Mart's positive address of issues pertaining to the environment, green building, Title 24 application, energy management features, and customer service. Council Member Mounce suggested it is now possible to go to a T5 level.

Brad Clark spoke in opposition to the proposed certification based on concerns regarding parking and competition for grocery stores.

Ken Ginoulis spoke in favor of the proposed certification based on local sales tax increase and community involvement by Wal-Mart.

Howard Rempfer spoke in opposition to the proposed certification based on concerns regarding the parking of trucks and loss of jobs for other businesses.

Denise Joyner spoke in favor of the proposed certification based on tax dollars and revenue staying local within the City of Lodi.

Gene Davenport of the San Joaquin County Labor Council spoke in opposition to the proposed certification based on concerns regarding value of wages and benefits provided by Wal-Mart and pending litigation regarding the same.

Cheryl Nitchke spoke in favor of the proposed certification based on Wal-Mart not hurting the downtown area because those businesses are specialty shops that customers will continue to frequent.

Richard Sarris of Food 4 Less spoke in opposition to the proposed certification based on concerns regarding developments owned by other developers.

Julie Parker as an employee spoke in favor of the proposed certification based on the employment benefits to the community on the east side of town. In response to Council Member Hitchcock, Ms. Parker stated only those attendees at the meeting wearing name badges are on the clock and being paid.

Betty Peters spoke in favor of the proposed certification based on the layout of Wal-Mart stores, wide aisles, personal treatment, and best buys.

Pat Patrick of the Chamber of Commerce spoke in favor of the proposed certification based on the Board's belief in synergy of retail at the four corners location, more job creation, free enterprise and consumer choice. In response to Council Member Hitchcock, Mr. Patrick stated that, while the Chamber did not poll its membership, input was provided by all committees to the Board.

Jennifer Bond spoke in opposition to the proposed certification based on concerns that the EIR remains vague and inconclusive and the Planning Commission's decision to not certify.

Christopher Wallace spoke in favor of the proposed certification based on benefits to the City and residents, Wal-Mart involvement with community organizations, and Measure R application to larger businesses.

John Hale as an employee spoke in favor of the proposed certification based on salary and benefits for employees and the encouragement of competition and free enterprise.

Alesha Pichler spoke in opposition to the proposed certification based on concerns regarding ability to attract other retails and overall financial stability.

Tim Jacobson as District Manager spoke in favor of the proposed certification based on the draw for outside shoppers, new retail development, and the company's goal to comply with all State laws by paying employees at all times when they are representing the company.

Gary Silva spoke in opposition to the proposed certification based on concerns regarding the economy and recession, the need for unique stores, and the Planning Commission's decision regarding the same.

Daniel McNeer as an employee spoke in favor of the proposed certification based on current Browman tenants being in favor of the proposed project.

Chris Podesto spoke in opposition to the proposed certification based on concerns regarding the revised EIR, an increase of only \$190,000, the Planning Commission decision to not certify, urban decay, and negative effect on Food 4 Less suggesting decreases of up to 40%.

Michael Donrao of Precision Painting spoke in favor of the proposed certification based on the levels of standards mandated by the Browman Development Company and the good condition of their developments.

Dennis Sattler spoke in opposition to the proposed certification based on concerns regarding the economy and proper address of issues in the EIR.

Mona Shulman of Pacific Coast Producers (PCP) spoke in favor of the proposed certification, stating the goal of the business is to sell \$450 million in product, which is in part due to Wal-Mart.

James Lanchester spoke in favor of the proposed certification based on keeping revenue local, continued patronage to other stores including Food 4 Less, and the Council's control over development.

Bill Freitas spoke in opposition to the proposed certification based on the economy and closing of stores and the decision of the Planning Commission to not certify.

Mary Laughlin of Big Brothers and Big Sisters spoke in favor of the proposed certification based on the support of Wal-Mart for management, employees, and the community.

Carl Rosicis spoke in opposition to the proposed certification based on concerns regarding the lack of need for another grocery store, competition for smaller businesses, and the decision of the Planning Commission.

Robyn Darling as an employee spoke in favor of the proposed certification based on positive treatment of employees, salary and benefits, new jobs, and revenue for the City of Lodi from other than taxpayers.

Ed Merkel as Assistant Manager for Wal-Mart spoke in favor of the proposed certification based on good employee relations for salaries, benefits, and advancement opportunities.

Andy Russicu of PCP spoke in favor of the proposed certification based on Wal-Mart's support of vendors who are unionized, sustainability and carbon footprint standards, and free enterprise. In response to Council Member Hitchcock, Mr. Russicu stated about 22% of PCP business is done with Wal-Mart.

Manroop Shergill spoke in opposition to the proposed certification based on noise considerations for local neighborhood and the lack of a need for more grocery stores. In response to Council Member Johnson, Ms. Shergill stated her home was located on Chaparell Court.

Lois Poole spoke in favor of the proposed certification based on free enterprise, customer base, and one-stop shopping ability.

Daniel Lee spoke in opposition to the proposed certification based on negative effects on other grocery stores, concerns regarding small business owners, and urban blight in the downtown area.

Don Aguillard as an employee spoke in favor of the proposed certification based on Wal-Mart's compliance with the Americans with Disabilities Act, tax dollars remaining local within the City, job creation, and overall compliance standards for employment including labor, civil rights, and equal opportunity.

Joseph Nicolini spoke in opposition to the proposed certification based on the chaos in supercenters including Stockton, and the negative effect on local goods, manufacturing, and farming.

Marlene Borchers as Store Manager at Lodi spoke in favor of the certification based on

opportunities for employees, company goals, new job projections of 450 from current 300, and community involvement.

In response to Council Member Johnson, Ms. Borchers stated Wal-Mart provides a good transition from other jobs and promotes training for advancement.

John Minnehan spoke in opposition to the proposed certification based on concerns regarding noise, traffic, and the decision of the Planning Commission to not certify.

Marguerite Jones spoke in favor of the proposed certification based on good customer service and the opportunity to purchase less expensive groceries.

Anita Curos spoke in opposition to the proposed certification based on concerns regarding urban decay, the EIR relying on older data, noise, and pollution.

Dan Sroufe spoke in favor of the proposed certification based on free enterprise and fair competition.

Ann Cerney spoke in opposition to the proposed certification based on concerns regarding the process of the public hearing.

Grace Cano spoke in favor of the proposed certification based on keeping tax dollars local and Wal-Mart's good employee relations.

Lorinda Jonard spoke in opposition to the proposed certification based on concerns regarding expending more agricultural space and the Planning Commission's decision to not certify.

Dennis Nover spoke in favor of the proposed certification based on his general favorable perception of Wal-Mart.

Mayor Hansen closed the public hearing after no additional speakers requested to speak.

In response to Council Member Mounce, Mr. Bartlam stated the City retained PMC, which was later replaced by BAE, and Wal-Mart was not involved with the preparation of the draft EIR; although, Wal-Mart will reimburse the City for its costs, which would happen with any business. Mr. Bartlam stated Wal-Mart was not involved in the initial selection for PMC, which was competitively done.

In response to Mayor Hansen, Mr. Schwabauer stated an EIR would still be needed even if the project was approved through an initiative process.

In response to Council Member Johnson, Mr. Schwabauer stated the document received today by the opponents of the project is primarily legal argument, which the City Council is not obligated to consider as the City Council is charged with making a decision based on the facts presented.

In response to Council Member Hitchcock, Mr. Schwabauer stated the City Council must consider factual evidence it is presented and it may consider the legal argument.

Discussion ensued between Mayor Hansen and Mr. Bartlam regarding the comments provided by Planning Commissioner Olson who works with economic development in the City of Riverbank, the differences between the definitions of redevelopment blight and urban decay, the blight analysis being done in the first environmental document, and the need for conclusive evidence for urban decay purposes that a particular store closing will in fact cause a physical environment of urban decay.

In response to Council Member Katzakian, Mr. Bartlam stated there will eventually be a condition of original approval with the use permit process, although it is not the matter for consideration tonight.

In response to Council Member Mounce, Mr. Bartlam stated he can give specific examples of blight in the City but not for urban decay.

In response to Mayor Mounce, Mr. King stated the fully loaded cost for a police officer in the City is approximately \$200,000.

Mayor Hansen made a motion, second by Council Member Johnson, to certify the final revised EIR regarding the Lodi Shopping Center Project located at 2640 West Kettleman Lane.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Hitchcock, and Council Member Mounce

Absent: None

C. Adjournment

Mayor Hansen adjourned the special meeting at 1:05 a.m., Thursday, December 11, 2008.

ATTEST:

Randi Johl
City Clerk

Planning Commission

Minutes 10/08/08

Packet 10/08/08

**LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 8, 2008**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of October 8, 2008, was called to order by Chair Kiser at 7:01 p.m.

Present: Planning Commissioners – Cummins, Heinitz, Hennecke, Kirsten, Mattheis, Olson, and Chair Kiser

Absent: Planning Commissioners – None

Also Present: Interim Community Development Director Rad Bartlam, Deputy City Attorney Janice Magdich, Outside Counsel for the City of Lodi Jonathan Hobbs and Administrative Secretary Kari Chadwick

2. MINUTES

“September 10, 2008”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Olson second, approved the Minutes of September 10, 2008 as written. (Commissioner Mattheis abstain because he was not present at the subject meeting)

Chair Kiser stated the rules of conduct for the Public Hearing.

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kiser called for the public hearing to consider the request of Browman Development Company and Wal-Mart Real Estate Business Trust to certify the Final Revised Environmental Impact Report (EIR-03-01) to allow construction of the Lodi Shopping Center and allow all subsequent development approvals for the center; and

Request of Browman Development Company and Wal-Mart Real Estate Business Trust to approve Use Permit U-02-12 to allow the construction of a commercial center in a C-S, Commercial Shopping District, and allow the sale of alcoholic beverages at the Wal-Mart Supercenter; and

Consider approval of Vesting Tentative Map 03-P-001 to create 12 parcels for the project.

Request of Browman Development Company and Wal-Mart Real Estate Business Trust for site plan and architectural approval of a new retail building to be constructed at 1600 Westgate Drive.

Commissioner Mattheis recused himself from the hearing because his spouse is an attorney for the applicant.

Commissioner Kirsten disclosed that he met with both the applicant and an attorney for the opponent, Brett Jolley.

Commissioner Heinitz disclosed that he met with the Applicant's attorney.

Commissioner Olson disclosed that she met with a contingent from Wal-Mart and spoke with many concerned citizens.

Commissioner Hennecke disclosed that he met with the applicant, Ms. Davis, and Mr. Pedesto.

Vice Chair Cummins disclosed that he spoke with the applicant and others regarding the project.

Chair Kiser disclosed that he spoke with the applicant.

Interim Director Bartlam gave a brief PowerPoint Presentation (attached) based on the staff report. Mr. Bartlam stated that the Final Revised Environmental Impact Report (FREIR) per the Court Order focused on five specific areas: Cumulative Urban Decay, Energy Impacts, Agricultural Resource Impacts, Project Objectives, and Project Alternatives. Staff is recommending approval of the project. Mr. Bartlam introduced Jonathan Hobbs who is special outside Counsel for the City of Lodi and has been a part of this project since 2005.

Jonathon Hobbs stated that he has been representing and working with the City since the project went into litigation and has been a part of the revision process. The Court found the original EIR to be adequate except in two areas: Cumulative Impacts for Urban Decay and Energy Consumption. Both of those areas have been revised in the revisions to the EIR. The City decided to voluntarily revise three additional areas: Project Objectives, Agricultural Resources, and Project Alternatives. Under Case Law these are the only areas that are subject to review.

Commissioner Heinitz stated that he is the only remaining Commissioner that was on the Commission when this project came around in 2004. He then asked what will happen to the vacant building that is the current Wal-Mart; what the likelihood of other stores closing if this project gets approved; and in the case that other store close will the citizens have to pick-up the tab on maintenance so they don't become blighted. Mr. Bartlam stated that in a worst case scenario the Code Enforcement Division may have to step in when the property owner does not maintain the area. The City does have a variety of tools at their disposal to force the property owner to maintain their property to the City Standards. There have been circumstances in the City over the years that the Code Enforcement function has been in place where the tools to force the property owner to maintain the property have been used. Bartlam also stated that the citizens do inadvertently incur the cost because Code Enforcement falls under the City's General Fund. Heinitz stated that based on what he was told about what has happened in other cities when the stores, not just the old Wal-Mart building, close up the citizens have to kick in for the initial out lay of boarding up, repairs, and cleaning although a lien is taken out against the property for when it is ever sold. Bartlam stated that he does not know of what other cities that has happened in, but what has happen here in the past is that Code Enforcement takes the task on and liens the property. Heinitz asked for clarification regarding if it has already happened here. Mr. Bartlam stated that it had and will probably happen again, but staff can not make the connection between the Environmental Document before you and those events.

Vice Chair Cummins asked if the five areas in the revision to the EIR should be the main focus for the Commission. Mr. Bartlam stated that the five areas are the only areas that should be focused on along with the Use Permit, Tentative Map, and Site Plan & Architectural review approvals.

Hearing Opened to the Public

- Darrell Browman, Browman Development - Applicant, came forward to speak in favor of the project and answer questions. Mr. Browman addressed the concern of Commissioner Heinitz regarding the re-tenanting of the current building. He stated that this isn't a big merchant builder coming in and trying to build a store, but a long time area developer that has other long lasting developments in the City. The other retail developments owned by Browman Development in the City have a 98 to 100% occupancy. The City initiated the annexation of this property eight years ago and Mr. Browman has been working with the City on this project ever since. When Food-4-Less came to town all the other stores said it would put them out of business, but it didn't. The positive thing that happens when competition comes to the area is it spurs the other stores to reinvest and remodel which leads to revitalization. The major benefit of this project is that it solidifies this intersection as a dominate retail area. By placing this kind of quantity and quality of retail in one area it draws the kind of retail that the City has been wanting for some time. The architectural look of the building with the columns and cornices give it a pedestrian feel. Browman added that the current Wal-Mart building has been bought by Browman Development to help alleviate the concern expressed in 2004 regarding the re-tenanting of the building. Two years ago Browman Development entered into negotiations with a new tenant for the space, but the possible tenant backed out because they did not know how long the process was going to take. Browman Development is currently in negotiations with another tenant that will occupy 90% of the building. Mr. Browman stated that he is confident that they will be able to

re-tenant the space with a quality tenant. Mr. Browman requested that he be allowed to come back up at the end of the public hearing and address some of the concerns mentioned.

- Commissioner Heinitz stated that he is not comfortable with the fact that there isn't a tenant in line for the building. Mr. Browman stated that if he could tell a tenant that in 18 months he would have the space available he would have a tenant's signature today, but like the first time around with Home Depot and no guarantee of when the property would be available, he is not comfortable trying to sign someone when he can't give them a solid time frame. Browman stated that he is very comfortable with the turn-a-round time of 12 months once the project is passed to get a new tenant into that space. He stated that it doesn't do any good to create a project and destroy another, so he would not be going ahead with this if he was not confident that a new tenant would be placed in the space.
- Commissioner Kirsten asked about the cumulative economic impacts of the project and what the projected numbers are in the increased sales tax because he has not seen anything that shows those numbers. Mr. Browman stated that Aaron Rios, representative from Wal-Mart, is here to address those numbers in more detail, but the number that Browman used is the average sales tax revenue generated by a Super Center which is \$790,000, then used \$300/sf which is what they got by doing a quick test across the street and then took off \$11million in annual sales which is what they estimated for the difference in sales from whomever they backfill the tenant space with, provided Wal-Mart is a higher sales volume than the new tenant. Kirsten asked if that included the possible closure or lost revenue for other stores. Mr. Browman stated that he did not do a market analysis. If the fear of store closures is based on Wal-Mart coming in, then look around the current shopping center and the draw that Wal-Mart has had for other stores to want to be in the same area. Kirsten asked where the \$40million expected property tax increase figure came from. Browman stated that it came from a \$100/sf for building (340,000 sf) and \$10million for site work and then backed off 10%. Kirsten asked if the same cost would apply for other buildings of this size. Browman stated that he based his numbers on construction cost, so the same numbers would apply for any building of this size. Kirsten asked about the energy efficiency of the project. Mr. Browman stated that he would like to leave the answer for that question to the representative from Wal-Mart, but the understanding is that the building will exceed the current Title 24 Standards. Kirsten asked about the reduced size alternative. Mr. Browman stated that a smaller size project isn't a viable option. The size creates the synergy for that corner. The viability of bringing in the other specialty retailers such as electronic stores and book stores gets easier with the other retail surrounding the area.
- Chair Kiser asked about the 900 to 1000 jobs that will be created. Mr. Browman stated that the new Super Wal-Mart will employ about 450 and another 350 + will be employed by the other business that will be drawn to the center. Kiser asked how many are full time employees. Mr. Browman stated he did not know, but could get that number for him.
- Aaron Rios, Representative for Wal-Mart and Applicant, came forward to speak in favor of the project and answer questions. Mr. Rios stated that the current Wal-Mart building can not meet the customer demand. He stated that in regards to the Revised EIR the Commission isn't reviewing the entire project that was approved in 2004. The Commission is only responsible for looking at the five revised areas. Specific to energy, this project will not have an energy impact. The project will exceed the current Title 24 Energy Standards. Throughout the United States Wal-Mart has constructed proto-type stores to test new technologies that can then be implemented in other stores. The Agricultural mitigation will consist of over 40 acres of prime farmland which is a 1 for 1 ratio for this project. In 2005 the National Fish and Wildlife Foundation and Wal-Mart launched the "Acres for America Program". The goal is to permanently protect one acre of important wildlife habitat for every acre developed by Wal-Mart. To date that is 350,000 acres of land. The Applicant, Browman Company and Wal-Mart, will be investing \$700,000+ in the downtown area even though it has been shown there will not be an impact from this project on the Downtown. The average Super Center in California contributes \$790,000 to their cities sales tax. The sales tax will increase approximately 23% based on the past examples of Super Stores opening. A lot of the agricultural goods will come from local produce companies.

- Commissioner Heinitz stated his appreciation for the Wal-Mart that the City already has and for their continued work in the community. He then stated his opposition to Mr. Rios, by telling this Commission that they only have to focus on the five issues in the revised EIR. Heinitz stated that he is the only Commissioner left on the Commission that was present at the time of the first hearing and to expect this Commission to accept those findings and just look at the revised issues is wrong. The Commission needs to look at every single element. He asked why not just remodel the current store? Mr. Rios stated that the new store will have wider aisles and offer a better place for the customers to shop. He then compared the experience to his family of 4 people living in a studio apartment versus a three bedroom home; could he do it, yes, but is it the best way to take care of his family/customers, no.
- Commissioner Kirsten stated his appreciation of Wal-Mart's contribution to the World of Wonders Museum. He then asked about the intended energy impacts. Mr. Rios stated that the items outlined in the letter from the real estate division will be included in the new store and if there are any other items that prove to be energy efficient those will be included. What proves to work elsewhere will be included in this building. Kirsten asked if these items should be a part of the conditions of approval. Mr. Rios stated that these items exceed the minimum requirements already. Kirsten asked about the viability of Wal-Mart using the option of acquiring a piece of property in the downtown for \$700,000 and then turning around and selling it providing for the mitigation requirement and giving a zero benefit to the downtown area. Mr. Rios stated that there is no immediate intention by the Wal-Mart real estate group to purchase property downtown. What has been explored to date is making some kind of investments in downtown Lodi along with the developer to meet that mitigation requirement. Kirsten would like to tighten up the verbiage for the mitigation requirements on the downtown. Mr. Rios stated that, with respect for Commissioner Kirsten's concerns, staff has put many hours into this project and the mitigation requirements, and using a quote from Mr. Bartlam that was in the paper "this is the most extensive list of Conditions of Approval that he has seen in 28 years". He does know if playing with the language, that staff has dedicated so much time too, is the most beneficial use of the Commission's time, but respects their ability if they so choose. Kirsten then asked about the examples on the increase in sales tax. In the example of a current Wal-Mart Store to a Super Wal-Mart Store what was the increase in sales tax. Mr. Rios stated that in La Quinta, where a regular Wal-Mart store was being replaced by a Super Center, the retail sales tax the year before the store opened was \$100 million, the year that the Super Center opened was \$127 million, and the year after was \$258 million. Kirsten asked for clarification as to those figures being total retail for the entire area including all growth not just for Wal-Mart. Mr. Rios stated that is correct. Kirsten asked for a math check, would you not subtract the existing Wal-Mart tax revenues from the new Super Center tax revenues to get the total of the increase in tax revenues? Mr. Rios stated that hypothetically if the current tax revenues for the existing Wal-Mart were at \$500,000 and then just by moving across the street and opening up the new Super Center that would increase the contribution just from Wal-Mart to \$790,000, now you have to consider the rest of the retail center which increases it that much more. Kirsten stated that you would have to consider the lost sales from your competition also, would you not? Rios stated that looking at the raw numbers based on past experiences the tax revenues increasing 23%. Kirsten asked about the lower prices playing a factor, example: buy a toaster at company X for \$30 and buy a toaster at company Y for \$20, do you not lose 33% of your sales revenue? Rios stated that no, because by lowering the price you increase the volume, not necessarily with toasters but overall.
- Chair Kiser asked for clarification regarding employee benefits and if Wal-Mart covers 92% of the employees with coverage. Mr. Rios stated that 92% of Wal-Mart employees have coverage either with a spouses plan or with Wal-Mart. Out of the 92% over 50% are using the Wal-Mart Plan. Kiser asked if Wal-Mart is in a LEED Program. Mr. Rios stated that they are not in a LEED Program. Kiser then stated that Wal-Mart is only doing what is mandated by the State of California regarding energy. Mr. Rios stated that it will exceed that standard.
- Commissioner Hennecke asked about Solar Panels being used in any other stores. Mr. Rios stated that yes they are currently doing a 22 store test. Hennecke asked why the Applicant is agreeing to pay so much money to the Downtown when the project shows no impact and the Reynolds Ranch Project that was just before the Commission which has

retail and shows no impact, doesn't have to pay. Mr. Rios stated that was one of the conditions placed on the project by City Staff, so that the project could move on

Chair Kiser called for a 5 minute recess (8:35).

Chair Kiser Called the meeting back to order (8:46).

- Mary Miller, Lodi, came forward to oppose the project. Ms. Miller stated that she was not happy when the original store came to town and doesn't feel that the Super Center will send the right message about how Lodi should grow. She stated that she is considering moving back to Carlsbad if this passes.
- Dennis Satler, Lodi, came forward to oppose the project. Mr. Satler is concerned with the amount of retail coming to the City. The economic times are tough as the market downturn is proving. If too many big retailers are in a market it will run small retailers out. The internet is also taking up a lot of sales.
- Bruce Schweigerdt, Lodi, came forward to support the project. Mr. Schweigerdt stated that the current store is old and needing major revisions. He believes that the Planning Commission should be encouraging this project.
- Wanda Van Santen, Lodi, came forward to support the project. Ms. Van Santen stated that since she was in an accident it makes it tough to get around. She would like to have a one stop shopping store.
- Mark Anaforian, Lodi, came forward to oppose the project. Mr. Anaforian stated that when the first Wal-Mart came to town he was working for the Lodi Avenue Longs Drug Store and the same promises were made and the downtown Longs Drug Store lost 1/3 of their business and was forced to layoff employees. According to the Stockton Record of Sept. 18, 2008; grocery stores would experience 16% loss in sales the first year, Target & K-Mart together would experience a 46% loss the first year and by the third year sales would still be down by 38% with K-Mart being at a high risk of closing. As of May 2000 Wal-Mart had abandoned 25 million square feet of occupied store. The economy is not growing. Mr. Anaforian believes we should be supporting those businesses that have been here for a long time.
- Shawn Piazza, Lodi, came forward to oppose the project. Mr. Piazza stated that the forward thinking of growing is not good timing. The economy is retracting not expanding. He is hearing that the Planning Commission is here tonight just to focus on the Environmental Impact report and he believes this is wrong. The Commission should be looking at the big picture. He commended the Commission for their tough questions and bringing the base numbers to the people that weren't aware.
- Chris Podesto, Lodi, came forward to oppose the project. Mr. Podesto stated that the Food 4 Less Store has 100% Health coverage. Food 4 Less is vested in the community and has given money to support area activities. The store currently shares the shopping center with the current Wal-Mart which is the anchor store for the shopping center. When that Wal-Mart moves across the street not only does the current shopping center lose it's anchor but it puts a discount grocery competitor right across the street in an area that is already inundated with grocery stores.
- Suzie Wilbourn, Lodi, came forward as part of the Lodi First group to protect Lodi's Downtown and oppose the project. Ms. Wilbourn stated that the Environmental Document does not address the additional store closures. She also opposes the extra traffic, security, and environmental issues. Wal-Mart has a past practice of fighting the additional tax revenues assessed with the new stores in court and does not want to see that happen here.
- Marlene Borchers, lone, came forward to support the project. Ms. Borchers is the current store manager at Wal-Mart. Wal-Mart has given her many opportunities to advance and gives others that may not have the education to do the same. She stated that Wal-Mart donates extensively within the City. She has heard overwhelming support from customers

for the new Super Wal-Mart. Wal-Mart saves people money and that is what is needed in this tough economy.

- Gene Davenport, Galt, came forward to oppose the project. Mr. Davenport stated that there are too many unknowns. The Downtown mitigation of \$680,000 isn't going to cover it when you consider the effects in down the road, it's a pittance. Mr. Rios doesn't give any figures on the cost of social and city services, which will increase. If Wal-Mart wants to be here let them be here, they don't deserve a Super Center just because they want one. The surrounding stores pay a livable wage in this community, Wal-Mart does not pay a livable wage for this community.
- Corey Manos, Lodi, came forward to oppose the project and is a part of Lodi First. Mr. Manos stated that he and his family moved to the area six years ago because of the small town feel. He wanted to point out what was happening in Elk Grove and doesn't want to see that happen in Lodi.
- Brenda Manos, Lodi, came forward to oppose the project. Mrs. Manos stated that she is a causality of the Super Wal-Mart in Stockton. She worked for a Pharmacy that had to close its doors and she lost her job. She is a part of the Lodi First group which supports the local businesses first. She pointed out that when the citizens voted for Measure R it was not for a Super Wal-Mart, but for requiring a City wide vote for any retail establishment wanting to exceed 125,000 square feet.
- Elsie Greenwood, Lodi, came forward to support the project. She has been a member of this community for over 50 years. Lodi doesn't provide for the elderly in regards to parking. Ms. Greenwood votes yes on the Super Wal-Mart.
- Treacy Elliot, Lodi, came forward to oppose the project. Lakewood Mall has become a ghost town with the loss of retail. When the EIR was done it talked about the cumulative impact it would have along with the Reynolds Ranch Project, but now we've approved even more retail in that project. If we keep building retail out the retail within will die.
- Denise Joyner, Lodi, came forward to support the project. There are a lot of handicapped and elderly that could use the wider isles to get around. The employees are very helpful. Ms. Joyner has tried to shop downtown, but it is too hard to get around.
- Rose Deak, Lodi, came forward to support the project. The associates are always available to help you out and the management is always helpful with donations to community needs.
- Shirley Burns, Lodi, came forward to support the project. She and many of her friends take special trips into Stockton to shop because they can't find the items they need here. She shops at Raley's, Food 4 Less, and S-Mart and will continue to shop at those establishments.
- Jennifer Holtz, Lodi, came forward to oppose the project because of the sale of alcohol. She doesn't feel safe with that.
- B.J. Simpson, Lodi, came forward to support the project. She stated that she is 83 years old and will some day have to depend on someone to take her to the store and she would like to have a one-stop-shop store, so she does not have to be overly burdensome.
- James Lanchester, Lodi, came forward to support the project. He stated ditto on what has been said for the project. He currently shops at the Super Center in Stockton and would like to be able to keep his tax dollars here in Lodi.
- Phyllis Rabusin, Lodi, came forward to oppose the project. She sees Lodi as a quaint tourist attraction with its downtown. Ms. Rabusin feels Wal-Mart detracts from that image.
- Linda Nelson, Lodi, came forward to support the project. Ms. Nelson stated that she is a 14 year associate at Wal-Mart and has health coverage through them. She makes a good wage and will continue to shop at other stores around town. There are no grocery stores downtown. The Super Center will not impact that area. The current Wal-Mart has not affected that area, so adding groceries to it won't either.

- Tim Jacobsen, Lodi, is a district manager for Wal-Mart and came forward to support the project. Mr. Jacobsen stated that with the economy the way it is people will be looking to save money. People are going to Stockton to shop at the Super Center or Winco because of the hard times. He would like to see the tax dollars stay in Lodi.
- Andrea Violet, Lodi, came forward to support the project. She would like to see the item placed back on the ballot as a Super Wal-Mart item, because that is what a lot of citizens thought they were voting for with Measure R.
- Bill Freitas, Lodi, came forward to oppose the project. Where is the need for this store?
- Karen Helmandollar, Lodi, came forward to support the project. Mrs. Helmandollar is grateful to Wal-Mart for hiring a senior citizen. She has her health coverage through Wal-Mart and is very happy with it.
- Michael Tener, Lodi, came forward to oppose the project. Mr. Tener stated that the EIR states that there will be a less than significant impact on Urban Decay and he finds that very hard to believe.
- Don Mooney, Attorney for Citizens for Open Government, submitted a document (attached) and came forward to oppose the project and answer questions. Mr. Mooney stated that as a result of the Lawsuit the original EIR decisions were rescinded, therefore the original EIR is not an approved document. The provisions for greenhouse gas emissions do not meet the new requirements that have been signed into law by the Governor (AB32) and should have been taken into consideration when doing the new REIR. The economy has had some drastic changes recently. The Impact of Urban Decay should have been looked at closer in regards to other grocery store closures.
- Commissioner Hennecke asked about the focus of Citizens for Open Government on all development or just the Wal-Mart project. Mr. Mooney stated that he represents the group only on this issue.
- Vice Chair Cummins asked if Mr. Mooney knew about this meeting well in advance of tonight and if so, why is the Commission just now receiving a 100+ page document. Mr. Mooney stated that he did try to email the document earlier in the day, but it did not go through.
- Commissioner Kirsten asked that the audience to be courteous. The waving of the vote papers is not helpful.
- Commissioner Olson asked about the AB32 item mentioned earlier, is it in effect right now? Mr. Mooney stated that it is in effect now, but there is some confusion as to how it affects CEQA. Part of the Legislation associated with the budget required the State to adopt regulations under CEQA implementing AB32, which have not been adopted yet. CEQA even without the adoption has an obligation to comply with the Greenhouse Gas Emissions. The Governor's office has stated that if a project does not meet the regulations then it does not comply under CEQA. The threshold that has been set is 0% increase in emissions, so if the project increases greenhouse emissions at all then there must be impact mitigations stated. Olson asked if there has been enough study done for this project in Mr. Mooney's opinion. Mr. Mooney stated that there has not. Mr. Mooney also stated that he litigated this issue in court against CalTrans and won.
- Vice Chair Cummins asked if the AB32 reductions need to be done by 2020. Mr. Mooney stated that yes, but the thresholds should be considered now.
- Commissioner Hennecke asked staff to clarify the AB32 regulations. Mr. Hobbs stated that the emissions are to be reduced to the 1990 level by the year 2020 and became effective January 1, 2007. It does not mandate specific requirements at this time. There is a current legal debate going on right now regarding whether or not CEQA requires analysis on greenhouse gases. If you start a project right now it probably does require you to look at that area, but this project was originally approved in 2004. The concept of greenhouse gases was not new in 2005 and should have been raised during the litigation which would have made it possible for them to pursue those claims now. Mr. Mooney's group is entitled to pursue claims that may have been raised and challenged in the original EIR. What the

current procedure of this case does allow is for them to raise new issues that were not in place during the original process. The CalTrans case that Mr. Mooney referred to was a new case and the court ruled that they should have looked at the greenhouse gases.

- Anita Quroi, Lockeford, came forward to oppose the project.
- Commissioner Kirsten asked what Ms. Quroi meant by “suck-up the recourses”. Ms. Quroi stated that the more people drawn to the area by this project will be sucking-up the City’s resources such as; water, air quality, police services, hospital.
- Jag Batth, Lodi, came forward to state that his comments will have to wait for the Council level of this project.
- Mark Ruggiero, Lodi, came forward to oppose the project.
- Jennifer Bond, Lodi, came forward to oppose the project. Ms. Bond wants to know how all the good things that Wal-Mart does currently for the community are going to change if they move. There are a lot of other businesses other than in the Downtown that will be affected by a Super Wal-Mart.
- Brett Jolley, Attorney representing Lodi First, came forward to oppose the project and answer questions. The decision that should be made tonight should not be based on whether this is a good project or if this is a good retailer or not but whether or not the EIR has provided enough information for you to certify. There are two steps for the Commission; first is to determine if the EIR provides enough information, if it does then it should be certified, second is to determine whether or not this project is right for the community. Mr. Jolley does not feel that this project should make it to step two. The EIR states that there is insufficient evidence to determine Urban Decay. CEQA states that insufficient evidence is not a viable determination. There have been a lot of comments made by the Wal-Mart Representative about exceeding the Title 24 compliance. This is not a good quantification of what the energy saving features will be. The State Building Commission just adopted changes to Title 24 last month which are designed to in part implement the AB32 guidelines that Mr. Mooney talked about by requiring greener building standards designed to reduce greenhouse emissions. The catch is that the guidelines are voluntary through 2009 and become mandatory in 2010, so if Wal-Mart builds in 2009 and doesn’t follow the voluntary guidelines they will be building a below standard project. There are two options missing from the alternative project size from the Project Alternatives Section; one being reducing the entire project proportionately, not just taking out all the other retail pads and leaving Wal-Mart at the same size. The other alternative missing is the High Efficiency (HE) alternative. If you go to Wal-Mart’s website they state that the new HE store that was opened up in Las Vegas is 45% more energy efficient than a regular Super Center, which is what is planned for Lodi. In CEQA when the EIR concludes that the project will have significant and unavoidable effects, which this EIR does for both agricultural land conversion and air quality impacts, the Commission then has the obligations to make specific findings before approving the project. The Commission must decide whether the benefits of the project outweigh the significant unavoidable impacts.
- Commissioner Kirsten asked how a store closure is connected to urban decay/blight. Mr. Jolley stated that the EIR states that the urban decay will be less than significant because the space can be re-tenanted which was based on the economy in October 2007. The staff report states that new a Code Enforcement Officer was hired to handle this kind of blight which is a drain on taxpayers. Kirsten asked if because of the strict code enforcement even if you don’t re-tenant the store right away it won’t necessarily lead to urban decay. Mr. Jolley stated that is possible.
- Ann Cerney, Lodi, came forward to oppose the project. She stated that she does not feel that the Commission has an EIR before them and that they should have one with all the comments submitted for this project.
- Gary Silva, Lodi, came forward to oppose the project. Mr. Silva would like to see the Commission consider other options such as, stores that are not grocery stores for this project area. These types of stores would overlap and work well with the surrounding area

and not be so combative. He would like to see a development in that area, but would like to see something that would work with the area not against.

- Pat Patrick, President of the Chamber of Commerce, came forward to support the project. The Chamber supports free enterprise. The Chamber led the campaign for No on Measure R. Even though as stated here tonight the Measure was not technically about Wal-Mart it was emotionally about Wal-Mart. The most knowledgeable person in the City employ has recommended that the Commission accept this proposal tonight. Mr. Patrick does not believe, due to past dealings with Mr. Bartlam, that he would have brought this project before the Commission with the approval recommendation if it was going to be detrimental to rest of the business community within the City, nor would the Chamber feel the same way. For people to stand up here and tell the Commission that they need to make a decision based on the fact that the country is in a down economy then they need to tell you how long we will be in that down turn.
- Commissioner Olson asked if the membership of the Chamber of Commerce took a vote to support the project. Mr. Patrick stated that they did not.

Public Portion of Hearing Closed

Chair Kiser called for a brief recess (10:38).

Chair Kiser called the meeting back to order (10:43).

- Commissioner Heinitz stated his opposition to the project. He does not feel that a move across the street is the best move for Lodi. Heinitz stated that his main concerns are blight and the existing building. He would rather see Wal-Mart expand their current store and just make a smaller version of a Super Center. He stated his respect for staff, but also stated that staff is here to tell us if the project fits the laws, not if it fits Lodi. The Commission needs to take the next step beyond that and listen to what the citizens want also. Commissioner Heinitz stated that he can not support the project.
- Commissioner Olson asked if this project came about before the Redevelopment Area project. Mr. Bartlam stated that this is correct. Olson asked if for a Redevelopment area to be developed there has to be some blight already in the area. Mr. Bartlam agreed. Ms. Olson asked then how can there be a determination of no blight if there has already been areas found. Mr. Bartlam stated that a blight and an Urban Decay analysis are two different types of analysis. For the first EIR a blight analysis was what was essentially done and then found insufficient through the Court hence the reason for the Urban Decay analysis being done for the Revised EIR. The K-Mart Center on Cherokee Lane was the focus of concern in the Economic Analysis and is in the Redevelopment area. This should give the Commission some level of comfort because of the tools that will now be made available to assist the Center in maintaining a level playing field with any new development. Olson stated that she is a huge proponent of Redevelopment, but it seems odd to be creating a problem just because we now have the tools to fix it. She continued by stating that Mr. Bartlam was correct; just because we have an economically disadvantaged area doesn't mean that urban decay or blight is determined just by a closed store. Olson stated that with the extremely narrow view that she has been given to make any determinations regarding the project has her perplexed. She is having a hard time relating what was done a couple of years ago to what she feels is relevant today. She would like to be able to ask the applicant to go back and look at some of the environmental items such as greenhouse gas emissions and include them in the scope of the project; is that possible? Mr. Bartlam stated that yes you can ask, but Council sets the policy. The Council could have opened it up for more review, but they didn't. Olson stated that she would like to have additional areas to look at and can not support the project with the limited look that has been granted.
- Commissioner Kirsten stated that he shares Commissioners Heinitz and Olson's views and would like to focus his comments on the BAE analysis. Kirsten feels that the report is shallow and insufficient. The report acknowledges potential store closures such as; S-Mart, K-Mart, Orchard Supply/Ace, JC Penny, or Mervyns, but the report states that there is

insufficient evidence to draw any conclusions. Kirsten believes that the resources and statistical modeling are available to do a more thorough analysis. He can not support the project at this time.

- Vice Chair Cummins stated that there has been a lot of discussion on whether we need a Super Wal-Mart. The 40 acre parcel that this project is proposed to occupy has been sitting vacant except for the weeds and campaign signs for over a decade. There seems to be a lot of fear regarding the economy right now. Cummins stated that he remembers back when Food-4-less was trying to open up and there was a lot of fear then about other grocery stores closing, but that didn't happen. When Rancho San Miguel opened up a few years ago there were 350,000 sf of grocery store space already in Lodi, but there wasn't any fear about other stores closing. Cummins stated that he spoke with the K-Mart store manager and learned that the store has been under producing for the last ten years. He added that he got several calls from concerned citizens. Cummins stated that he spoke with the City Manager today regarding the budget and the City is in dire need of more revenue. What other store is capable of developing a 40 acre regional shopping center other than Wal-Mart. There will be 11 other pads that will be a part of this project which will bring in several more jobs. The developer has an excellent track record in Lodi. There are some issues with AB32, but legal counsel has stated that it will not be an issue in this case. Commissioner Cummins stated his support of the project and will vote in favor of certifying the EIR.
- Commissioner Hennecke stated that while the attorneys would like to tell us that we have only to look at the EIR, we are human beings and we can not help but think of it on a personal level. He believes that one of the Commissions duties is growth, and the future growth of the City should be considered. He does not feel that a Super Wal-Mart is a good fit for Lodi. He would like to see more of the list of what the store is going to do, rather than what they could or could not do. As the project stand, he can not vote in favor of certifying the EIR.
- Chair Kiser stated that he has issues with decay and is not satisfied with the mitigations offered in this REIR. He would like to see the greenhouse gas emissions considered in regards to the new AB32 bill. He isn't satisfied with the energy standards being met. Kiser does not support this project and can not support this EIR.

MOTION/VOTE:

The Planning Commission, on motion of Commissioner Hennecke, Heinitz second, denied the request of Browman Development Company and Wal-Mart Real Estate Business Trust to certify the Final Revised Environmental Impact Report (EIR-03-01) to allow construction of the Lodi Shopping Center and allow all subsequent development approvals for the center. The motion carried by the following vote:

Ayes: Commissioners – Heinitz, Hennecke, Kirsten, Olson, and Chair Kiser
Noes: Commissioners – Cummins
Abstain: Commissioners – Mattheis

Chair Kiser asked if the rest of the item needed to have a vote. Mr. Hobbs stated that the project can not be approved because there isn't a Certified EIR, however the Commission can move to deny the rest of the project keeping it all together so that if the denial gets appealed it would keep everything together and put it all at the Council level. Mr. Hobbs recommends denying the entire project, so that it is kept together in one package.

MOTION:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, to deny the request of Browman Development Company and Wal-Mart Real Estate Business Trust to approve Use Permit U-02-12 to allow the construction of a commercial center in a C-S, Commercial Shopping District, and allow the sale of alcoholic beverages at the Wal-Mart Supercenter; and

Consider approval of Vesting Tentative Map 03-P-001 to create 12 parcels for the project; and

Continued

The request of Browman Development Company and Wal-Mart Real Estate Business Trust for site plan and architectural approval of a new retail building to be constructed at 1600 Westgate Drive.

Commissioner Olson requested clarification on the recommendation. Mr. Bartlam stated that what Mr. Hobbs suggested was that the project could not be approved without a certified EIR, but it could be denied so that it can be kept together in a complete package with the EIR so that the City Council could review the entire project, not just the Revised EIR assuming an appeal of the Commissions action.

Commissioner Kirsten withdrew his motion.

Commissioner Olson stated that to deny the entire project would expedite the entire project for the applicant. Olson stated that she doesn't necessarily want to deny the project all together, so leaving them separate does not bother her.

Commissioner Heinitz does not want to sign off on the project all together. If this EIR goes to the City Council and they choose to override the Commissions decision, Heinitz stated that he would like to still have say in the rest of the project.

Commissioner Hennecke stated that he would like to have another look at the project if the EIR gets certified by Council.

Chair Kiser stated his agreement with his fellow Commissioners, therefore the balance of the requests were tabled for possible further action.

Commissioner Mattheis rejoined the Commission

Deputy City Attorney Magdich stated that the Commission will need to take a vote to continue the meeting beyond 11:00pm.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Heinitz second, chose to continue with the rest of the meeting past 11:00pm. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Hennecke, Kirsten, Mattheis, Olson, and Chair Kiser
Noes: Commissioners – None

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Interim Director Bartlam pointed out the summary memo in the packet and stated that staff was available to answer any questions.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Interim Director Bartlam stated that the Draft Preferred Plan will be coming before the Commission at the first meeting in November.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

Chair Kiser gave a brief report on the meeting of October 6th, specifically regarding the property over on Cherokee Lane that the Commission denied the service station and Mini Mart plan. Kiser stated that the project came back as a Café/Deli and has been approved by SPARC. Commissioner Mattheis stated his appreciation of the Commission for sticking with their ideals and seeking a much better use of this property.

Continued

9. ART IN PUBLIC PLACES

None

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Vice Chair Cummins congratulated Commissioner Mattheis on his recent nuptials.

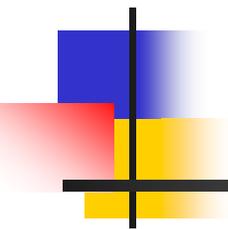
12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 11:18 p.m.

ATTEST:

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Konradt Bartlam
Interim Community Development Director



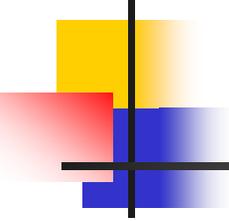
Lodi Shopping Center

Applicant:

Browman Development Company

File No.:

**EIR-03-01-Final Revised EIR
U-02-12 – Use Permit
03-P-001 – Vesting Tentative Map
08-SP-08 - SPARC**



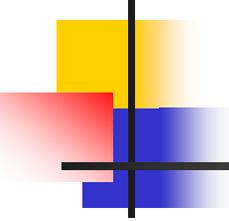
Lodi Shopping Center

- **Final Revised Environmental Impact Report:**
 - The Revised EIR includes the five (5) sections which were subject to revision or augmentation as directed by the Court.
 - Cumulative Urban Decay Impacts
 - Energy Impacts
 - Agricultural Resource Impacts
 - Project Objectives
 - Project Alternatives

- **Use Permit:** C-S, Commercial Shopping District plan review of the site as well as the sale of alcoholic beverages within Wal-Mart building.

- **Vesting Tentative Map:** Allows the subdivision of the property into 12 parcels.

- **Site Plan and Architectural Review:** Required for all buildings in a C-S zone designation. Focus on architecture and site design.

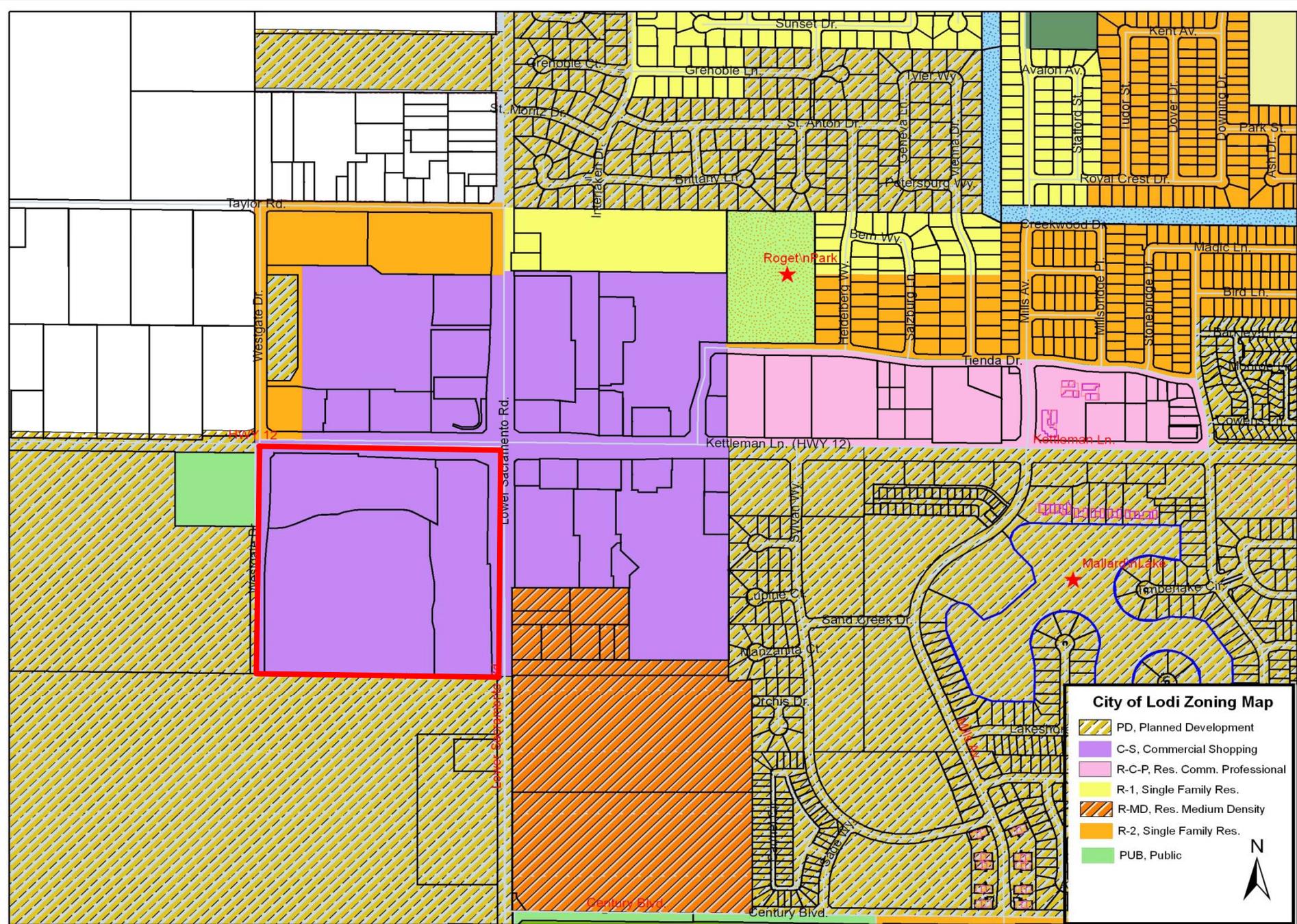


Lodi Shopping Center

■ **Background:**

- **Planning Commission approval:** December, 2004
- **City Council approval:** February, 2005
- **EIR found deficient for cumulative urban decay and energy impacts:** December, 2005
- **City Council rescinds original approvals:** May, 2006
- **Draft Revised EIR:** October, 2007
- **Final Revised EIR:** March, 2008

Lodi Shopping Center: Zoning & Vicinity Map



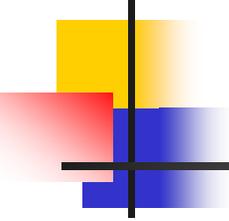
City of Lodi Zoning Map

-  PD, Planned Development
-  C-S, Commercial Shopping
-  R-C-P, Res. Comm. Professional
-  R-1, Single Family Res.
-  R-MD, Res. Medium Density
-  R-2, Single Family Res.
-  PUB, Public



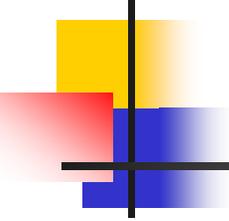
Lodi Shopping Center: Aerial View





Lodi Shopping Center

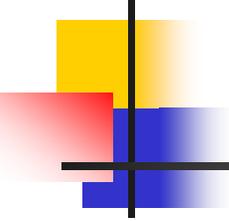
- **Summary of Environmental Impacts:**
 - The project would include new retailers who would compete with existing retailers in the City of Lodi;
 - There is insufficient evidence to suggest that this increased competition would result in any business closures, and consequently would not indirectly result in substantial deterioration of properties or urban decay.
 - This is considered less than significant



Lodi Shopping Center

■ **Summary of Impacts cont.:**

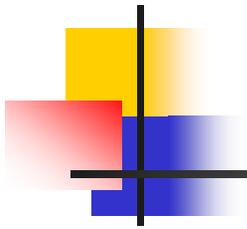
- The project would increase energy consumption in the construction and operational phases of the project.
- Energy conservation measures incorporated into the design, construction and operation of the project would avoid wasteful, inefficient or unnecessary consumption of energy.
- This is considered less than significant
- The increased demand for energy resulting from the project would not be substantial enough to require new or expanded sources of supply or the construction of new or expanded energy delivery systems or infrastructure capacity.
- This is considered less than significant



Lodi Shopping Center

- **Summary of Impacts cont.:**

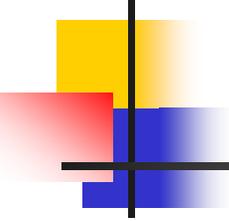
- The project would convert approximately 40 acres of prime agricultural land to urban areas.
- No mitigation is available which would reduce this impact to a less than significant level. This is considered a significant impact.
- As a result, the applicant shall obtain a permanent Agricultural Conservation Easement over 40 acres of prime farmland within San Joaquin County.



Lodi Shopping Center

■ Use Permit:

- The C-S zoning designation requires all plot plans to be approved by the Planning Commission.
- The plan presented is identical to that approved by the Commission in December, 2004. The plan meets or exceeds all requirements of the Lodi Zoning Ordinance including the Standards for Large Retail Establishments.
- Allows the sale of alcoholic beverages within the Wal-Mart building. The Planning Commission has previously found that the sale of alcoholic beverages is incidental to a grocery store operation and that is what is being requested by the Wal-Mart.

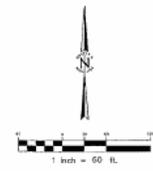
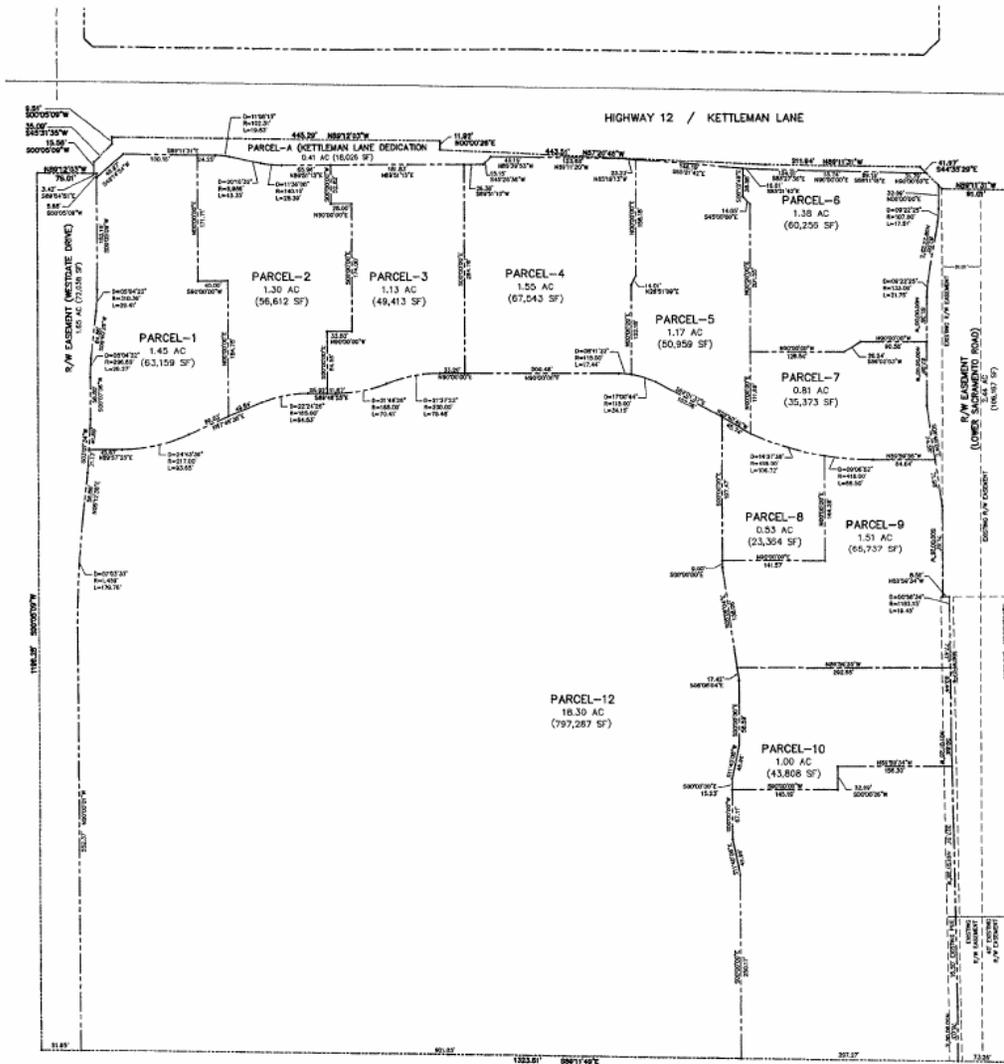


Lodi Shopping Center

- **Tentative Map:**

- The proposed Vesting Tentative Map includes 12 parcels which range in size from the largest lot at 18.3 acres to the smallest at .53 acres.
- All 12 buildings are on their own lot with associated parking.

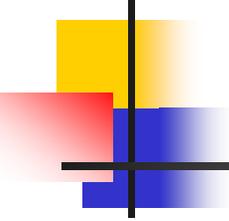
Lodi Shopping Center: Vesting Tentative Parcel Map



Vesting Tentative Map
Lot Layout
 for
Lodi - III
 APNs: 058-030-01 & 058-030-02
 County of San Joaquin, California
 August 15, 2008
 Sheet 2 of 2

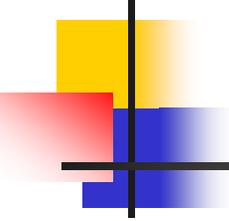


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 www.doucet.com



Lodi Shopping Center

- **Site Plan and Architectural Review:**
 - The proposed project includes the construction of a new Wal-Mart building which is approximately 216,710 square feet. The Wal-Mart building would be located on the southwestern portion of the project site, and the building entrance would face east toward Lower Sacramento Road.
 - Architectural materials such as concrete masonry block, metal awnings, and exterior plaster finish will be utilized on the exterior of the building.



Lodi Shopping Center

- **SPARC cont.:**

- There will be three entrances/exits from Lower Sacramento Road, one from Kettleman Lane (Hwy. 12), and two from Westgate Drive.
- The main parking lot is located on the east side of the Wal-Mart building. There will be smaller parking areas to serve the free-standing commercial pads. For the Wal-Mart building, a total of 965 parking spaces are proposed
- The proposed landscape plan calls for various large shade trees, smaller trees, shrubs and ground covers. A total of 478 larger shade trees will be provided within the parking lot interior, along the southern and western edges the property line, and throughout the site. This total number of trees exceeds what the City code requires.

Lodi Shopping Center: Landscape Plan



SUGGESTED PLANT LIST

TREES:	COUNT
BESOLA BERRYFRONT SODOLE COAST REDWOOD	87
LIEDENORON FLUPPIBA TULIP TREE	28
PIVUS CALLERTANA ARISTOCAT FLOWERING PEAR TREE	79
CEL'S OCCIDENTALIS HAWDOBBY	48
LARRETRICEMIA TURCAROLA AND TUBUSPICE ORANGE PINE	57
FRANKUS BAYWOOD BAYWOOD AHN	40
PLATANUS RADICATA BLOSSOMING BIRCHWOOD	1
MALLUS MELALEUCUS CRABAPPLE	63
PODOCARPUS GRACILIOR PINE PINE	28
ALL 3" BALLON SIZE TOTAL COUNT	
	478

SHRUBS AND ACCENTS:

- HYDRANGEA TOMSA VARIETAL
- VARIETAL TOMSA
- LEUCISLUM JAPONICUM TERANUM
- JAPANESE PRIVET
- SHARPLES JACK EVANS
- PINK INDIA Hawthorne
- SHARPLES CLARK
- WHITE INDIA Hawthorne
- FLORIBUNDA AUCULATA
- COKE PLUMBRAND
- FRAXILUS CAROLINIANA CONTRACTA
- DWARF CAROLINA LAUREL OBERN
- ESCALONIA TREBI
- DWARF ESCALONIA
- BUNUS JAPONICA GREEN BEAUTY
- JAPANESE BOWWOOD
- PICTURA FRASER
- RED PINEY
- FRAXILUS TENNA RUSLUM
- RED PLAN
- DIPTERIS SCOLOR
- YELLOW BUTTERFLY RB
- FRAXILUS TENNA PINK STEREA
- PINK STEREA PLAN PLAN
- ABRANTHUS AFRICANUS WHITE
- LILY OF THE NILE
- HYDRANGEA YELLOW EVENING
- SHALTY

GROUND COVERS:

- COCCINIA KILU
- PROSTRATE COCCINIA
- TRACHELOSPERMUM LAMPINDES
- STAR JASMINE
- SHANINGA HYPERICUM YELLOW
- YELLOW SHANINGA
- LANTANA PURPLE
- YELLOW LANTANA
- EGG LAVA

NOTE THAT THIS PLAN IS CONCEPTUAL IN NATURE, NOT ALL SHRUBS OR PLANTING MAY BE SHOWN, TREE SPECIES AND COUNT IS REPRESENTATIVE OF WHAT WILL BE SHOWN ON THE CONSTRUCTION DOCUMENTS. ALL PLANTERS SHALL BE PLANTED WITH 1" BARK MULCH OR SHRUBBERY SCOURING. ALL PLANTERS ARE TO BE MULCHED WITH A 2" LAYER OF BARK MULCH. THE IRRIGATION SYSTEM SHALL BE AN AUTOMATIC UNDERGROUND PIPE USING LOW VOLUME, MULTI-OUTLET DRIP SUBSYSTEM WITH 1/2" TUBING TO EACH INDIVIDUAL PLANT, OR PLANS DRIP TUBING AND POPUP LOW VOLUME BRUSHY TREES. ALL LANDSCAPING SHALL BE IN COMPLIANCE WITH THE CITY OF LODI'S WATER USE LANDSCAPING ORDINANCE.

Lodi Shopping Center: Elevations



EAST ELEVATION



NORTH ELEVATION



WEST ELEVATION



SOUTH ELEVATION

Lodi Shopping Center: Elevations



Lodi Shopping Center: Elevations



Lodi Shopping Center: Elevations



Lodi Shopping Center: Elevations

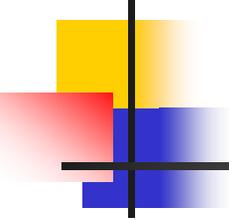


Lodi Shopping Center: Elevations



Lodi Shopping Center: Elevations





Lodi Shopping Center

- **Conclusion:**

- Based on the information contained within the Final Revised EIR, the plans submitted and the policies and previous actions of the City, staff recommends that the Planning Commission:
 - Certify Final Revised Environmental Impact Report (EIR-03-01)
 - Approve Use Permit U-02-12,
 - Approve Vesting Tentative Map 03-P-001
 - Approve Site Plan and Architectural Review 08-SP-08

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October 8, 2008

VIA ELECTRONIC MAIL AND REGULAR MAIL

Planning Commission
City of Lodi
221 West Pine Street
Lodi, California 95241-1910

Re: Final Revisions to the Environmental Impact Report for the Lodi
Shopping Center, State Clearinghouse No. 20030421 13

Dear Commissioners:

At your October 8, 2008 meeting, you will decide whether to (1) certify the City of Lodi's ("City") the Final Environmental Impact Report ("FEIR") for the Lodi Shopping Center project (or the "Project") and (2) approve the Project. On behalf of Citizens for Open Government ("Citizens"), we urge you to send the deficient FEIR back for further work and deny the Project. The two principle questions before you are whether the environmental documentation fully discloses, and mitigates where feasible, the environmental impacts of the Project and whether Lodi needs the Project given the substantial negative impact on local businesses in these lean economic times. We ask the Planning Commission to examine this latter question particularly carefully given that the City's stated objective is to approve only "commercial development which does not negatively affect Downtown and the past and ongoing investment in Downtown." (DREIR at 32.)

A. Background

As you are aware, the Lodi Shopping Center is proposed to be constructed on 40 acres of prime agricultural land on the west side of the City on the southwest corner of West Kettleman Lane and Lower Sacramento Road. The main purpose of the Project is to substitute a new 227,000 square foot Wal-Mart Supercenter for the existing Wal-Mart across the street. The Project also contains approximately 110,000 square feet of additional smaller scale commercial space.

The City considered an EIR for this Project once before and certified it as in full compliance with the California Environmental Quality Act ("CEQA") in early 2005. In litigation commenced by Lodi First, the Superior Court determined that the City made numerous errors in the analysis and remanded the EIR for an overhaul should the City desire to proceed with the Project. Citizens also sued the City over the same EIR,

asserting a range of additional CEQA errors. The Lodi City Council thereafter decertified the Final EIR and voided the project approvals. After prevailing on appeal to establish its right to sue, Citizens agreed to dismiss its case when the City released a Notice of Preparation for the “Draft Revisions” to the EIR (“DREIR”) and agreed to permit Citizens to “comment fully” on the new draft EIR. A year ago, the City produced its DREIR and on December 7, 2007, Citizens provided extensive comments. The City produced its “Final Revisions” to the EIR (“FREIR”) some six months ago in March 2008.

B. Inadequate CEQA Compliance

1. Improperly Restricted Scope of Analysis

Instead of producing a comprehensive analysis of the full environmental effects of building another 330,000 square feet of new commercial development, the City insists that it may pick and choose which issues to present to you. For example, in response to comments that the City’s CEQA documents failed to adequately analyze certain critical environmental effects, (e.g., global warming, certain air quality impacts such as PM2.5 emissions and SJVAPCD 9510 compliance), the City contends that it may ignore these impacts by restricting the scope of its “Revised” EIR. The City contends that it can avoid properly disclosing the full impact of the Wal-Mart Supercenter to the Planning Commission and the public because they were not allegedly addressed by the court in the *Lodi First* litigation or were not voluntarily considered in the DREIR.

The City presumption of its ability to exclude analysis and consideration of environmental impacts caused by the Project exceeds its legal ability and gives short shrift to the Planning Commission’s need for complete disclosure of impacts. Under the Stipulation for Dismissal executed by the Citizens and the City, the City agreed that Citizens “shall have the right to comment fully on the revised draft and final EIRs . . .” without limitation. The City then agreed that it would not assert any defense to any subsequent litigation “claims” that is not inconsistent with the terms of this Stipulation . . .” In other words, the City cannot agree on the one hand to allow Citizens to comment fully but on the other hand disregard those comments.

More importantly, the City is asking the Planning Commission to certify that all the environmental documentation before it meets CEQA’s obligation to fully disclose all impacts and fully mitigate where feasible. The Planning Commission may examine the FEIR in order to ensure that it discloses and mitigates all impacts regardless of Wal-Mart’s desire to shield as much information as possible from public disclosure.

2. Land Use – Urban Decay

In 2005, the City asserted that approval of the Lodi Shopping Center with over 330,000 square feet of commercial/retail would not result in urban decay. The Superior

Court held this conclusion irrational because the City did not consider the cumulative impacts of surrounding commercial development, including new close by Wal-Mart Supercenters. In 2006, the City approved 350,000 square feet of new commercial retail Reynolds Ranch, apparently concluding that this 350,000 square feet would have no adverse affect on downtown retailers. Recently, the City approved more than doubling of commercial area to 750,000 square feet again apparently concluding no adverse consequences from this development.¹ Central to this determination was that the Reynolds Ranch project did not contain any big box stores like a Wal-Mart Supercenter. (See Planning Commission Minutes wherein Mr. Gillespie “stated that because there isn’t any Big Box stores planned for this area the effects on the downtown are not significant.”^j)

Now the City asserts that – in addition to the new nearby Wal-Marts and the 750,000 of new commercial of Reynolds Ranch – the Lodi Shopping Center, including a “Big Box” Wal-Mart Supercenter and more than 330,000 square feet will not adversely affect the downtown core notwithstanding a projected 34% loss of sales. We urge the Planning Commission to ask “Is conclusion rational in this economic climate?” We also urge the Planning Commission to review carefully the economic analysis for this report and ask probing questions such as “did the economic analysis include the re-tenanted Wal-Mart space?” and “on what factual basis does the City assume that 100% of sales leakages will be captured by the Project and Reynolds Ranch?” We ask this question because we not only believe this assumption to be unsupported and irrational (particularly 100% of the \$29,229,496 in annual service station leakages), but also because this assumption is used by the economic consultant to reduce on a dollar for dollar basis the effect from the Project on local retailers. In other words, the actual adverse sales impact to existing local businesses will be substantially greater than reported because “using a lower assumed capture rate would raise the percent capture from existing” local retailers. (See DREIR Table 22, at 64, note e.>

We also ask whether another fundamental assumption central to the consultant’s “no effects” conclusion is rationale: that growth in trade area will expand the economic pie so that the addition of over 1 million square feet of new commercial will keep existing business viable (see e.g., FREIR at 39). Is continued growth sufficient to cover the admitted over supply of retail space objectively reasonable given the economic downturn?

We note that while the City seems institutionally unable to conclude that any new amount of retail will adversely affect downtown, it rests its CEQA conclusion on the absence of urban decay on implementation of the new prioritized code enforcement

¹ In light of the expansion of the Reynolds Project beyond what was disclosed to the public in the DREIR, the City is obligated to recirculate the DREIR in order to provide a meaningful opportunity to comment on Land Use/Urban Decay cumulative impacts and the City’s last minute disclosure of additional consultant analysis.

policy. We attach a copy of Resolution 2006-39 and ask the Planning Commission to note that contrary to its representations in the EIRs, the City has placed enforcement of “[v]iolations related to property maintenance issues” next to the bottom of its “Operational Priorities” (9th out of 10). In addition, while Resolution No. 2006-39 includes abatement of nuisances as a potential topic for one of five “Focused Enforcement Efforts,” we ask for proof in these tight budgetary times that such an effort has actually been funded for the long term, for adopted criteria indicating how much urban decay is necessary before a “nuisance” is established, and instances of past nuisance building prosecutions, if any.

Finally, we note that the proposed adopting ordinance imposes Condition HH “to address the economic affects of the Lodi Shopping Center on the Downtown.” Condition HH requires an investment of not less than \$680,000 in downtown buildings owned or rented by the developer (or by others). It is difficult to reconcile the City’s previous conclusion that development of the Lodi Shopping Center will not adversely affect downtown with the imposition of a condition “to address” those non-existent impacts. More fundamental, however, is the disconnect between substantial loss of sales for existing retailers and the urban decay conditions likely to result there from and Condition HH – which can be satisfied simply by the developer upgrading buildings it owns (which may or may be related to retailing or contributing to urban decay). Has the City undertaken any analysis that links Project impacts to Condition HH or is it simply a monetary sweetener?

2. Agricultural Resources

The City has made significant strides in recognizing that agricultural conservation easements may mitigate loss of prime agricultural lands. We also applaud the City for taking many of our suggestions to improve the easement mitigation requirement imposed on the Project. The City ignored, however, one of our central points – that mitigation should occur at a ratio greater than 1:1 in order to more fully mitigate the loss and that is certainly feasible to do so. In response the City simply points to other jurisdictions that have required minimal mitigation requirements (while other jurisdictions require much more). CEQA, however, does not permit the City to meet some “least common denominator” test to limit its mitigation obligation. If the City desires to override the significant but unavoidable impacts to agricultural resources CEQA requires that it adopt all feasible mitigation measures to reduce significant impacts. (CEQA Guidelines § 15043(a).) In this instance, it is imminently feasible to require greater mitigation ratios in order to lessen the individual and cumulative loss of prime agricultural lands.

3. Energy

As we pointed out in our comments on the DREIR, global warming has become one the most critical environmental problems that humans must confront. Despite discussing global warming in its revised Energy chapter, the City failed to undertake any

analysis of global warming impacts and greenhouse gas (GHG) emissions caused by the Project. The City responded that, even though it raised the global warming issue in the DREIR, it need not discuss it as (1) global warming lies outside the alleged restricted scope of the DRIER, and (2) no meaningful analysis could be undertaken in any event absent more guidance from state government.

The City is wrong. As discussed above, global warming is a legitimate issue raised in timely comments and must be addressed. Moreover, the City cannot raise the issue, inadequately assess its impact, and then claim immunity from comment because global warming lies outside the scope of DREIR.

Next, the City self-servingly asserts that CEQA does not require assessment of global warming impacts until the State if California has provided it with step-by-step guidance on measuring impacts and rendering significance determinations. CEQA's mandate to assess all impacts is not limited to those issues for which a local jurisdiction believe it has sufficient guidance. Instead, as the Governor's Office of Planning and Research ("OPR") has recognized in its June 19, 2008, Technical Advisory entitled *CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review* requires a global warming analysis and that the Energy section of an EIR is an appropriate place for such an analysis. (A copy of the Technical Advisory is attached as Attachment A.) In the Technical Advisory, OPR provides a recommended approach:

Each public agency that is a lead agency for complying with CEQA needs to develop its own approach to performing a climate change analysis for projects that generate GHG emissions. A consistent approach should be applied for the analysis of all such projects, and the analysis must be based on best available information. For these projects, compliance with CEQA entails three basic steps: identify and quantify the GHG emissions; assess the significance of the impact on climate change; and if the impact is found to be significant, identify alternatives and/or mitigation measures that will reduce the impact below significance. (Technical Advisory at p. 5.)

The Technical Advisory also informs lead agencies must assess whether the emissions are individually or cumulatively significant. (*Id.*) Thus, the City must consider the impact of the Project when viewed in connection with the effects of past, current, and probable future projects. (*Id.*)

As indicated in the Technical Advisory (at p. 6), CEQA requires the lead agency must also determine the threshold of significance for the project. It should be noted that the State Lands Commission recently stated in a draft Environmental Impact Report for the Venoco Ellwood Oil Development and Pipeline Project determined that a project would be considered having a significant impact if its GHG emissions have a net increase

over the baseline. Because of the severity of the global warming problem as the result of cumulative GHG emissions worldwide, the State Lands Commission's Draft EIR concludes that the zero-threshold approach appears to be the most scientifically supportable of the options.²

Additionally, there are available mitigation measures that could be incorporated into the project, before it is approved, that could feasibly and substantially reduce the Project's global warming impacts to a level of insignificance. Submitted as Attachment C with this comment letter is the California Air Pollution Control Officer's Association's ("CAPCOA") January 2008 report titled *CEQA & Climate Change, Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act.* Appendix B of this report presents 45 pages of potential mitigation measures that could reduce air quality impacts. Many of which could be incorporated to offset air quality impacts, including GHG emissions.

In sum, in light of the Governor's Executive Order S-3-05 (June 1, 2005) and the requirement that GHG be significantly reduced by 2020 and even further reduced by 2050, it is incomprehensible that the City, a subdivision of the state, has essentially thumbed its nose at the Governor's Executive Order and refused to even attempt to evaluate the Project's GHG emission and contributions to global warming.

4. Alternatives

Has the City presented the Planning Commission with an adequate array of alternatives that meet critical project objectives that offer environmental benefits over the proposed Project; or is the Alternative Analysis simply an exercise in rationalizing the development as proposed by the developer to maximize his fiscal return? We fear the latter as we have consistently pointed out that the City lacked a meaningful set of alternatives. We were encouraged when in the City represented to the public that its consultants would include in the DREIR up to two additional project alternatives. It now appears that one of the alternatives the City expected to include was the Reynolds Ranch site – the same site the City has now approved 750,000 square feet of commercial development. We urge the Planning Commission to require that the City present a meaningful alternative, including redevelopment of the existing Wal-Mart site that not

² The State Lands Commission's Draft Environmental Impact Report is available on line at:

<http://slc.ca.gov/Division Pages/DEPM/DEPM Programs and Reports/Venoco Santa Barbara/Venoco Santa Barbara.html>

A copy of the Lands Commission's Draft EIR's GHG analysis is Attachment B to these comments.

only will avoid many of the main environmental impacts but also more in line with the objective of avoiding new development harmful to downtown.

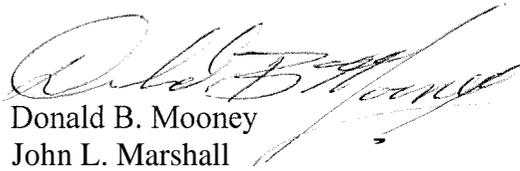
B. Statement of Overriding Considerations

The City proposes to override the significant but unavoidable environmental impacts with a host of unsupported, speculative benefits. Given the projected sales decline of at least 34 percent in the City, and the likely loss of established business, added expense of an alleged stepped up urban decay enforcement, no evidence is presented that actually shows the Project to be a net tax benefit to the City once the true cost of the Project is measured. Without some supporting analysis the City cannot override the adverse environmental consequences.

C. Conclusion

The proposed Lodi Shopping Center is not good planning for a healthy Lodi in these uncertain and tenuous economic times. The City has already approved nearly one million square feet on new commercial space close to the downtown. Why approve even more to drive more existing business down. On behalf of Citizens for Open Government, we urge the Planning Commission to reject the EIR and fundamentally inadequate and deny the Project as simply unwise to undertake at this time.

Sincerely,



Donald B. Mooney

John L. Marshall

Attorneys for Citizens for Open Government

Attachment A



Technical Advisory

CEQA AND CLIMATE CHANGE: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review

This technical advisory is one in a series of advisories provided by the Governor's Office of Planning and Research (OPR) as a service to professional planners, land use officials and CEQA practitioners. OPR issues technical guidance from time to time on issues that broadly affect the practice of CEQA and land use planning. The emerging role of CEQA in addressing climate change and greenhouse gas emissions has been the topic of much discussion and debate in recent months. This document provides OPR's perspective on the issue.

I. PURPOSE

General scientific consensus and increasing public awareness regarding global warming and climate change have placed new focus on the California Environmental Quality Act (CEQA) review process as a means to address the effects of greenhouse gas (GHG) emissions from proposed projects on climate change. Many public agencies—along with academic, business, and community organizations—are striving to determine the appropriate means by which to evaluate and mitigate the impacts of proposed projects on climate change. Approaches and methodologies for calculating GHG emissions and addressing the environmental impacts through CEQA review are rapidly evolving and are increasingly available to assist public agencies to prepare their CEQA documents and make informed decisions.

The Governor's Office of Planning and Research (OPR) will develop, and the California Resources Agency (Resources Agency) will certify and adopt amendments to the Guidelines implementing the California Environmental Quality Act ("CEQA Guidelines"), on or before January 1, 2010, pursuant to Senate Bill 97 (Dutton, 2007). These new CEQA Guidelines will provide regulatory guidance on the analysis and mitigation of GHG emissions in CEQA documents. In the interim, OPR offers the following informal guidance regarding the steps lead agencies should take to address climate change in their CEQA documents. This guidance was developed in cooperation with the Resources Agency, the California Environmental Protection Agency (Cal/EPA), and the California Air Resources Board (ARB).

II. BACKGROUND

Climate change refers to any significant change in measures of climate, such as average temperature, precipitation, or wind patterns over a period of time. Climate change may result from natural factors, natural processes, and human activities that change the composition of the atmosphere and alter the surface and features of the land. Significant changes in global climate patterns have recently been associated with global warming, an average increase in the temperature of the atmosphere near the Earth's surface, attributed to accumulation of GHG emissions in the atmosphere. Greenhouse gases trap heat in the atmosphere, which in turn heats the surface of the Earth. Some GHGs occur naturally and are emitted to the atmosphere through natural processes, while others are created and emitted solely through human activities. The emission of GHGs through the combustion of fossil fuels (i.e., fuels containing carbon) in conjunction with other human activities, appears to be closely associated with global warming.

State law defines GHG to include the following: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride (Health and Safety Code, section 38505(g).) The most common GHG that results from human activity is carbon dioxide, followed by methane and nitrous oxide.

Requirements of AB 32 and SB 97

Assembly Bill 32 (AB 32), the California Global Warming Solutions Act of 2006 (Nunez, 2006), recognizes that California is the source of substantial amounts of GHG emissions. The statute begins with several legislative findings and declarations of intent, including the following:

Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snow pack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems. (Health and Safety Code, section 38501.)

In order to avert these consequences, AB 32 establishes a state goal of reducing GHG emissions to 1990 levels by the year 2020 (a reduction of approximately 25 percent from forecast emission levels) with further reductions to follow. The law requires the ARB to establish a program to track and report GHG emissions; approve a scoping plan for achieving the maximum technologically feasible and cost effective reductions from sources of GHG emissions; adopt early reduction measures to begin moving forward; and adopt, implement and enforce regulations – including market mechanisms such as “cap-and-trade” programs – to ensure the required reductions occur. The ARB recently adopted a statewide GHG emissions limit and an emissions inventory, along with requirements to measure, track, and report GHG emissions by the industries it determined to be significant sources of GHG emissions.

CEQA requires public agencies to identify the potentially significant effects on the environment of projects they intend to carry out or approve, and to mitigate significant effects whenever it is feasible to do so. While AB 32 did not amend CEQA to require new analytic processes to account for the environmental impacts of GHG emissions from projects subject to CEQA, it does acknowledge that such emissions cause significant adverse impacts to human health and the environment.

Senate Bill 97, enacted in 2007, amends the CEQA statute to clearly establish that GHG emissions and the effects of GHG emissions are appropriate subjects for CEQA analysis. It directs OPR to develop draft CEQA Guidelines “for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions” by July 1, 2009 and directs the Resources Agency to certify and adopt the CEQA Guidelines by January 1, 2010.

Requirements of CEQA

CEQA is a public disclosure law that requires public agencies to make a

good-faith, reasoned effort, based upon available information, to identify the potentially significant direct and indirect environmental impacts—including cumulative impacts—of a proposed project or activity. The CEQA process is intended to inform the public of the potential environmental effects of proposed government decisions and to encourage informed decision-making by public agencies. In addition, CEQA obligates public agencies to consider less environmentally-damaging alternatives and adopt feasible mitigation measures to reduce or avoid a project's significant impacts.

The lead agency is required to prepare an Environmental Impact Report (EIR), a Mitigated Negative Declaration, or equivalent document, when it determines that the project's impacts on the environment are potentially significant. This determination of significance must be based upon substantial evidence in light of all the information before the agency.

Although the CEQA Guidelines, at Appendix G, provide a checklist of suggested issues that should be addressed in an EIR, neither the CEQA statute nor the CEQA Guidelines prescribe thresholds of significance or particular methodologies for performing an impact analysis. This is left to lead agency judgment and discretion, based upon factual data and guidance from regulatory agencies and other sources where available and applicable. A threshold of significance is essentially a regulatory standard or set of criteria that represent the level at which a lead agency finds a particular environmental effect of a project to be significant. Compliance with a given threshold means the effect normally will be considered less than significant. Public agencies are encouraged but not required to adopt thresholds of significance for environmental impacts. Even in the absence of clearly defined thresholds for GHG emissions, the law requires that such emissions from CEQA projects must be disclosed and mitigated to the extent feasible whenever the lead agency determines that the project contributes to a significant, cumulative climate change impact.

We realize that perhaps the most difficult part of the climate change analysis will be the determination of significance. Although lead agencies typically rely on local or regional definitions of significance for most environmental issues, the global nature of climate change warrants investigation of a statewide threshold of significance for GHG emissions. To this end, OPR has asked ARB technical staff to recommend a method for setting thresholds which will encourage consistency and uniformity in the CEQA analysis of GHG emissions throughout the state. Until such time as state guidance is available on thresholds of significance for GHG emissions, we recommend the following approach to your CEQA analysis.

Governor's Office of Planning and Research

CEQA AND CLIMATE CHANGE

Addressing Climate Change Through California Environmental Quality Act (CEQA) Review

June 19, 2008

models are rapidly changing. OPR will periodically update the examples of modeling tools identified in Attachment 2.

- There is no standard format for including the analysis in a CEQA document. A GHG/climate change analysis can be included in one or more of the typical sections of an EIR (e.g., air quality, transportation, energy) or may be provided in a separate section on cumulative impacts or climate change.

Determine Significance

- When assessing a project's GHG emissions, lead agencies must describe the existing *environmental* conditions or setting, without the project, which normally constitutes the baseline physical conditions for determining whether a project's impacts are significant.
- As with any environmental impact, lead agencies must determine what constitutes a significant impact. In the absence of regulatory standards for GHG emissions or other scientific data to clearly define what constitutes a "significant impact", individual lead agencies may undertake a project-by-project analysis, consistent with available guidance and current CEQA practice.
- The potential effects of a project may be individually limited but cumulatively considerable. Lead agencies should not dismiss a proposed project's direct and/or indirect climate change impacts without careful consideration, supported by substantial evidence. Documentation of available information and analysis should be provided for any project that may significantly contribute new GHG emissions, either individually or cumulatively, directly or indirectly (e.g., transportation impacts).
- Although climate change is ultimately a cumulative impact, not every individual project that emits GHGs must necessarily be found to contribute to a significant cumulative impact on the environment. CEQA authorizes reliance on previously approved plans and mitigation programs that have adequately analyzed and mitigated GHG emissions to a less than significant level as a means to avoid or substantially reduce the cumulative impact of a project.

Mitigate Impacts

- Mitigation measures will vary with the type of project being contemplated, but may include alternative project designs or locations that conserve energy and water, measures that reduce vehicle miles traveled

(VMT) by fossil-fueled vehicles, measures that contribute to established regional or programmatic mitigation strategies, and measures that sequester carbon to offset the emissions from the project.

- The lead agency must impose all mitigation measures that are necessary to reduce GHG emissions to a less than significant level. CEQA does not require mitigation measures that are infeasible for specific legal, economic, technological, or other reasons. A lead agency is not responsible for wholly eliminating all GHG emissions from a project; the CEQA standard is to mitigate to a level that is "less than significant".
- If there are not sufficient mitigation measures that the lead agency determines are feasible to achieve the less than significant level, the lead agency should adopt those measures that are feasible, and adopt a Statement of Overriding Considerations that explains why further mitigation is not feasible. A Statement of Overriding Considerations must be prepared when the lead agency has determined to approve a project for which certain impacts are unavoidable. These statements should explain the reasons why the impacts cannot be adequately mitigated in sufficient detail, and must be based on specific facts, so as not to be conclusory.
- Agencies are encouraged to develop standard GHG emission reduction or mitigation measures that can be applied on a project-by-project basis. Attachment 3 contains a preliminary menu of measures that lead agencies may wish to consider. This list is by no means exhaustive or prescriptive. Lead agencies are encouraged to develop their own measures and/or propose project alternatives to reduce GHG emissions, either at a programmatic level or on a case-by-case review.
- In some cases GHG emission reduction measures will not be feasible or may not be effective at a project level. Rather, it may be more appropriate and more effective to develop and adopt program-level plans, policies and measures that will result in a reduction of GHG emissions on a regional level.

IV. ADDITIONAL LAND USE CONSIDERATIONS

CEQA can be a more effective tool for GHG emissions analysis and mitigation if it is supported and supplemented by sound development policies and practices that will reduce GHG emissions on a broad planning scale and that can provide the basis for a programmatic approach to project-specific CEQA analysis and mitigation.

Local governments with land use authority are beginning to establish policies that result in land use patterns and practices that will result in less energy use and reduce GHG emissions. For example, some cities and counties have adopted general plans and policies that encourage the development of compact, mixed-use, transit-oriented development that reduces VMT; encourage alternative fuel vehicle use; conserve energy and water usage; and promote carbon sequestration. Models of such developments exist throughout the state (see OPR climate change website for examples of city and county plans and policies, referenced in Attachment 1).

For local government lead agencies, adoption of general plan policies and certification of general plan EIRs that analyze broad jurisdiction-wide impacts of GHG emissions can be part of an effective strategy for addressing cumulative impacts and for streamlining later project-specific CEQA reviews.

International, national, and statewide organizations such as ICLEI (Local Governments for Sustainability), the Cities for Climate Protection, and the Clean Cities Coalition—to name just a few—have published guidebooks to help local governments reduce GHG emissions through land use planning techniques and improved municipal operations. Links to these resources are provided at the end of this advisory.

Regional agencies can also employ a variety of strategies to reduce GHG emissions through their planning processes. For example, regional transportation planning agencies adopt plans and programs that address congestion relief, jobs-to-housing balance, reduction of vehicle miles traveled (VMT), and other issues that have implications for GHG emission reductions.

State agencies are also tackling the issue of climate change. Some have adopted or support policies and programs that take climate change into account, including the Department of Water Resources' State Water Plan; the Department of Transportation's State Transportation Plan; and the Business, Housing and Transportation Agency's Regional Blueprint Planning Program. These efforts not only raise public awareness of climate change and how the State can reduce GHG emissions, but also offer specific information and resources for lead agencies to consider.

V. NEXT STEPS

OPR has asked ARB technical staff to recommend a method for setting a threshold of significance for GHG emissions. OPR has requested that the ARB identify a range of feasible options, including qualitative and quantitative options.

OPR is actively seeking input from the public and stakeholder groups, as it develops draft CEQA Guidelines for GHG emissions. OPR is engaged with the Resources Agency and other expert state agencies, local governments, builders and developers, environmental organizations, and others with expertise or an interest in the development of the Guidelines.

OPR will conduct public workshops later this year to receive input on the scope and content of the CEQA Guidelines amendments. It is OPR's intent to release a preliminary draft of the CEQA Guidelines amendments for public review and comment in the fall. This will enable OPR to deliver a proposed package of CEQA Guidelines amendments to the Resources Agency as early as January 2009, well before the statutory due date of July 1, 2009.

We encourage public agencies and the public to refer to the OPR website at www.opr.ca.gov for information about the CEQA Guidelines development process and to subscribe to OPR's notification system for announcements and updates.

For more information about this technical advisory and assistance in addressing the impacts of GHG emissions on the environment, please contact:

Governor's Office of Planning and Research
State Clearinghouse
1400 Tenth Street
P.O. Box 3044
Sacramento, CA 95812-3044
Telephone: (916) 445-0613
Fax: (916) 323-3018
Web Address: www.opr.ca.gov

ATTACHMENTS

1. References and Information Sources
2. Technical Resources/Modeling Tools to Estimate GHG Emissions
3. Examples of GHG Reduction Measures

Attachment I

References and Information Sources

The following is a list of websites of organizations that can offer additional information regarding methods to characterize, quantify, assess and reduce GHG emissions. In addition, a list of useful resources and reference materials is provided on the subject of climate change and greenhouse gases.

ORGANIZATIONS

- Governor's Office of Planning and Research
<http://www.opr.ca.gov>
- California Climate Action Team
http://www.climatechange.ca.gov/climate_action_team/
- California Climate Change Portal
<http://www.climatechange.ca.gov>
- California Air Resources Board Climate Change Website
<http://www.arb.ca.gov/cc/cc.htm>
- California Climate Action Registry
<http://www.climateregistry.org/>
- California Department of Water Resources, Climate Change and California Water Plan Website
<http://www.waterplan.water.ca.gov/climate/>
- California Energy Commission Climate Change Proceedings
http://www.energy.ca.gov/global_climate_change/index.html
- California Public Utilities Commission, Climate Change Website
http://www.cpuc.ca.gov/static/energy/electric/climate+change/_index.htm
- Green California Website
<http://www.green.ca.gov/default.htm>
- Western Climate Initiative
<http://www.westernclimateinitiative.org>

- California Air Pollution Control Officers Association
<http://www.capcoa.org>
- Local Governments for Sustainability (ICLEI)
<http://www.iclei.org/>
- ICLEI Cities for Climate Protection (CCP)
<http://www.iclei.org/index.php?id=800>
- United Nations Framework Convention on Climate Change
<http://unfccc.int/2860.php>
- Intergovernmental Panel on Climate Change
<http://www.ipcc.ch>
- United States Environmental Protection Agency
<http://www.epa.gov/climatechange/>
- City of Seattle U.S. Mayors Climate Protection Agreement
<http://www.seattle.gov/mayor/climate/>
- Mayors for Climate Protection
<http://www.coolmayors.com>
- U.S. Conference of Mayors Climate Protection Web Page
<http://usmayors.org/climateprotection>
- Institute for Local Government California Climate Action Network
<http://www.ca-ilg.org/climatechange>

STATUTES, REGULATIONS, AND EXECUTIVE ORDERS

- SB 97
http://opr.ca.gov/ceqa/pdfs/SB_97_bill_20070824_chaptered.pdf
- SB 97 Governor's Signing Message
<http://opr.ca.gov/ceqa/pdfs/SB-97-signing-message.pdf>
- AB 32
http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf
- AB 1493
http://www.leginfo.ca.gov/pub/01-02/bill/asm/ab_1451-1500/ab_1493_bill_20020722_chaptered.pdf

- Regulations implementing AB 1493
<http://www.arb.ca.gov/regact/grnhsgas/revfro.pdf> and <http://www.arb.ca.gov/regact/grnhsgas/revtp.pdf>
- SB 1368
http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_1351-1400/sb_1368_bill_20060929_chaptered.pdf
- Executive Order S-01-07 regarding low carbon standard for transportation fuels
<http://gov.ca.gov/index.php?/executive-order/5172/>
- Executive Order S-20-06 regarding implementation of AB 32
<http://gov.ca.gov/index.php?/executive-order/4484/>
- Executive Order S-3-05 regarding greenhouse gas goals
<http://gov.ca.gov/index.php?/executive-order/1861/>
- Executive Order S-20-04 regarding energy conservation by state
<http://gov.ca.gov/index.php?/executive-order/3360/>

REPORTS

- OPR List of Environmental Documents Addressing Climate Change
http://opr.ca.gov/ceqa/pdfs/Environmental_Assessment_Climate_Change.pdf
- OPR List of Local Plans Addressing Climate Change
http://opr.ca.gov/ceqa/pdfs/City_and_County_Plans_Addressing_Climate_Change.pdf
- *Climate Action Team Proposed Early Action Measures to Mitigate Climate Change in California*, April 2007
http://www.climatechange.ca.gov/climate_action_team/reports/2007-04-20_CAT_REPORT.PDF
- California Air Resources Board, *Early Action Items to Mitigate Climate Change in California*, October 2007
http://www.arb.ca.gov/cc/ccea/meetings/ea_final_report.pdf
- California Air Resources Board, *Draft Greenhouse Gas Inventory*, November 2007
http://www.arb.ca.gov/cc/inventory/data/tables/rpt_inventory_IPCC_All_2007-11-19.pdf
- *Climate Action Team Report to the Governor and Legislature*, March 2006,
http://www.climatechange.ca.gov/climate_action_team/reports/index.html

- California Climate Change Center, *Our Changing Planet: Assessing the Risks to California - Summary Report*
<http://www.energy.ca.gov/2006publications/CEC-500-2006-077/CEC-500-2006-077.PDF>
Detailed reports available at: http://www.climatechange.ca.gov/biennial_reports/2006report/index.html
- California Energy Commission, *2007 Integrated Energy Policy Report Update*
<http://www.energy.ca.gov/2007publications/CEC-100-2007-008/CEC-100-2007-008-CMFPDF>
- California Department of Water Resources, *Progress on Incorporating Climate Change into Management of California's Water Resources*
<http://baydeltaoffice.water.ca.gov/climatechange/DWRClimateChangeJuly06.pdf> - pagemode=bookmarks&page=1
- *Climate Action Program at Caltrans*, December 2006
<http://www.dot.ca.gov/docs/ClimateReport.pdf>
- California Air Pollution Control Officers Association, *CEQA & Climate Change*, January 2008
<http://www.capcoa.org/ceqa/CAPCOA%20White%20Paper%20-%20CEQA%20and%20Climate%20Change.pdf>
- West Coast Governors' Global Warming Initiative, November 2004
http://www.climatechange.ca.gov/westcoast/documents/2004-11_final_report/2004-11-18_STAFF_RECOMMENDS.PDF
- Western Climate Initiative Work Plan, October 2007
<http://www.westernclimateinitiative.org/cwebeditpro/items/O104F13792.pdf>
- California Climate Change Center, University of California at Berkeley, *Managing Greenhouse Gas Emissions in California*, 2007
http://calclimate.berkeley.edu/managing_GHG_s_in_CA.html
- U.S. Conference of Mayors, *Energy & Environment Best Practices*
<http://www.usmayors.org/climateprotection/AtlantaEESummitCDROMVersion.pdf>
- U.S. Mayors Climate Protection Agreement *Climate Action Handbook*, 2006
<http://www.seattle.gov/climate/docs/ClimateActionHandbook.pdf>
- Natural Capitalism Solutions *Climate Protection Manual for Cities*, June 2007
<http://www.climatemanual.org>

- National Governor's Association Center for Best Practices *Growing with Less Greenhouse Gases*, November 2002
<http://www.nga.org/cda/files/112002ghg.pdf>
- National Governor's Association Center for Best Practices *State and Regional Greenhouse Gas Initiatives*, October 2006
<http://www.nga.org/Files/pdf/0610GREENHOUSE.PDF>
- United States Climate Change Program *The Effects of Climate Change on Agriculture, Land Resources, Water Resources, and Biodiversity in the United States*, May 2008
http://www.usda.gov/oc/global_change/sap_2007_FinalReport.htm

Attachment 2

Technical Resources/Modeling Tools to Estimate GHG Emissions

TOOL	AVAILABILITY	SCOPE LOCAL/ REGIONAL	SCOPE TRANSPORTATION/ BUILDINGS	DATA INPUT REQUIREMENTS	DATA OUTPUT
URBEMIS	<ul style="list-style-type: none"> Download Public domain (free) 	<ul style="list-style-type: none"> Local project level 	<ul style="list-style-type: none"> Transportation Some building (area source) outputs Construction 	<ul style="list-style-type: none"> Land use information Construction, area source, and transportation assumptions 	<ul style="list-style-type: none"> CO₂ (pounds per day) Mitigation impacts
Clean Air and Climate Protection (CACP) Software	<ul style="list-style-type: none"> Download Available to public agencies (free) 	<ul style="list-style-type: none"> Local project level 	<ul style="list-style-type: none"> Buildings Communities Governments 	<ul style="list-style-type: none"> Energy usage Waste generation and disposal Transportation fuel usage or VMT 	<ul style="list-style-type: none"> CO₂e (tons per year)
Sustainable Communities Model (SCM)	<ul style="list-style-type: none"> Custom model 	<ul style="list-style-type: none"> Regional Scalable to site level 	<ul style="list-style-type: none"> Transportation Buildings Neighborhoods Master planned communities 	<ul style="list-style-type: none"> Location and site specific information Transportation assumptions On-site energy usage 	<ul style="list-style-type: none"> CO₂e (tons per year)
Internet-accessed Planning for Community Energy, Economic and Environmental Sustainability I-PLACE ² S	<ul style="list-style-type: none"> Web-based Small access fee Full model now available in eight CA counties 	<ul style="list-style-type: none"> Regional Scalable to site level 	<ul style="list-style-type: none"> Transportation Housing Land Use Buildings Energy Economics 	<ul style="list-style-type: none"> Parcel level land use data (ability to work with less data) Project-level data for alternative comparisons 	<ul style="list-style-type: none"> CO₂ (any quantity over any time)
Climate Action Registry Reporting On-Line Tool (CARROT)	<ul style="list-style-type: none"> Web-based Available to Registry members General public can view entity reports 	<ul style="list-style-type: none"> Regional, scalable to entity and facility level 	<ul style="list-style-type: none"> General Reporting and Certification Protocols <ul style="list-style-type: none"> Transportation Buildings/facilities Specific protocols for some sectors 	<ul style="list-style-type: none"> Mobile source combustion (VMT or fuel usage) Stationary combustion (fuel usage) Indirect emissions (electricity usage) 	<ul style="list-style-type: none"> Each GHG and CO₂e (tons per year)
EMFAC	<ul style="list-style-type: none"> Download Public domain (free) 	<ul style="list-style-type: none"> Statewide Regional (air basin level) 	<ul style="list-style-type: none"> Transportation emission factors 	<ul style="list-style-type: none"> Travel activity data to calculate CO₂ from projects. 	<ul style="list-style-type: none"> CO₂ and methane (grams per mile) emission factors

VMT = Vehicle miles traveled

eCO₂ = Carbon dioxide equivalent emissions

Note: This is not meant to be a definitive list of modeling tools to estimate climate change emissions impacts. Other tools may be available.

Description of Modeling Tools

URBEMIS

The Urban Emissions Model is used extensively during the CEQA process by local air districts and consultants to determine the impacts of projects on criteria pollutants. It was recently updated to calculate CO₂ emissions as well. Future updates will include additional greenhouse gases. URBEMIS uses the ITE Trip Generation Rate Manual and the Air Resources Board's (ARB) motor vehicle emissions model (EMFAC) to calculate transportation-related CO₂ emissions and ARB's OFFROAD2007 model for CO₂ emissions from off-road equipment. Area source outputs include natural gas use, landscaping equipment, consumer products, architectural coatings, and fireplaces. It also estimates construction impacts and impacts of mitigation options. Web site: <http://www.urbemis.com>.

Clean Air and Climate Protection (CACP) Software

This tool is available to state and local governments and members of ICLEI, NACAA, NASEO and NARUC to determine greenhouse gas and criteria pollutant emissions from government operations and communities as a whole. The user must input aggregate information about energy (usage), waste (quantity and type generated, disposal method, and methane recovery rate) and transportation (VMT) for community analyses. CACP uses emission factors from EPA, DOE, and DOT to translate the energy, waste and transportation inputs into greenhouse gas (in carbon dioxide equivalents) and criteria air pollutant emissions. If associated energy, waste and transportation reduction are provided, the model can also calculate emission reductions and money saved from policy alternatives. Web site: <http://cacpsoftware.org>.

Sustainable Communities Model (SCM)

This model quantifies total CO₂e emissions allowing communities the ability to optimize planning decisions that result in the greatest environmental benefit for the least cost. Total CO₂e emissions are based on emissions from energy usage, water consumption and transportation. The model provides an interactive comparison of various scenarios to provide environmental performance, economic performance, and cost benefit analysis.

Web site: www.ctg-net.com/energetics/documents/doc_SCM_070731.pdf

I-PLACE'S

This model is an internet-accessed land use and transportation model designed specifically for regional and local governments to help understand how their growth and development decisions can contribute to improved sustainability. It estimates CO₂, criteria pollutant and energy impacts on a neighborhood or

regional level for existing, long-term baseline and alternative land use plans. The data input requirements are extensive and require a fiscal commitment from the Metropolitan Planning Organization and its member local governments. Once the data is available, the IPLACES tool can be developed for that region relatively quickly, in approximately one week. The benefits include a multifunctional tool that provides immediate outputs to compare alternatives during public meetings, multilevel password protected on-line access, as well as providing access for local development project CEQA analyses. This tool also supports regional travel models and integrated land use and transportation assessments. Web site: http://www.sacregionblueprint.org/sacregionblueprint/the_project/technology.cfm and <http://www.places.energy.ca.gov/places>

CARROT

The California Climate Action Registry offers the Climate Action Registry Reporting On-Line Tool (CARROT) for Registry members to calculate and report annual greenhouse gas (GHG) emissions. CARROT calculates direct and indirect GHG emissions for the following emission categories by source: stationary combustion, process emissions, mobile source combustion, fugitive emissions and electricity use by source. It calculates emissions using entity collected data such as fuel purchase records, VMT and utility bills. While reporting and certification through CARROT is only available to members, the public may access entity reports online. Reporting protocols are also available to the public, including the General Reporting Protocol (www.climateregistry.org/docs/PROTOCOLS/GRP%20V2-March2007_web.pdf) and cement, forestry and power/utility sector protocols. Additional sector protocols are under development. Website: www.climateregistry.org/CARROT/

EMFAC

The Air Resources Board's EMISSION FACTORS (EMFAC) model is used to calculate emission rates from all motor vehicles in California. The emission factors are combined with data on vehicle activity (miles traveled and average speeds) to assess emission impacts. The URBEMIS model described above uses EMFAC to calculate the transportation emission impacts of local projects. Web site: <http://www.arb.ca.gov/msei/onroad/onroad.htm>

Attachment 3

Examples of GHG Reduction Measures

The following are examples of measures that have been employed by some public agencies to reduce greenhouse gas emissions, either as general development policies or on a project-by-project basis. These are provided for illustrative purposes only.

LAND USE AND TRANSPORTATION

- Implement land use strategies to encourage jobs/housing proximity, promote transit-oriented development, and encourage high density development along transit corridors. Encourage compact, mixed-use projects, forming urban villages designed to maximize affordable housing and encourage walking, bicycling and the use of public transit systems.
- Encourage infill, redevelopment, and higher density development, whether in incorporated or unincorporated settings
- Encourage new developments to integrate housing, civic and retail amenities (jobs, schools, parks, shopping opportunities) to help reduce VMT resulting from discretionary automobile trips.
- Apply advanced technology systems and management strategies to improve operational efficiency of transportation systems and movement of people, goods and services.
- Incorporate features into project design that would accommodate the supply of frequent, reliable and convenient public transit.
- Implement street improvements that are designed to relieve pressure on a region's most congested roadways and intersections.
- Limit idling time for commercial vehicles, including delivery and construction vehicles.

URBAN FORESTRY

- Plant trees and vegetation near structures to shade buildings and reduce energy requirements for heating/cooling.
- Preserve or replace onsite trees (that are removed due to development) as a means of providing carbon storage.

GREEN BUILDINGS

- Encourage public and private construction of LEED (Leadership in Energy and Environmental Design) certified (or equivalent) buildings.

ENERGY CONSERVATION POLICIES AND ACTIONS

- Recognize and promote energy saving measures beyond Title 24 requirements for residential and commercial projects
- Where feasible, include in new buildings facilities to support the use of low/zero carbon fueled vehicles, such as the charging of electric vehicles from green electricity sources.
- Educate the public, schools, other jurisdictions, professional associations, business and industry about reducing GHG emissions.
- Replace traffic lights, street lights, and other electrical uses to energy efficient bulbs and appliances.
- Purchase Energy Star equipment and appliances for public agency use.
- Incorporate on-site renewable energy production, including installation of photovoltaic cells or other solar options.
- Execute an Energy Savings Performance Contract with a private entity to retrofit public buildings. This type of contract allows the private entity to fund all energy improvements in exchange for a share of the energy savings over a period of time.
- Design, build, and operate schools that meet the Collaborative for High Performance Schools (CHPS) best practices.
- Retrofit municipal water and wastewater systems with energy efficient motors, pumps and other equipment, and recover wastewater treatment methane for energy production.
- Convert landfill gas into energy sources for use in fueling vehicles, operating equipment, and heating buildings.
- Purchase government vehicles and buses that use alternatives fuels or technology, such as electric hybrids, biodiesel, and ethanol. Where feasible, require fleet vehicles to be low emission vehicles. Promote the use of these vehicles in the general community.
- Offer government incentives to private businesses for developing buildings with energy and water efficient features and recycled materials. The incentives can include expedited plan checks and reduced permit fees.
- Offer rebates and low-interest loans to residents that make energy-saving improvements on their homes.

PROGRAMS TO REDUCE VEHICLE MILES TRAVELED

- Offer government employees financial incentives to carpool, use public transportation, or use other modes of travel for daily commutes.
- Encourage large businesses to develop commute trip reduction plans that encourage employees who commute alone to consider alternative transportation modes.
- Develop shuttle systems around business district parking garages to reduce congestion and create shorter commutes.
- Create an online ridesharing program that matches potential carpoolers immediately through email.
- Develop a Safe Routes to School program that allows and promotes bicycling and walking to school.

PROGRAMS TO REDUCE SOLID WASTE

- Create incentives to increase recycling and reduce generation of solid waste by residential users.
- Implement a Construction and Demolition Waste Recycling Ordinance to reduce the solid waste created by new development.
- Add residential/commercial food waste collection to existing greenwaste collection programs.



10

Attachment B

Draft

Environmental Impact Report

for the

**Venoco Ellwood Oil Development and
Pipeline (Full Field Development) Project**

State Clearinghouse No. 2006061146

CSLC EIR No. 738

Lead Agency:

California State Lands Commission

Prepared by:

California State Lands Commission
Marine Research Specialists
Science Applications International Corporation

June 2008

1 **GHG Emission Thresholds**

2 CAPCOA published a discussion paper (CAPCOA 2008) on CEQA and climate change
3 which laid out three different approaches to establishing significance criteria for CEQA
4 documents. These are;

- 5 • No significance thresholds;
- 6 • Significance thresholds set at zero; and
- 7 • Significance thresholds set at non-zero values, which are variations of ways to
8 achieve the 2020 goals of AB 32.

9 The CAPCOA paper does not designate a preferred approach; it only lays out the
10 different approaches that an agency might take.

11 In this EIR, the second approach has been utilized, such that;

- 12 • A project would be considered having a significant impact if its GHG emissions
13 have a net increase over the baseline.

14 Because of the severity of the global warming problem as the result of cumulative GHG
15 emissions worldwide, the zero-threshold approach appears to be the most scientifically
16 supportable of the options.

17 **4.3.4 Impact Analysis And Mitigation**

18 Air quality impacts result from increased emissions associated with drilling of new wells,
19 and continuing operation of the Project facilities at levels above current operations due
20 to increased oil and gas throughput. Decreases in operational emissions are expected
21 due to removal of the EMT and the use of pipeline transportation for crude oil instead of
22 the barge loading operations and associated vessel emissions.

23 **Impact AQ-1: Emissions from Construction**

24 **Proposed Project construction activities would result in emissions at the EOF,**
25 **EMT, and along the new pipeline corridor (Potentially Significant, Class II).**

26 *Impact Discussion*

27 Emissions would be produced due to construction machinery, commuter and
28 construction support vehicles, and fugitive dust. These emissions were estimated and

4.3 Air Quality

1 are summarized in Table 4.3-11. Construction emissions that exceed 25 tons in any
 2 consecutive 12 months would be required to be offset under Rule 202. Demolition
 3 emissions (i.e., EMT and barge mooring removal) are subject to SBCAPCD permit
 4 requirements, but offsets are not required as per California H&S Code.

**Table 4.3-11
 Proposed Project Construction Emissions**

Construction Phase	Peak Day Emissions (lbs/day)					Annual Emissions (tons/yr)				
	CO	ROC	NO _x	SO ₂	PM ₁₀	CO	ROC	NO _x	SO ₂	PM ₁₀
EOF Construction	311	30	117	3	36	22.60	2.15	4.32	0.12	0.90
Pipeline Construction	996	71	393	8	52	76.86	5.53	24.42	0.51	3.98
Offshore Power Cable Installation	230	56	695	14	65	2.33	0.42	2.49	0.05	0.22
Platform Holly Modifications	164	33	314	6	29	6.46	0.90	7.36	0.15	0.68
EMT Demolition	548	53	317	7	78	16.28	2.24	11.46	0.23	1.02
EMT Soil Remediation	41	10	73	1	18	0.62	0.15	1.44	0.03	0.12
Total Emissions						125	11.3	50	1.1	6.8
Total Emissions w/o EMT						108	8.9	37	0.8	5.7
Significance Criteria						na	25	25	na	na

Notes:

Demolition Emissions would be exempt from the SBCAPCD rule requiring offsets.
 Construction phases would not affect the same peak day. However some phases would occur during the same 12-month period.

5 Section 42301.13 of California Health and Safety Code states that a district shall not
 6 require any form of emission offset or emission credit to be provided to offset emissions
 7 resulting from any activity related to the demolition or removal of a stationary source.
 8 Therefore, no emission offsets would be required for demolition/removal of the EMT and
 9 mooring.

10 Project construction ROC emissions would be below the Rule 202 trigger of
 11 25 tons/year. Project construction NO_x emissions that would be emitted in the 12-month
 12 construction period for the changes at the EOF, pipeline construction, and offshore
 13 changes (Platform Holly retrofits, power cable installation and repairs to the two-inch
 14 (0.05 m) utility line would exceed 25 tons. And therefore, as per the Rules 202 and 804,
 15 the SBCAPCD would consider this impact significant and require emission offsets for
 16 the total emissions from the construction equipment not exempt under the Rule 202.

17 The emissions from EMT removal are above the SBCAPCD thresholds for construction
 18 and would normally require offsets as a construction project. However, Rule 202
 19 provides an exemption for emissions from facility removal activities. As such, emissions

1 from the removal of the EMT and barge mooring, and EMT soil remediation would be
2 exempt under Rule 202. Without counting emissions from these exempt activities, the
3 NO_x emissions would be equal to 37 tons/year.

4 PM₁₀ emissions associated with construction would require the implementation of dust
5 control measures detailed in the Air Quality Attainment Plan (SBCAPCD 2005) and the
6 County Environmental Thresholds and Guidelines Manual (County 2006). Dust control
7 measures are required under the County of Santa Barbara's Grading Ordinance for
8 most projects.

9 *Mitigation Measures*

10 Because the county is a non-attainment area for PM₁₀, standard fugitive dust reduction
11 measures are required for all earth-moving projects.

12 **AQ-1a Measures to Reduce Dust Emissions From Construction.** Best
13 Available Control Measures (BACMs) shall be implemented to control
14 PM₁₀ generation during construction of the Project, including the following:

- 15 • During construction, water trucks or sprinkler systems should be used
16 to keep all areas of vehicle movement damp enough to prevent dust
17 from leaving the site. At a minimum, this should include wetting down
18 such areas in the late morning and after work is completed for the day.
19 Increased watering frequency shall be required whenever the wind
20 speed exceeds 15 mph. Reclaimed water shall be used whenever
21 possible;
- 22 • Minimize the amount of disturbed area and reduce onsite vehicle
23 speeds to 15 mph or less;
- 24 • Gravel pads shall be installed at all access points to prevent tracking of
25 mud on to public roads
- 26 • If importation, exportation, and stockpiling of fill material is involved,
27 soil stockpiled for more than two days shall be covered, kept moist or
28 treated with soil binders to prevent dust generation. Trucks
29 transporting fill material to and from the Project site shall be covered
30 with a tarp from the point of origin;

- 1 • After clearing, grading, earthmoving, or excavation is completed, the
2 disturbed area shall be treated by watering, re-vegetating, or spreading
3 of soil binders, until the area is paved or otherwise developed so that
4 dust generation will not occur;

- 5 • The contractor or builder shall designate a person or persons to
6 monitor the dust control program and to order increased watering, as
7 necessary, to prevent transport of dust off site. Their duties shall
8 include holiday and weekend periods when work may not be in
9 progress. The name and telephone number of such persons shall be
10 provided to the SBCAPCD prior to land use clearance for any grading
11 activities for the Project; and

- 12 • Prior to any land clearance, the Applicant shall include, as a note on a
13 separate informational sheet to be recorded using a map, these dust
14 control requirements. All requirements shall be shown on grading and
15 building plans.

- 16 **AQ-1b Measures to Reduce NO_x Emissions From Construction.** The
17 following measures shall be implemented to reduce diesel emissions:
 - 18 • All diesel-powered equipment shall use ultra low sulfur diesel fuel;

 - 19 • Diesel catalytic converters, diesel oxidation catalysts, and diesel
20 particulate filters, as certified and/or verified by the EPA or the State of
21 California, shall be installed at the guidance of the SBCAPCD, if
22 available;

 - 23 • Diesel-powered equipment shall be replaced by natural gas or electric
24 equipment whenever feasible;

 - 25 • Idling of heavy-duty diesel trucks during loading and unloading shall be
26 limited to five minutes; auxiliary power units shall be used whenever
27 possible. Construction worker's trips shall be minimized by
28 requirements for carpooling and by providing lunch on site;

 - 29 • Heavy-duty diesel-powered construction equipment manufactured after
30 1996 (with federally mandated "clean" diesel engines) shall be utilized
31 wherever feasible;

- 1 • The engine size of construction equipment operating simultaneously,
2 shall be the minimum practical size;
- 3 • The number of construction equipment operating simultaneously shall
4 be minimized through efficient construction management practices to
5 ensure that the smallest practical number is operating at any one time;
- 6 • Construction equipment shall be maintained per the manufacturers'
7 specifications;
- 8 • Engines meeting the Tier 2 or 3 Federal emissions standards for non-
9 road applications shall be used;
- 10 • Construction equipment operating on site, shall be equipped with two
11 or four degree engine timing retard or pre-combustion chamber
12 engines; and
- 13 • Catalytic converters shall be installed on gasoline-powered equipment,
14 if feasible.

15 **AQ-1c. Measures to Further Reduce NO_x Emissions From Construction.**
16 Engines meeting the Tier 3 Federal emissions standards for non-road
17 applications shall be used, so that the emissions for all Project
18 construction activities would be under the 25 tons in any 12-month period.

19 *Rationale for Mitigation*

20 Various filters, catalysts and pre-combustion devices reduce NO_x, ROC, CO and PM
21 emissions from diesel engines. Also, use of newer diesel engines or replacement with
22 cleaner natural gas engines or electric motors would reduce emissions from
23 construction equipment. When emissions factors for Tier 3 non-road diesel engines are
24 used to estimate all the pipeline construction equipment, NO_x emissions would be below
25 the trigger for Rule 202, as shown in Table 4.3-12.

26 Emission reductions achieved through the implementation of Mitigation Measures (MM)
27 AQ-1a-c would reduce emissions below the threshold and result in potentially significant
28 impacts (Class II).

**Table 4.3-12
Total Mitigated Construction Emissions**

Construction Phase	Peak Day Emissions (lbs/day)					Annual Emissions (tons/yr)				
	CO	ROC	NO _x	SO ₂	PM ₁₀	CO	ROC	NO _x	SO ₂	PM ₁₀
EOF Construction	261	22	50	2.6	32	18.64	1.81	2.57	0.11	0.75
Pipeline Construction	510	37	188	9.0	42	36.44	2.80	10.17	0.40	2.91
Offshore Power Cable Installation	565	140	1423	30.7	136	3.33	0.67	4.65	0.10	0.43
Platform Holly Modifications	164	31	299	6.2	28	6.41	0.78	6.42	0.15	0.59
EMT Demolition	271	23	124	6.3	65	10.46	1.62	7.39	0.22	0.75
EMT Soil Remediation	42	7	35	1.3	17	0.63	0.09	0.64	0.03	0.08
Total Emissions						75	7.7	31	1.0	5.4
Total Emissions w/o EMT						64	6.0	23	0.7	4.6
Significance Criteria						na	25	25	na	na

Note:

** Demolition Emissions (EMT and mooring removal) would be exempt from the SBCAPCD rule requiring offsets.

Mitigation includes the use of Tier 3 engines.

1 Impact AQ-2: Increase in Emissions from Operations

2 **The Proposed Project could potentially result in increased operational emissions**
 3 **at the EOF and Platform Holly (Less Than Significant, Class III).**

4 *Impact Discussion*

5 Increases in emissions from the proposed Project operation would occur from the new
 6 equipment and increased use of the existing equipment, due to the increased oil and
 7 gas throughput. Emissions would increase due to the following:

- 8 • Increase in drilling equipment use;
- 9 • Storage and handling of dry bulk materials used for drill muds preparation;
- 10 • Off- gassing of drill muds as they come up to the surface and are recycled;
- 11 • Additional trips of supply and crew boats between Ellwood Pier and Platform Holly to
 12 assist drilling;
- 13 • Installation at the EOF of four Jenbacher 620 power generation units fueled by the
 14 process gas and natural gas;

-
- 1 • Higher use of LPG loading racks due to higher production;
 - 2 • Increased throughput at EOF crude storage tanks;
 - 3 • Installation of a new pig launcher for the oil pipeline to LFC; and
 - 4 • Addition of piping and a new PSA unit that would handle CO₂ removal at the EOF.
- 5 Some emissions would be eliminated due to removal of combustion equipment and
6 piping, change in use of some equipment, and replacement of some combustion
7 equipment with electric equipment. The following emissions-reducing changes would
8 occur at the Project facilities due to the proposed Project:
- 9 • Removal of combustion devices on heater treaters HT-201, HT-203 and process
10 heater H-204 at the EOF;
 - 11 • Decreased use of H-205, H-206 and H-207;
 - 12 • Installation of the new low-NO_x burners on the H-205 thermal oxidizer at the EOF;
 - 13 • Elimination of TK-101 emulsion breaker tank;
 - 14 • Elimination of the NGL loading rack;
 - 15 • Removal of all equipment from EMT and barge mooring;
 - 16 • Abandonment of the Line 96 pipeline between the EOF and EMT;
 - 17 • Elimination of oil transportation by barge;
 - 18 • Removal of three natural gas fueled power generators that support drilling
19 equipment on Platform Holly; and
 - 20 • Installation of a new ESP powerhouse at Platform Holly.

**Table 4.3-13
Assumptions for the Proposed Project Emission Sources**

EOF
Project fugitive emissions from the existing components and valves would not change (in fact, they may decrease due to improvements to Lo-Cat valving and drain connections, or replacements to the flash drum V-1206 and repairs to the T-1902 and T-1903 tanks leaking walls and roofs proposed for the Project).
Fugitive emissions would increase due to the new pipeline pigging stations and components on the three additional PSA vessels at the EOF.
Fugitive emissions would be the same from the new power generators and associated natural gas components/valving as the components/valving of the existing three heater treaters (HT-201, HT-202, and HT-203) and a process heater (H-204), which would be removed. HT-202 has been used as a slop oil tank since 1999.
The new power generators fueled with process gas would operate 100 percent of the time; peak day would include all four generators operating.
The EOF oil storage tank's fugitive emissions would increase to maximum throughput.
Daily number of gas liquids trucks and thus peak day LPG loading emissions would not change; annual amount of gas liquids loading would increase with a proportionate increase in fugitive LPG loading emissions. NGL loading emissions would be eliminated.
Daily number of sulfur trucks would not change (daily number of trucks is equivalent to the removal of the full sulfur storage volume); annual number of trucks would increase by 302.
Emergency fire pump and emergency generator emissions stay the same.
Flare (thermal oxidizers) emissions would decrease to an estimated 30 days at maximum throughput per year due to the available use of generators. Only pilot and unplanned flaring would occur from H-206 or H-207. All planned flaring would be directed to H-205.
Solvent/cleaning emissions would stay the same.
One pigging event per month for the new pipeline from the EOF to LFC.
No increase of commuter trips, because there will be no increase in employment at the EOF.
PLATFORM HOLLY
No increases in fugitive emissions due to the proposed wells, because the proposed wells would use the same well slots and connections as are currently in operation on Platform Holly.
No increase in the boom boat operations.
No change in the number of pigging events.
No increase in the crew or supply boat operations during normal (no drilling) operations.
During the proposed drilling, the supply boat will have an increase of three roundtrips per day.
Power generators (support electric drilling equipment) emissions would cease (power will be provided from the EOF).
DRILLING
Drilling would be conducted for a maximum of five wells per year, 25 days per well.
Coiled Tubing Unit is part of the baseline (it is used for well workovers). Peak day emissions due to drilling will not include coiled tubing unit. Annual drilling emissions would increase for an equivalent of drilling up to five new wells per year.
All electrical drilling equipment would be powered through EOF-produced electricity, tile electric generators would be removed, and thus no emissions from those units would occur.
Additional emissions from drill mud outgassing when they are recycled to be reused for drilling.
Additional emissions from handling of dry bulk materials for drill mud preparation.
Assumes that the drilling would be conducted in a manner that would keep the drilling equipment in the exempt category (according to SBCAPCD Rule 202.F.6), i.e., annual emissions of any criteria pollutant would be 25 tons per 12 calendar months or lower.

1 Assumptions that were used for estimating the Project's emissions are listed in Table
2 4.3-13 above.

3 Although emissions would increase at the EOF due to the installation of the natural gas
4 powered generators, the peak day emissions of ROC and PM₁₀ for the whole Project
5 would be reduced (see Table 4.3-14). This is due to the emission reductions associated
6 with the removal of the EMT and cessation of barge operations. As the EMT might be
7 removed in 2013 or 2016, depending on lease arrangements, the emissions reductions
8 associated with the removal of the EMT operations would occur earlier than 2016 under
9 the proposed project.

10 Peak day NO_x, carbon monoxide and SO₂ emissions would increase for the Project, but
11 would be below the thresholds of significance.

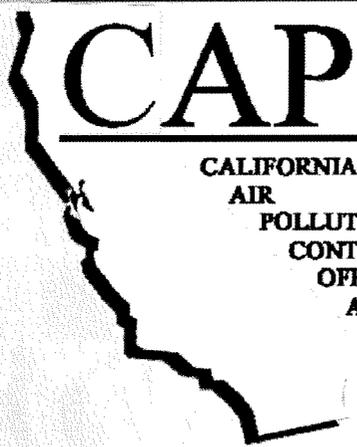
12 Annual emissions would increase for all pollutants. The increase in emissions is
13 primarily due to increased use of drilling equipment and the increased use of supply
14 boats.

15 Increases in vehicle emissions would be associated with the drilling phase only.
16 Increases would be less than the threshold of 25 lbs/day for NO_x and ROC. Refer to
17 the Appendix E, Air Quality, of this EIR for more information.

18 Under the SBCAPCD rules, any new or modified source would be required to review its
19 emissions, and provide emission offsets according to SBCAPCD Rules 801 (New
20 Source Review), 802 (Non-attainment Review), and 804 (Emission Offsets). The new
21 or modified source SBCAPCD rules do not apply to increases in emissions from mobile
22 sources such as support trucks, commuter vehicles, or increases of emissions from the
23 existing permitted sources within the permitted levels when no modification to those
24 sources occurs. However, according to Rule 802, if the new emission sources are
25 above the trigger of 25 lbs/day for NO_x or ROC, the entire Project (the new and existing
26 components) is subject to Best Available Control Technology (BACT).

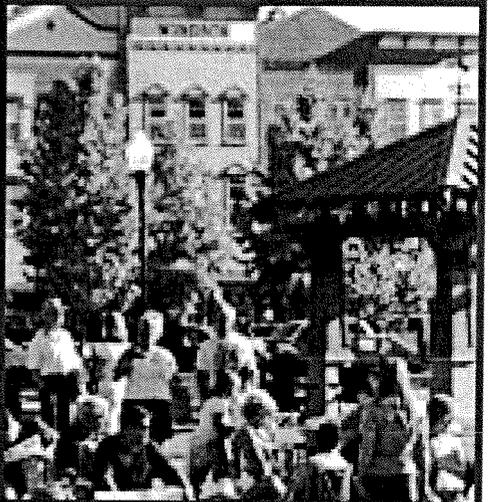
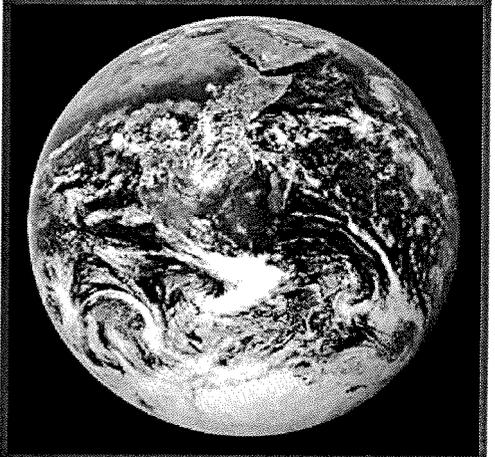
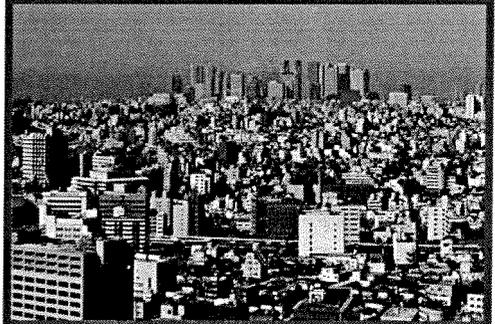
27 *Mitigation Measures*

28 None required.



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CEQA & Climate Change

*Evaluating and Addressing Greenhouse
Gas Emissions from Projects Subject to
the California Environmental Quality Act*

January 2008

Disclaimer

The California Air Pollution Control Officers Association (CAPCOA) has prepared this white paper consideration of evaluating and addressing greenhouse gas emissions under the California Environmental Quality Act (CEQA) to provide a common platform of information and tools to support local governments.

This paper is intended as a resource, not a guidance document. It is not intended, and should not be interpreted, to dictate the manner in which an air district or lead agency chooses to address greenhouse gas emissions in the context of its review of projects under CEQA.

This paper has been prepared at a time when California law has been recently amended by the Global Warming Solutions Act of 2006 (AB 32), and the full programmatic implications of this new law are not yet fully understood. There is also pending litigation in various state and federal courts pertaining to the issue of greenhouse gas emissions. Further, there is active federal legislation on the subject of climate change, and international agreements are being negotiated. Many legal and policy questions remain unsettled, including the requirements of CEQA in the context of greenhouse gas emissions. This paper is provided as a resource for local policy and decision makers to enable them to make the best decisions they can in the face of incomplete information during a period of change.

Finally, this white paper reviews requirements and discusses policy options, but it is not intended to provide legal advice and should not be construed as such. Questions of legal interpretation, particularly in the context of CEQA and other laws, or requests for advice should be directed to the agency's legal counsel.

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Table of Contents

Executive Summary	1
<u>Chapter</u>	
1. Introduction	5
2. Air Districts and CEQA Thresholds	11
3. Consideration of Fundamental Issues	13
4. Consideration of a Statewide Threshold	21
5. CEQA with No GHG Thresholds	23
6. CEQA With GHG Threshold of Zero	27
7. CEQA With Non-Zero Thresholds	31
Approach 1: Statute and Executive Order Approach	32
Approach 2: Tiered Approach	36
8. Analytical Methodologies for GHG	59
9. Mitigation Strategies for GHG	79
10. Examples of Other Approaches	85
Appendix A Relevant Citations	
Appendix B Mitigation Measure Summary	
Appendix C Rule and Regulation Summary	

List of Figures

Figure 1	Climate Change Significance Criteria Flow Chart.....	38
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List of Tables

Table 1	Analysis of GHG Emissions from Stationary Combustion Equipment Permits	18
Table 2	Approach 2 Tiering Options	41
Table 3	Comparison of Approach 2 Tiered Threshold Options	49
Table 4	Non-Zero Threshold Evaluation Matrix Approach 1	56
Table 5	Non-Zero Threshold Evaluation Matrix Approach 2	57
Table 6	Residential Project Example GHG Emissions Estimates	62
Table 7	Commercial Project Example GHG Emissions Estimates	63
Table 8	Specific Plan Example GHG Emissions Estimates	64
Table 9	General Plan Example GHG Emissions Estimates.....	68
Table 10	Summary of Modeling Tools for GHG Emissions	75
Table 11	Residential Project Example GHG Emissions Estimates with Mitigation ..	81
Table 12	Residential Projects Example Methodology and Mitigation	82
Table 13	Commercial Projects Example Methodology and Mitigation	82
Table 14	Specific Plans Example Methodology and Mitigation	83
Table 15	General Plans Example Methodology and Mitigation.....	83
Table 16	Mitigation Measure Summary	B. 1
Table 17	General Planning Level Mitigation Strategies Summary	B.35
Table 18	Rule and Regulation Summary.....	C-1

List of Acronyms and Abbreviations

<u>Acronym/ Abbreviation</u>	<u>Meaning</u>
AB 32	Assembly Bill 32 Global Warming Solutions Act of 2006
AG	Attorney General
ARB	Air Resources Board
ASTM	American Society of Testing and Material
BAAQMD	Bay Area Air Quality Management District
BAU	Business as Usual
BEES	Building for Environmental and Economic Sustainability
Calfire	California Fire
Caltrans	California Department of Transportation
CAP	Criteria Air Pollutants
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resource Board
CAT	Climate Action Team
CCAP	Center for Clean Air Policy
CCAR	California Climate Action Registry
CDFA	California Department of Food and Agriculture
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CF	Connectivity Factor
CH ₄	Methane
CIWMB	California Integrated Waste Management Board
CO	Carbon Monoxide
CO ₂	Carbon Dioxide
CNG	Compressed Natural Gas
CPUC	California Public Utilities Commission
CUFR	California Urban Forestry
DGS	Department of General Services
DOE	U.S. Department of Energy
DOF	Department of Finance
DPF	Diesel Particulate Filter
DWR	Department of Water Resources
E85	85% Ethanol
EEA	Massachusetts Executive Office of Energy and Environmental Affairs
EERE	Energy Efficiency and Renewable Energy
EIR	Environmental Impact Report
EOE	Encyclopedia of Earth
EPA	U.S. Environmental Protection Agency
ETC	Edmonton Trolley Coalition
EV	Electric Vehicles
FAR	Floor Area Ratio

GHG	Greenhouse Gas
GGEP	Greenhouse Gas Emissions Policy
GGRP	Greenhouse Gas Reduction Plan
GP	General Plan
GWP	Global Warming Potential
IGCC	Integrated Gasification Combined Cycle
IOU	Investor Owned Utility
IPCC	International Panel on Climate Change
IT	Information Technology
ITE	Institute of Transportation Engineers
J&S	Jones & Stokes
km	Kilometer
LandGem	Landfill Gas Emissions Model
LEED	Leadership in Energy and Environmental Design
LNG	Liquefied Natural Gas
MBUAPCD	Monterey Bay Unified Air Pollution Control District
MEPA	Massachusetts Environmental Policy Act
MND	Mitigated Negative Declaration
MMT CO ₂ e	Million Metric Tons Carbon Dioxide Equivalent
MW	Megawatts
N ₂ O	Nitrous Oxide
NACAA	National Association Clean Air Agencies
ND	Negative Declaration
NEV	Neighborhood Electric Vehicle
NIST	National Institute of Standards and Technology
NO _x	Oxides of Nitrogen
NREL	National Renewable Energy Laboratory
NSCAPCD	Northern Sonoma County Air Pollution Control District
NSR	New Source Review
OPR	State Office of Planning and Research
PFC	Perfluorocarbon
PG&E	Pacific Gas & Electric
POU	Publicly Owned Utility
PM	Particulate Mater
RoadMod	Road Construction Emissions Model
ROG	Reactive Organic Gas
RPS	Renewable Portfolio Standards
RTP	Regional Transportation Plan
S-3-05	Executive Order S-3-05
SB	Senate Bill
SBCAPCD	Santa Barbara County Air Pollution Control District
SCAQMD	South Coast Air Quality Management District
SCM	Sustainable Communities Model
SIP	State Implementation Plan
SJVAPCD	San Joaquin Valley Unified Air Pollution Control District
SLOCAPCD	San Luis Obispo County Air Pollution Control District

SMAQMD	Sacramento Metropolitan Air Quality Management District
SMUD	Sacramento Municipal Utilities District
SO _x	Sulfur Oxides
SP	Service Population
SRI	Solar Reflectance Index
SWP	State Water Project
TAC	Toxic Air Contaminants
TBD	To Be Determined
TDM	Transportation Demand Management
TMA	Transportation Management Association
THC	Total Hydrocarbon
UC	University of California
ULEV	Ultra Low Emission Vehicle
UNFCCC	United Nations Framework Convention on Climate Change
URBEMIS	Urban Emissions Model
USGBC	U.S. Green Building Council
VMT	Vehicle Miles Traveled
VTPI	Victoria Transit Policy
YSAQMD	Yolo-Solano Air Quality Management District

Introduction

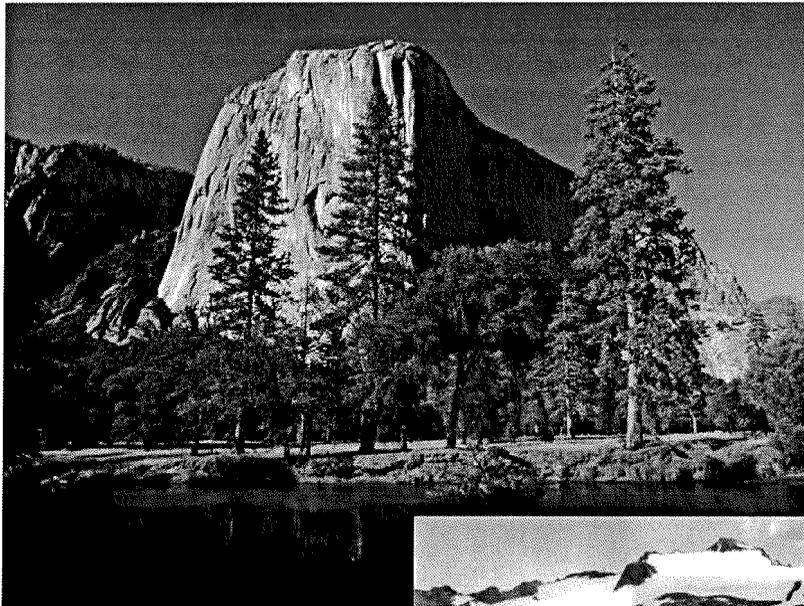
The California Environmental Quality Act (CEQA) requires that public agencies refrain from approving projects with significant adverse environmental impacts if there are feasible alternatives or mitigation measures that can substantially reduce or avoid those impacts. There is growing concern about greenhouse gas emissions' (GHG) and recognition of their significant adverse impacts on the world's climate and on our environment. In its most recent reports, the International Panel on Climate Change (IPCC) has called the evidence for this "unequivocal." In California, the passage of the

Global Warming, Solutions Act of 2006 (AB 32) recognizes the serious threat to the "economic well-being, public health, natural resources, and the environment of California" resulting from global warming. In light of our current understanding of these impacts, public agencies approving projects subject to the CEQA are facing increasing pressure to

identify and address potential significant impacts due to GHG emissions. Entities acting as lead agencies in the CEQA process are looking for guidance on how to adequately address the potential climate change impacts in meeting their CEQA obligations.

Air districts have traditionally provided guidance to local lead agencies on evaluating and addressing air pollution impacts from projects subject to CEQA. Recognizing the need for a common platform of information and tools to support decision makers as they establish policies and programs for GHG and CEQA, the California Air Pollution Control Officers Association has prepared a white paper reviewing policy choices, analytical tools, and mitigation strategies.

This paper is intended to serve as a resource for public agencies as they establish agency procedures for reviewing GHG emissions from projects under CEQA. It considers the application of thresholds and offers three alternative programmatic approaches toward



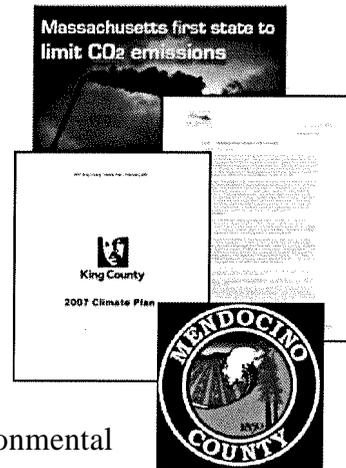
¹ Throughout this paper GHG, CO₂, CO₂e, are used interchangeably and refer generally to greenhouse gases but do not necessarily include all greenhouse gases unless otherwise specified.

determining whether GHG emissions are significant. The paper also evaluates tools and methodologies for estimating impacts, and summarizes mitigation measures. It has been prepared with the understanding that the programs, regulations, policies, and procedures established by the California Air Resources Board (CARB) and other agencies to reduce GHG emissions may ultimately result in a different approach under CEQA than the strategies considered here. The paper is intended to provide a common platform for public agencies to ensure that GHG emissions are appropriately considered and addressed under CEQA while those programs are being developed.

Examples of Other Approaches

Many states, counties, and cities have developed policies and regulations concerning greenhouse gas emissions that seek to require or promote reductions in GHG emissions through standards for vehicle emissions, fuels, electricity production/renewables, building efficiency, and other means. A few have developed guidance and are currently considering formally requiring or recommending the analysis of greenhouse gas emissions for development projects during their associated environmental processes. Key work in this area includes:

- Massachusetts Office of Energy and Environmental Affairs Greenhouse Gas Emissions Policy;
- King County, Washington, Executive Order on the Evaluation of Climate Change Impacts through the State Environmental Policy Act;
- Sacramento AQMD interim policy on addressing climate change in CEQA documents; and
- Mendocino AQMD updated guidelines for use during preparation of air quality impacts in Environmental Impact Reports (EIRs) or mitigated negative declarations.



The following paper evaluates options for lead agencies to ensure that GHG emissions are appropriately addressed as part of analyses under CEQA. It considers the use of significance thresholds, tools and methodologies for analyzing GHG emissions, and measures and strategies to avoid, reduce, or mitigate impacts.

Greenhouse Gas Significance Criteria

This white paper discusses three basic options air districts and lead agencies can pursue when contemplating the issues of CEQA thresholds for greenhouse gas emissions. This paper explores each path and discusses the benefits and disbenefits of each. The three basic paths are:

- No significance threshold for GHG emissions;

- GHG emissions threshold set at zero; or
- GHG threshold set at a non-zero level.

Each has inherent advantages and disadvantages. Air districts and lead agencies may believe the state or national government should take the lead in identifying significance thresholds to address this global impact. Alternatively, the agency may believe it is premature or speculative to determine a clear level at which a threshold should be set. On the other hand, air districts or lead agencies may believe that every GHG emission should be scrutinized and mitigated or offset due to the cumulative nature of this impact. Setting the threshold at zero will place all discretionary projects under the CEQA microscope. Finally, an air district or lead agency may believe that some projects will not benefit from a full environmental impact report (EIR), and may believe a threshold at some level above zero is needed.

This paper explores the basis and implications of setting no threshold, setting a threshold at zero and two primary approaches for those who may choose to consider a non-zero threshold. The first approach is grounded in statute (AB 32) and executive order (EO S-3-05) and explores four possible options under this scenario. The options under this approach are variations of ways to achieve the 2020 goals of AB 32 from new development, which is estimated to be about a 30 percent reduction from business as usual.

The second approach explores a tiered threshold option. Within this option, seven variations are discussed. The concepts explored here offer both quantitative and qualitative approaches to setting a threshold as well as different metrics by which tier cut-points can be set. Variations range from setting the first tier cut-point at zero to second-tier cut-points set at defined emission levels or based on the size of a project. It should be noted that some applications of the tiered threshold approach may require inclusion in a General Plan or adoption of enabling regulations or ordinances to render them fully effective and enforceable.

Greenhouse Gas Analytical Methodologies

The white paper evaluates various analytical methods and modeling tools that can be applied to estimate the greenhouse gas emissions from different project types subject to CEQA. In addition, the suitability of the methods and tools to characterize accurately a project's emissions is discussed and the paper provides recommendations for the most appropriate methodologies and tools currently available.

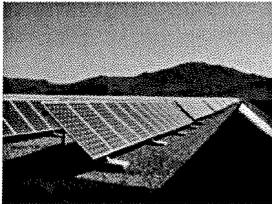
The suggested methodologies are applied to residential, commercial, specific plan and general plan scenarios where GHG emissions are estimated for each example. This chapter also discusses estimating emissions from solid waste facilities, a wastewater treatment plant, construction, and air district rules and plans.

Another methodology, a service population metric, that would measure a project's overall GHG efficiency to determine if a project is more efficient than the existing statewide average for per capita GHG emissions is explored. This methodology may be more directly correlated to a project's ability to help achieve objectives outlined in AB 32, although it relies on establishment of an efficiency-based significance threshold. The subcommittee believes this methodology may eventually be appropriate to evaluate the long-term GHG emissions from a project in the context of meeting AB 32 goals. However, this methodology will need further work and is not considered viable for the interim guidance presented in this white paper.

Greenhouse Gas Mitigation Measures

Common practice in environmental protection is first to avoid, then to minimize, and finally to compensate for impacts. When an impact cannot be mitigated on-site, off-site mitigation can be effectively implemented in several resource areas, either in the form of offsetting the same impact or preserving the resource elsewhere in the region.

This white paper describes and evaluates currently available mitigation measures based on their economic, technological and logistical feasibility and mission and their effectiveness. The potential for reducing GHG emissions and air quality are also identified for each measure. A summary of current rules and regulations affecting greenhouse gas emissions and climate change is also provided.



Reductions from transportation related measures (e.g., bicycle, pedestrian, transit, and parking) are explored as a single comprehensive approach to land use. Design measures that focus on enhancing alternative transportation are discussed. Mitigation measures are identified for transportation, land use/building design, mixed-use development, energy efficiency, education/social awareness and construction.

Purpose

CEQA requires the avoidance or mitigation of significant adverse environmental impacts where there are feasible alternatives available. The contribution of GHG to climate change has been documented in the scientific community. The California Global Warming Solutions Act of 2006 (AB 32) mandates significant reductions in greenhouse gases (GHG); passage of that law has highlighted the need to consider the impacts of GHG emissions from projects that fall under the jurisdiction of the California Environmental Quality Act (CEQA). Because we have only recently come to fully recognize the potential for significant environmental impacts from GHG, most public agencies have not yet established policies and procedures to consider them under CEQA. As a result, there is great need for information and other resources to assist public agencies as they develop their programs.

Air districts have historically provided guidance to local governments on the evaluation of air pollutants under CEQA. As local concern about climate change and GHG has increased, local governments have requested guidance on incorporating analysis of these impacts into local CEQA review. The California Air Pollution Control Officers Association (CAPCOA), in coordination with the CARB, the Governor's Office of Planning and Research (OPR) and two environmental consulting firms, has harnessed the collective expertise to evaluate approaches to analyzing GHG in CEQA. The purpose of this white paper is to provide a common platform of information and tools to address climate change in CEQA analyses, including the evaluation and mitigation of GHG emissions from proposed projects and identifying significance threshold options.



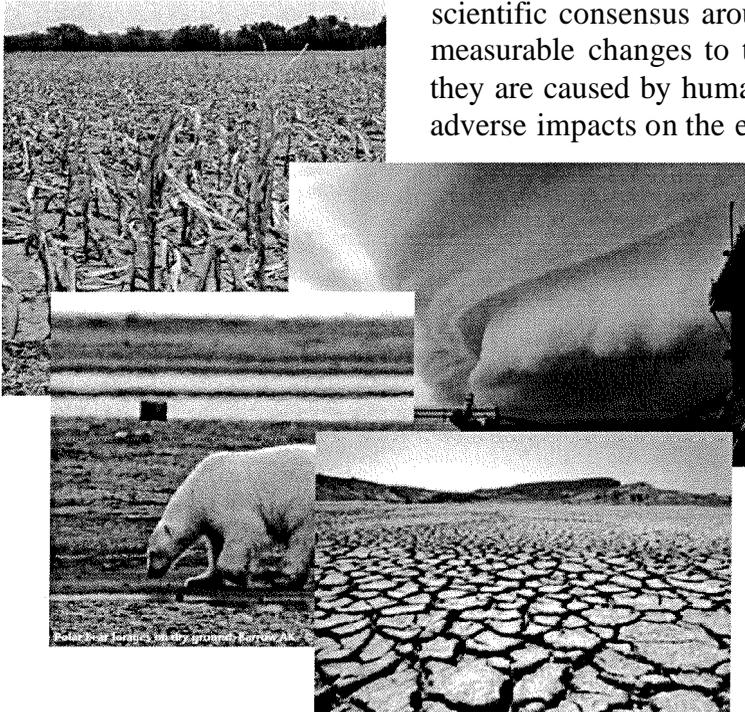
CEQA requires public agencies to ensure that potentially significant adverse environmental effects of discretionary projects are fully characterized, and avoided or mitigated where there are feasible alternatives to do so. Lead agencies have struggled with how best to identify and characterize the magnitude of the adverse effects that individual projects have on the global-scale phenomenon of climate change, even more so since Governor Schwarzenegger signed Executive Order S-3-05 and the state Legislature enacted The Global Warming Solutions Act of 2006 (AB 32). There is now a resounding call to establish procedures to analyze and mitigate greenhouse gas (GHG) emissions. The lack of established thresholds does not relieve lead agencies of their responsibility to analyze and mitigate significant impacts, so many of these agencies are seeking guidance from state and local air quality agencies. This white paper addresses issues inherent in establishing CEQA thresholds, evaluates tools, catalogues mitigation measures and provides air districts and lead agencies with options for incorporating climate change into their programs.

Background

National and International Efforts

International and Federal legislation have been enacted to deal with climate change issues. The Montreal Protocol was originally signed in 1987 and substantially amended in 1990 and 1992. In 1988, the United Nations and the World Meteorological Organization established the IPCC to assess the scientific, technical and socioeconomic information relevant to understanding the scientific basis of risk of human-induced climate change, its potential impacts, and options for adaptation and mitigation. The

most recent reports of the IPCC have emphasized the scientific consensus around the evidence that real and measurable changes to the climate are occurring, that they are caused by human activity, and that significant adverse impacts on the environment, the economy, and human health and welfare are unavoidable.



In October 1993, President Clinton announced his Climate Change Action Plan, which had a goal to return greenhouse gas emissions to 1990 levels by the year 2000. This was to be accomplished through 50 initiatives that relied on innovative voluntary partnerships between the private sector and

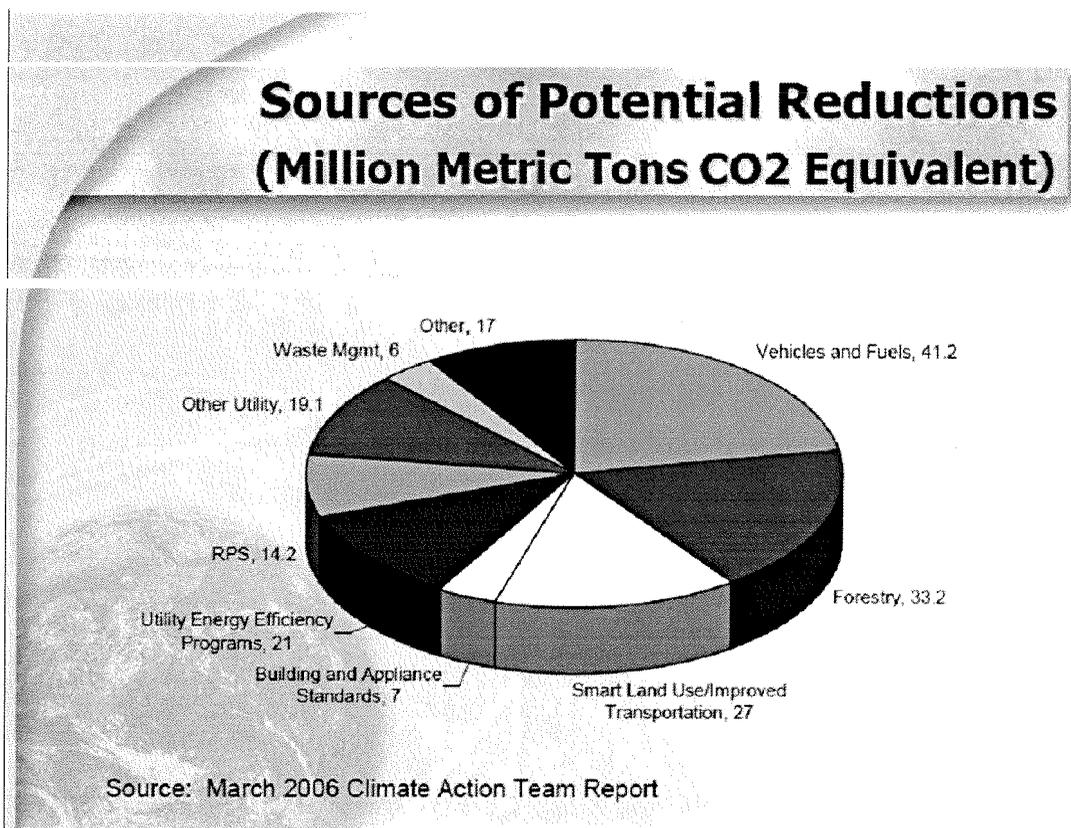
government aimed at producing cost-effective reductions in greenhouse gas emissions. On March 21, 1994, the United States joined a number of countries around the world in signing the United Nations Framework Convention on Climate Change (UNFCCC). Under the Convention, governments agreed to gather and share information on greenhouse gas emissions, national policies, and best practices; launch national strategies for addressing greenhouse gas emissions and adapting to expected impacts, including the provision of financial and technological support to developing countries; and cooperate in preparing for adaptation to the impacts of climate change.

These efforts have been largely policy oriented. In addition to the national and international efforts described above, many local jurisdictions have adopted climate change policies and programs. However, thus far little has been done to assess the significance of the affects new development projects may have on climate change.

Executive Order S-3-05

On June 1, 2005, Governor Schwarzenegger issued Executive Order *S-3-05* (S-3-05). It included the following GHG emission reduction targets: by 2010, reduce GHG emissions to 2000 levels; by 2020, reduce GHG emissions to 1990 levels; by 2050, reduce GHG emissions to 80 percent below 1990 levels. To meet the targets, the Governor directed the Secretary of the California Environmental Protection Agency to coordinate with the Secretary of the Business, Transportation and Housing Agency, Secretary of the Department of Food and Agriculture, Secretary of the Resources Agency, Chairperson of the CARB, Chairperson of the Energy Commission and President of the Public Utilities Commission on development of a Climate Action Plan.

The Secretary of CalEPA leads a Climate Action Team (CAT) made up of representatives from the agencies listed above to implement global warming emission reduction programs identified in the Climate Action Plan and report on the progress made toward meeting the statewide greenhouse gas targets that were established in the Executive Order.



SOURCE: ARB 2007

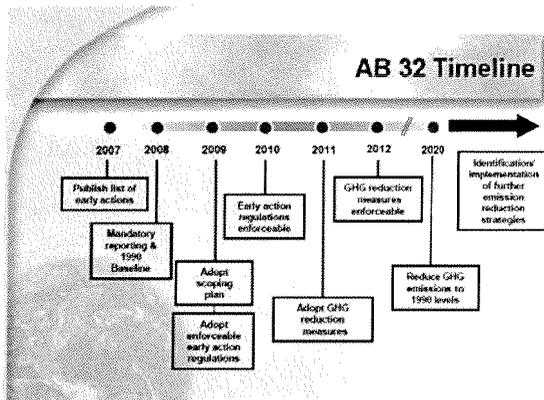
In accord with the requirements of the Executive Order, the first report to the Governor and the Legislature was released in March 2006 and will be issued bi-annually thereafter. The CAT Report to the Governor contains recommendations and strategies to help ensure the targets in Executive Order *S-3-05* are met.

California Global Warming Solutions Act of 2006 (AB 32)

In 2006, the California State Legislature adopted the California Global Warming Solutions Act of 2006. AB 32 establishes a cap on statewide greenhouse gas emissions and sets forth the regulatory framework to achieve the corresponding reduction in statewide emissions levels. AB 32 charges the California Air Resources Board (CARB), the state agency charged with regulating statewide air quality, with implementation of the act. Under AB 32, greenhouse gases are defined as: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

The regulatory steps laid out in AB 32 require CARB to: adopt early action measures to reduce GHGs; to establish a statewide greenhouse gas emissions cap for 2020 based on 1990 emissions; to adopt mandatory reporting rules for significant source of greenhouse gases; and to adopt a scoping plan indicating how emission reductions will be achieved via regulations, market mechanisms and other actions; and to adopt the regulations needed to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gases.

AB 32 requires that by January 1, 2008, the State Board shall determine what the statewide greenhouse gas emissions inventory was in 1990, and approve a statewide greenhouse gas emissions limit that is equivalent to that level, to be achieved by 2020. While the level of 1990 GHG emissions has not yet been approved, CARB's most recent emission inventory indicates that California had annual emissions of 436 million metric tons of carbon dioxide equivalent (MMT CO₂e) in 1990 and 497 MMT CO₂e in 2004.



SOURCE: ARB 2007

The regulatory timeline laid out in AB 32 requires that by July 1, 2007, CARB adopt a list of discrete early action measures, or regulations, to be adopted and implemented by January 1, 2010. These actions will form part of the State's comprehensive plan for achieving greenhouse gas emission reductions. In June 2007, CARB adopted three discrete early action measures. These three new proposed regulations meet the definition of

“discrete early action greenhouse gas reduction measures,” which include the following: a low carbon fuel standard; reduction of HFC-I34a emissions from non-professional servicing of motor vehicle air conditioning systems; and improved landfill methane capture. CARB estimates that by 2020, the reductions from those three discrete early action measures would be approximately 13-26 MMT CO₂e.

CARB evaluated over 100 possible measures identified by the CAT for inclusion in the list of discrete early action measures. On October 25, 2007 CARB gave final approval to the list of Early Action Measures, which includes nine discrete measures and 35

additional measures, all of which are to be enforceable by January 1, 2010. AB 32 requires that by January 1, 2009, CARB adopt a scoping plan indicating how emission reductions will be achieved via regulations, market mechanisms and other actions.

Senate Bill 97

Senate Bill (SB) 97, signed in August 2007, acknowledges that climate change is an important environmental issue that requires analysis under CEQA. This bill directs the OPR to prepare, develop, and transmit to the Resources Agency guidelines for the feasible mitigation of GHG emissions or the effects of GHG emissions, by July 1, 2009. The Resources Agency is required to certify or adopt those guidelines by January 1, 2010. This bill also protects projects funded by the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, or the Disaster Preparedness and Flood Protection Bond Act of 2006 (Proposition 1B or 1E) from claims of inadequate analysis of GHG as a legitimate cause of action. This latter provision will be repealed on January 1, 2010. Thus, this “protection” is highly limited to a handful of projects and for a short time period.



The Role of Air Districts in the CEQA Process

Air districts assume one of three roles in the CEQA process. They may be lead agencies when they are adopting regulations and air quality plans. In some instances, they can also be a lead agency when approving permits to construct or operate for applicants subject to district rules. However, in many cases where an air district permit is involved, another agency has broader permitting authority over the project and assumes the role of lead agency. In these situations, the air district becomes what is referred to as a responsible agency under CEQA. When CEQA documents are prepared for projects that do not involve discretionary approval of a district regulation, plan or permit, the air district may assume the role of a concerned or commenting agency. In this role, it is typical for air districts to comment on CEQA documents where there may be air quality-related adverse impacts, such as projects that may create significant contributions to existing violations of ambient standards, cause a violation of an ambient standard or create an exposure to toxic air contaminants or odors. In some cases, the air district may also act in an “advisory” capacity to a lead agency early on in its review of an application for a proposed development project.

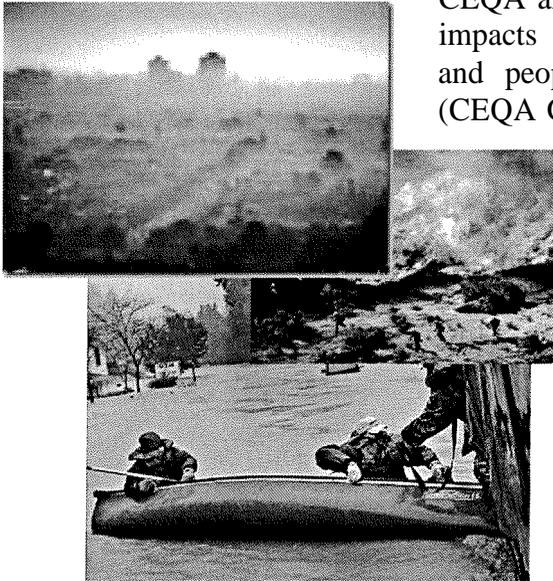
A few air districts in California began developing significance thresholds for use in CEQA analyses in the late 1980’s and early 1990’s. By the mid-1990’s most air districts had developed CEQA thresholds for air quality analyses. Many of the districts have included in their guidance the analysis of rule development and permits that may be subject to CEQA.



What is Not Addressed in this Paper

Impacts of Climate Change to a Project

The focus of this paper is addressing adverse impacts to climate change and the ability to meet statewide GHG reduction goals caused by proposed new land development projects.



CEQA also requires an assessment of significant adverse impacts a project might cause by bringing development and people into an area affected by climate change (CEQA Guidelines §15126.2). For example, an area that experiences higher average temperatures due to climate change may expose new development to more frequent exceedances and higher levels of ozone concentrations. Alternatively, a rise in sea level brought on by climate change may inundate new development locating in a low-lying area. The methodologies, mitigation and threshold approaches discussed in this paper do not specifically address the potential adverse impacts resulting from climate change that may affect a project.

Impacts from Construction Activity

Although construction activity has been addressed in the analytical methodologies and mitigation chapters, this paper does not discuss whether any of the threshold approaches adequately addresses impacts from construction activity. More study is needed to make this assessment or to develop separate thresholds for construction activity. The focus of this paper is the long-term adverse operational impacts of land use development.



Introduction

Any analysis of environmental impacts under CEQA includes an assessment of the nature and extent of each impact expected to result from the project to determine whether the impact will be treated as significant or less than significant. CEQA gives lead agencies discretion whether to classify a particular environmental impact as significant. "The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved," ref: CEQA Guidelines §15064(b) ("Guidelines"). Ultimately, formulation of a standard of significance requires the lead agency to make a policy judgment about where the line should be drawn distinguishing adverse impacts it considers significant from those that are not deemed significant. This judgment must, however, be based on scientific information and other factual data to the extent possible (Guidelines §15064(b)).

CEQA does not require that agencies establish thresholds of significance. Guidelines §15064.7(a) encourages each public agency "...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 normally means the effect will be determined to be less than significant."

Once such thresholds are established, an impact that complies with the applicable threshold will "normally" be found insignificant and an impact that does not comply with the applicable threshold will "normally" be found significant.

Additionally, Guidelines §15064.7(b) requires that if thresholds of significance are adopted for general use as part of the lead agency's environmental review process they must be adopted by ordinance, resolution, rule or regulation, and developed through a public review process and be supported by substantial evidence.

While many public agencies adopt regulatory standards as thresholds, the standards do not substitute for a public agency's use of careful judgment in determining significance. They also do not replace the legal standard for significance (i.e., if there is a fair argument, based on substantial evidence in light of the whole record that the project may have a significant effect, the effect should be considered significant) (Guidelines §15064(f)(1). Also see *Communities for a Better Environment v. California Resource Agency* 103 Cal. App. 4th 98 (2002)). In other words, the adoption of a regulatory standard does not create an irrebuttable presumption that impacts below the regulatory standard are less than significant.

Summary of CEQA Thresholds at Air Districts

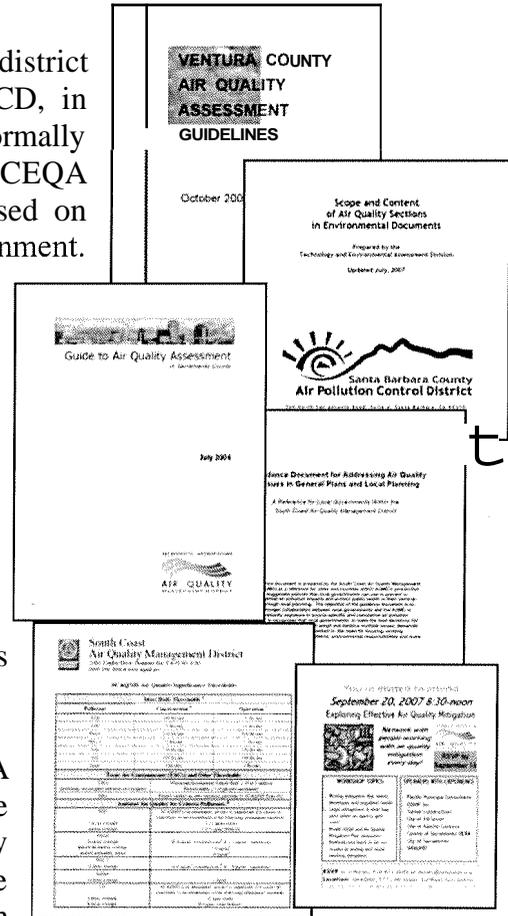
This section briefly summarizes the evolution of air district CEQA significance thresholds. Ventura County APCD, in 1980, was the first air district in California that formally adopted CEQA significance thresholds. Their first CEQA assessment document contained impact thresholds based on project type: residential, nonresidential, and government. Then, as now, the District's primary CEQA thresholds applied only to ROG and NO_x. The 1980 Guidelines did not address other air pollutants.

Santa Barbara County APCD and the Bay Area AQMD adopted thresholds in 1985. The South Coast AQMD recommended regional air quality thresholds in 1987 for CO, SO₂, NO₂, particulates, ROG, and lead. Most of the other California air districts adopted CEQA guidance and thresholds during the 1990's. Air districts have updated their thresholds and guidelines several times since they were first published.

Originally, most districts that established CEQA thresholds focused on criteria pollutants for which the district was nonattainment and the thresholds only addressed project level impacts. Updates during the 1990's began to add additional air quality impacts such as odors, toxic air contaminants and construction. Several air districts also developed thresholds for General Plans that relied on an assessment of the plan consistency with the district's air quality plans. A consistency analysis involves comparing the project's land use to that of the general plan and the population and employment increase to the forecasts underlying the assumptions used to develop the air quality plan.

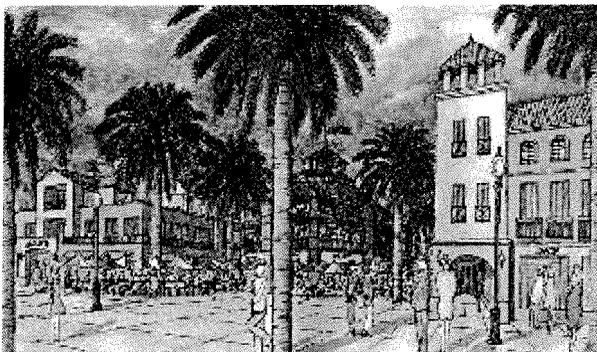
Most air district thresholds for CEQA are based on the threshold for review under the New Source Review (NSR). The NSR threshold level is set by district rule and is different depending on the nonattainment classification of the air district. Areas with a less severe classification have a higher NSR trigger level while the most polluted areas have the lowest NSR trigger level. Some districts, such as Ventura County APCD, have significantly lower CEQA thresholds that are not tied to the NSR requirements. In Ventura, one set of CEQA thresholds is 25 pounds per day for all regions of Ventura County, except the Ojai Valley. The second set of CEQA thresholds was set at 5 pounds per day for the Ojai Valley.

The Sacramento Metropolitan AQMD bases its thresholds for ozone precursors on the projected land use share of emission reductions needed for attainment. The emission reductions needed to reach attainment are based on commitments made in the state implementation plan (SIP) prepared for the federal clean air act.



CEQA Considerations in Setting Thresholds

Public agencies use significance thresholds to disclose to their constituents how they plan on evaluating and characterizing the severity of various environmental impacts that could be associated with discretionary projects that they review. Significance thresholds are also used to help identify the level of mitigation needed to reduce a potentially significant impact to a less than significant level and to determine what type of an environmental document should be prepared for a project; primarily a negative declaration, mitigated negative declaration or an environmental impact report.



While public agencies are not required to develop significance thresholds, if they decide to develop them, they are required to adopt them by ordinance, resolution, rule or regulation through a public process. A lead agency is not restrained from adopting any significance threshold it sees as appropriate, as long as it is based on substantial evidence. CEQA Guidelines § 15064.7 encourages public agencies to develop and publish significance thresholds that are identifiable, quantitative, qualitative or performance level that the agency uses in the determination of the significance of environmental effects. The courts have ruled that a “threshold of significance” for a given environmental effect is simply that level at which the lead agency finds the effects of the project to be significant.

Before an agency determines its course with regard to climate change and CEQA, it must be made clear that a threshold, or the absence of one, will not relieve a lead agency from having to prepare an EIR or legal challenges to the adequacy of an analysis leading to a conclusion, or lack of a conclusion, of significance under CEQA. CEQA has generally favored the preparation of an EIR where there is any substantial evidence to support a fair argument that a significant adverse environmental impact may occur due to a proposed project. This paper explores three alternative approaches to thresholds, including a no threshold option, a zero threshold option and a non-zero threshold option.

Fair Argument Considerations

Under the CEQA fair argument standard, an EIR must be prepared whenever it can be fairly argued, based on substantial evidence in the administrative record, that a project may have a significant adverse effect on the environment. “Substantial evidence” comprises “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” (Guidelines §15384) This means that if factual information is presented to the public agency that there is a reasonable possibility the project could have

project.” (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376)

By itself, establishment of a GHG threshold will not insulate individual CEQA analyses from challenge. Defensibility depends upon the adequacy of the analysis prepared by the lead agency and the process followed. However, the threshold can help to define the boundaries of what is a reasonable analysis by establishing when an analysis will be required and the basic scope of that analysis. The threshold would attempt to define the point at which an analysis will be required and when a level of impact becomes significant, requiring preparation of an EIR. If the threshold includes recommendations for the method or methods of analysis, it can establish the minimum level of analysis to address this issue.

Considerations in Setting Thresholds for Stationary Source Projects

In many respects, the analysis of GHG emissions from stationary sources is much more straightforward than the analysis of land use patterns, forecasted energy consumption, and emissions from mobile sources. The reason is that, for the most part, the latter analyses depend largely on predictive models with myriad inputs and have a wider range of error. Emissions from stationary sources involve a greater reliance on mass and energy balance calculations and direct measurements of emissions from the same or similar sources. Energy demand is more directly tied to production, and even associated mobile source emissions will likely fall within narrower predictive windows.



Implementing CEQA Without a Threshold

A lead agency is not required to establish significance thresholds for GHG emissions from stationary sources. The lead agency may find that it needs more information or experience evaluating GHG from these types of projects to determine an appropriate significance threshold. As with other project types, the lead agency could conduct a project specific analysis to determine whether an environmental impact report is needed and to determine the level of mitigation that is appropriate. The agency might also rely on thresholds established for criteria pollutants as a screening method, and analyze GHG emissions (and require mitigation) from projects with emissions above the criteria pollutant thresholds. Over time, the agency could amass information and experience with specific project categories that would support establishing explicit thresholds. The lead agency may also choose to base local CEQA thresholds on state guidelines or on the category-specific reduction targets established by ARB in its scoping plan for implementing AB32. Resource constraints and other considerations associated with implementing CEQA without GHG thresholds for stationary sources would be similar to those outlined for other types of projects (see Chapter 5 – No Threshold Option).

Implementing CEQA with Threshold of Zero

A lead agency may find that any increase in GHG emissions is potentially significant under CEQA. The resources and other considerations for implementing a threshold of zero for stationary sources are the same as those outlined for other types of projects (see Chapter 6 – Zero Threshold Option).

Implementing CEQA with a Non-Zero Threshold

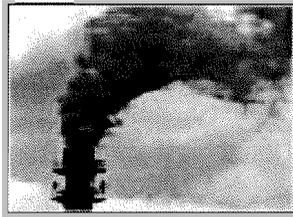
A lead agency may identify one or more non-zero thresholds for significance of emissions of GHG from stationary sources. The agency could elect to rely on existing thresholds for reviewing new or modified stationary sources of GHG, if the state or local air district has established any. The agency could also apply the threshold(s) established for non-stationary sources to GHG emissions from stationary sources. Significance thresholds could also be established by ordinance, rule, or policy for a given category of stationary sources; this approach is especially conducive to a tiered threshold approach. For example, the agency could establish significance and mitigation tiers for stationary compression-ignition diesel-fueled generators. Under such an approach, the project proponent could be first required to use a lower GHG-emitting power source if feasible, and if not, to apply mitigation based on the size of the generator and other defined considerations, such as hours of operation. Certain classes of generators could be found to be insignificant under CEQA (e.g., those used for emergency stand-by power only, with a limit on the annual hours of use). As with non-stationary projects, the goal of establishing non-zero thresholds is to maximize environmental protection, while minimizing resources used. Resource and other considerations outlined for non-stationary projects are applicable here (see Chapter 7 – Non-Zero Threshold Options).

Implementing CEQA with Different Thresholds for Stationary and Non-stationary Projects

Although a lead agency may apply the same thresholds to stationary and non-stationary projects, it is not required to do so. There are, in fact, some important distinctions between the two types of projects that could support applying different thresholds. The lead agency should consider the methods used to estimate emissions. Are the estimates a “best/worst reasonable scenario” or are they based on theoretical maximum operation? How accurate are the estimates (are they based on models, simulations, emission factors, source test data, manufacturer specifications, etc.)? To what extent could emissions be reduced through regulations after the project is constructed if they were found to be greater than originally expected (i.e., is it possible to retrofit emissions control technology onto the source(s) of GHG at a later date, how long is the expected project life, etc.)? Are there emission limits or emissions control regulations (such as New Source Review) that provide certainty that emissions will be mitigated? Generally, stationary source emissions are based on maximum emissions (theoretical or allowed under law or regulation), are more accurate, and are more amenable to retrofit at a later time than non-stationary source emissions. It is also more likely that category specific

rules or some form of NSR will apply to stationary sources than non-stationary projects. Notwithstanding, it is almost always more effective and cost-efficient to apply emission reduction technology at the design phase of a project. There are, therefore, a number of considerations that need to be evaluated and weighed before establishing thresholds – and which may support different thresholds for stationary and non-stationary projects. Furthermore, the considerations may change over time as new regulations are established and as emissions estimation techniques and control technology evolves.

Direct GHG Emissions from Stationary Sources



The main focus of this paper has been the consideration of projects that do not, in the main, involve stationary sources of air pollution, because stationary source projects are generally a smaller percentage of the projects seen by most local land use agencies. That said, some discussion of stationary sources is warranted. As the broader program for regulating GHG from these sources is developed, the strategies for addressing them under CEQA will likely become more refined.

The primary focus of analysis of stationary source emissions has traditionally been those pollutants that are directly emitted by the source, whether through a stack or as fugitive releases (such as leaks). CAPCOA conducted a simplified analysis of permitting activity to estimate the number of stationary source projects with potentially significant emissions of greenhouse gases that might be seen over the course of a year. This analysis looked only at stationary combustion sources (such as boilers and generators), and only considered direct emissions. A lead agency under CEQA may see a different profile of projects than the data provided here suggest, depending on what other resources are affected by projects. In addition, air districts review like-kind replacements of equipment to ensure the new equipment meets current standards, but such actions might not constitute a project for many land use agencies or other media regulators. The data does provide a useful benchmark, however, for lead agencies to assess the order of magnitude of potential stationary source projects. A similar analysis is included for non-stationary projects in Chapter 7.

	BAAQMD	SMAQMD	SJVUAPCD	SCAQMD
Total Applications for Year	1499	778	1535	1179
Affected at threshold of:				
900 metric tons/year	26	43	63	108
10,000 metric tons/year	7	5	26	8
25,000 metric tons/year	3	1	11	4

³ District data varies based on specific local regulations and methodologies.

Emissions from Energy Use

In addition to the direct emissions of GHG from stationary projects, CEQA will likely need to consider the project's projected energy use. This could include an analysis of opportunities for energy efficiency, onsite clean power generation (e.g., heat/energy recovery, co-generation, geothermal, solar, or wind), and the use of dedicated power contracts as compared to the portfolio of generally available power. In some industries, water use and conservation may provide substantial GHG emissions reductions, so the CEQA analysis should consider alternatives that reduce water consumption and wastewater discharge. The stationary project may also have the opportunity to use raw or feedstock materials that have a smaller GHG footprint; material substitution should be evaluated where information is available to do so.



Emissions from Associated Mobile Sources

The stationary project will also include emissions from associated mobile sources. These will include three basic components: emissions from employee trips, emissions from delivery of raw or feedstock materials, and emissions from product transport. Employee trips can be evaluated using trip estimation as is done for non-stationary projects, and mitigations would include such measures as providing access to and incentives for use of public transportation, accessibility for bicycle and pedestrian modes of transport, employer supported car or vanpools (including policies such as guaranteed rides home, etc). Upstream and downstream emissions related to goods movement can also be estimated with available models. The evaluation will need to determine the extent of the transport chain that should be included (to ensure that all emissions in the chain have been evaluated and mitigated, but to avoid double counting). Mitigations could include direct actions by operators who own their own fleet, or could be implemented through contractual arrangements with independent carriers; again, the evaluation will need to consider how far up and down the chain mitigation is feasible and can be reasonably required.



Comparing Emissions Changes Across Pollutant Categories

The potential exists for certain GHG reduction measures to increase emissions of criteria and toxic pollutants known to cause or aggravate respiratory, cardiovascular, and other health problems. For instance, GHG reduction efforts such as alternative fuels and methane digesters may create significant levels of increased pollutants that are detrimental to the health of the nearby population (e.g.; particulate matter, ozone precursors, toxic air contaminants). Such considerations should be included in any CEQA analysis of a project's environmental impacts. While there are many win-win

strategies that can reduce both GHG and criteria/toxic pollutant emissions, when faced with situations that involve tradeoffs between the two, the more immediate public health concerns that may arise from an increase in criteria or toxic pollutant emissions should take precedence. GHG emission reductions could be achieved offsite through other mitigation programs.

Introduction

Under state law, it is the purview of each lead agency to determine what, if any, significance thresholds will be established to guide its review of projects under CEQA. While the state does provide guidelines for implementing CEQA, the guidelines have left the decision of whether to establish thresholds (and if so, at what level) to individual lead agencies. Frequently, lead agencies consult with resource-specific agencies (such as air districts) for assistance in determining what constitutes a significant impact on that specific resource.

With the passage of AB 32, the ARB has broad authority to regulate GHG emissions as necessary to meet the emission reduction goals of the statute. This may include authority to establish emission reduction requirements for new land use projects, and may also enable them to recommend statewide thresholds for GHG under CEQA.

In developing this white paper, CAPCOA recognizes that, as the GHG reduction program evolves over time, GHG thresholds and other policies and procedures for CEQA may undergo significant revision, and that uniform statewide thresholds and procedures may be established. This paper is intended to serve as a resource for public agencies until such time that statewide guidance is established, recognizing that decisions will need to be made about GHG emissions from projects before such guidance is available. This paper is not, however, uniform statewide guidance. As stated before, it outlines several possible approaches without endorsing any one over the others.

Some air districts may choose to use this paper to support their establishment of guidance for GHG under CEQA, including thresholds. This paper does not, nor should it be construed to require a district to implement any of the approaches evaluated here. Decisions about whether to provide formal local guidance on CEQA for projects with GHG emissions, including the question of thresholds, will be made by individual district boards.

Each of the 35 air districts operates independently and has its own set of regulations and programs to address the emissions from stationary, area and mobile sources, consistent with state and federal laws, regulations, and guidelines. The independence of the districts allows specific air quality problems to be addressed on a local level. In addition, districts have also established local CEQA thresholds of significance for criteria pollutants – also to address the specific air quality problems relative to that particular district.

The overall goal of air district thresholds is to achieve and maintain health based air quality standards within their respective air basins and to reduce transport of emissions to other air basins. In establishing recommended thresholds, air districts consider the existing emission inventory of criteria pollutants and the amount of emission reductions needed to attain and maintain ambient air quality standards.

However, unlike criteria pollutants where individual districts are characterized by varying levels of pollutant concentrations and source types, greenhouse gases (GHG) and their attendant climate change ramifications are a global problem and, therefore, may suggest a uniform approach to solutions that ensure both progress and equity.

Under SB97, the Office of Planning and Research is directed to prepare, develop, and transmit to the Resources Agency guidelines for the feasible mitigation of GHG emissions or the effects of GHG emissions through CEQA by July 1, 2009. Those guidelines may recommend thresholds. As stated, this paper is intended to provide a common platform of information and tools to support local decision makers until such time that statewide guidance or requirements are promulgated.

Local Ability to Promulgate District-Specific GHG Thresholds

One of the primary reasons behind the creation of air districts in California is the recognition that some regions within the state face more critical air pollution problems than others and, as has often been pointed out – one size does not fit all. For example, a "Serious" federal nonattainment district would need greater emission reductions than a district already in attainment – and, therefore, the more "serious" district would set its criteria pollutant CEQA thresholds of significance much lower than the air district already in attainment.

The action of GHGs is global in nature, rather than local or regional (or even statewide or national). Ultimately there may be a program that is global, or at least national in scope. That said, actions taken by a state, region, or local government can contribute to the solution of the global problem. Local governments are not barred from developing and implementing programs to address GHGs. In the context of California and CEQA, lead agencies have the primary responsibility and authority to determine the significance of a project's impacts.

Further, air districts have primary authority under state law for "control of air pollution from all sources, other than emissions from motor vehicles." (H&SC §40000) The term air contaminant or "air pollutant" is defined extremely broadly, to mean "any discharge, release, or other propagation into the atmosphere" and includes, but is not limited to, soot, carbon, fumes, gases, particulate matter, etc. Greenhouse gases and other global warming pollutants such as black carbon would certainly be included in this definition, just as the U.S. Supreme Court held in *Massachusetts v. EPA* that greenhouse gases were air pollutants under the federal Clean Air Act. Therefore, air districts have the primary authority to regulate global warming pollutants from nonvehicular sources. AB 32 does not change this result. Although it gives wide responsibility to CARB to regulate greenhouse gases from all sources, including nonvehicular sources, it does not preempt the districts. AB 32 specifically states That "nothing in this division shall limit or expand the existing authority of any district.."(H&SC § 38594). Thus, districts and CARB retain concurrent authority over nonvehicular source greenhouse gas emissions.

Introduction

The CEQA statutes do not require an air district or any lead agency to establish significance thresholds under CEQA for any pollutant. While there are considerations that support the establishment of thresholds (which are discussed in other sections of this document), there is no obligation to do so.

An air district or other lead agency may elect not to establish significance thresholds for a number of reasons. The agency may believe that the global nature of the climate change problem necessitates a statewide or national framework for consideration of environmental impacts. SB 97 directs OPR to develop “guidelines for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions by July 1, 2009,” and directs the California Resources Agency to certify and adopt the guidelines by June 30, 2010.



An agency may also believe there is insufficient information to support selecting one specific threshold over another. As described earlier, air districts have historically set CEQA thresholds for air pollutants in the context of the local clean air plan, or (in the case of toxic air pollutants) within the framework of a rule or policy that manages risks and exposures due to toxic pollutants. There is no current framework that would similarly manage impacts of greenhouse gas pollutants, although the CARB is directed to establish one by June 30, 2009, pursuant to AB 32. A local agency may decide to defer any consideration of thresholds until this framework is in place.

Finally, an agency may believe that the significance of a given project should be assessed on a case-by-case basis in the context of the project at the time it comes forward.

Implementing CEQA Without Significance Thresholds for GHG

The absence of a threshold does not in any way relieve agencies of their obligations to address GHG emissions from projects under CEQA. The implications of not having a threshold are different depending on the role the agency has under CEQA – whether it is acting in an advisory capacity, as a responsible agency, or as a lead agency.

Implications of No Thresholds for an Agency Acting in an Advisory Capacity

Air districts typically act in an advisory capacity to local governments in establishing the framework for environmental review of air pollution impacts under CEQA. This may include recommendations regarding significance thresholds, analytical tools to assess emissions and impacts, and mitigations for potentially significant impacts. Although districts will also address some of these issues on a project-specific basis as responsible agencies, they may provide general guidance to local governments on these issues that

are program wide, and these are advisory (unless they have been established by regulation).

An air district that has not established significance thresholds for GHG will not provide guidance to local governments on this issue. This does not prevent the local government from establishing thresholds under its own authority. One possible result of this would be the establishment of different thresholds by cities and counties within the air district. Alternatively, the air district could advise local governments not to set thresholds and those jurisdictions may follow the air district's guidance.

It is important to note here (as has been clearly stated by the Attorney General in comments and filings) that lack of a threshold does *not* mean lack of significance. An agency may argue lack of significance for any project, but that argument would have to be carried forth on a case-by-case, project specific basis. By extension then, a decision not to establish thresholds for GHG is likely to result in a greater workload for responsible and lead agencies as they consider individual projects under CEQA.

Implications of No Thresholds for a Responsible Agency

If there are no established thresholds of significance, the significance of each project will have to be determined during the course of review. The responsible agency (e.g., the air district) will review each project referred by the lead agency. The review may be qualitative or quantitative in nature. A qualitative review would discuss the nature of GHG emissions expected and their potential effect on climate change as the district understands it. It could also include a discussion of the relative merits of alternative scenarios. A quantitative analysis would evaluate, to the extent possible, the expected GHG emissions; it would also need to evaluate their potential effect on climate change and might include corresponding analysis of alternatives. The air district, as a responsible agency, may also identify mitigation measures for the project.

The lack of established thresholds will make the determination of significance more resource intensive for each project. The district may defer to the lead agency to make this determination, however the district may be obligated, as a responsible agency, to evaluate the analysis and determination.



Implications of No Thresholds for a Lead Agency

The main impact of not having significance thresholds will be on the primary evaluation of projects by the lead agency. Without significance thresholds, the agency will have to conduct some level of analysis of every project to determine whether an environmental impact report is needed. There are three fundamental approaches to the case-by-case analysis of significance, including presumptions of significance or insignificance, or no presumption:

1. The agency can begin with a presumption of significance and the analysis would be used to support a case-specific finding of no significance. This is similar to establishing a threshold of zero, except that here, the “threshold” is rebuttable. This approach may result in a large number of projects proceeding to preparation of an environmental impact report. Because of the attendant costs, project proponents may challenge the determination of significance, although formal challenge is less likely than attempts to influence the determination.

2. The agency can begin with a presumption of insignificance, and the analysis would be used to support a case-specific finding of significance. A presumption of insignificance could be based on the perspective that it would be speculative to attempt to identify the significance of GHG emissions from a project relative to climate change on a global scale. This approach might reduce the number of projects proceeding to preparation of environmental impact reports. It is likely to have greater success with smaller projects than larger ones, and a presumption of *insignificance* may be more likely to be challenged by project opponents.

3. It is not necessary for the lead agency to have any presumption either way. The agency could approach each project from a *tabula rasa* perspective, and have the determination of significance more broadly tied to the specific context of the project; this approach is likely to be resource intensive, and creates the greatest uncertainty for project proponents. To the extent that it results in a lead agency approving similar projects based on different determinations of significance for GHG emissions, it may be more vulnerable to challenge from either proponents or opponents of the project. Alternatively, in the absence of either thresholds or presumptions, the lead agency could use each determination of significance to build its approach in the same way that subsequent judgments define the law.



Relevant Citations

The full text of relevant citations is in Appendix A.

Public Resources Code – 921082.2, 'Significant Effect on Environment; Determination; Environmental Impact Report Preparation.

State CEQA Guidelines – § 15064, Determining the Significance of the Environmental Effects Caused by a Project.

Introduction

If an air district or lead agency determines that any degree of project-related increase in GHG emissions would contribute considerably to climate change and therefore would be a significant impact, it could adopt a zero-emission threshold to identify projects that would need to reduce their emissions. A lead agency may determine that a zero-emission threshold is justified even if other experts may disagree. A lead agency is not prevented from adopting any significance threshold it sees as appropriate, as long as it is based on substantial evidence.

If the zero threshold option is chosen, all projects subject to CEQA would be required to quantify and mitigate their GHG emissions, regardless of the size of the project or the availability of GHG reduction measures available to reduce the project's emissions. Projects that could not meet the zero-emission threshold would be required to prepare environmental impact reports to disclose the unmitigable significant impact, and develop the justification for a statement of overriding consideration to be adopted by the lead agency.



Implementing CEQA With a Zero Threshold for GHG

The scientific community overwhelmingly agrees that the earth's climate is becoming warmer, and that human activity is playing a role in climate change. Unlike other environmental impacts, climate change is a global phenomenon in that all GHG emissions generated throughout the earth contribute to it. Consequently, both large and small GHG generators cause the impact. While it may be true that many GHG sources are individually too small to make any noticeable difference to climate change, it is also true that the countless small sources around the globe combine to produce a very substantial portion of total GHG emissions.

A zero threshold approach is based on a belief that, 1) all GHG emissions contribute to global climate change and could be considered significant, and 2) not controlling emissions from smaller sources would be neglecting a major portion of the GHG inventory.

CEQA explicitly gives lead agencies the authority to choose thresholds of significance. CEQA defers to lead agency discretion when choosing thresholds. Consequently, a zero-emission threshold has merits.

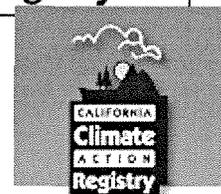
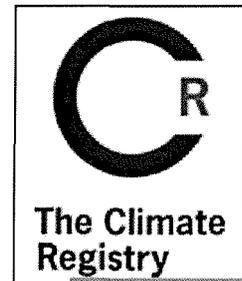
The CEQA review process for evaluating a project's impact on global climate change under the zero threshold option would involve several components. Air quality sections would be written by lead agencies to include discussions on climate change in CEQA documents, GHG emissions would be calculated, and a determination of significance would be made. The local air districts would review and comment on the climate change discussions in environmental documents. Lead agencies may then revise final EIRs to accommodate air district comments. More than likely, mitigation measures will be specified for the project, and a mitigation monitoring program will need to be put in place to ensure that these measures are being implemented.

Since CEQA requires mitigation to a less than significant level, it is conceivable that many projects subjected to a zero threshold could only be deemed less than significant with offsite reductions or the opportunity to purchase greenhouse gas emission reduction credits. GHG emission reduction credits are becoming more readily available however the quality of the credits varies considerably. High quality credits are generated by actions or projects that have clearly demonstrated emission reductions that are real, permanent, verifiable, enforceable, and not otherwise required by law or regulation. When the pre- or post-project emissions are not well quantified or cannot be independently confirmed, they are considered to be of lesser quality. Similarly, if the reductions are temporary in nature, they are also considered to be poor quality. Adoption of a zero threshold should consider the near-term availability and the quality of potential offsets.

There are also environmental justice concerns about the effects of using offsite mitigations or emission reduction credits to offset, or mitigate, the impacts of a new project. Although GHGs are global pollutants, some of them are emitted with co-pollutants that have significant near-source or regional impacts. Any time that increases in emissions at a specific site will be mitigated at a remote location or using emission reduction credits, the agency evaluating the project should ensure that it does not create disproportionate impacts.

Administrative Considerations

If electing to pursue a zero threshold, an air district or lead agency should consider the administrative costs and the environmental review system capacity. Some projects that previously would have qualified for an exemption could require further substantial analysis, including preparation of a Negative Declaration (ND), a Mitigated Negative Declaration (MND) or an EIR. Moreover, the trade-offs between the volume of projects requiring review and the quality of consideration given to reviews should be considered. It may also be useful to consider whether meaningful mitigation can be achieved from smaller projects.



Consideration of Exemptions from CEQA

A practical concern about identifying GHG emissions as a broad cumulative impact is whether the zero threshold option will preclude a lead agency from approving a large set of otherwise qualified projects utilizing a Categorical Exemption, ND, or MND. The results could be a substantial increase in the number of EIR's. This is a valid and challenging concern, particularly for any threshold approach that is based on a zero threshold for net GHG emission increases.

CEQA has specified exceptions to the use of a categorical exemption. Specifically, CEQA Guidelines § 15300.2 includes the following exceptions:

“(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.”

“(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.”

These CEQA Guidelines sections could be argued to mean that any net increase in GHG emissions would preclude the use of a categorical exemption. However, as described below, if the following can be shown, then the exceptions above could be argued not to apply:

- (1) Cumulative local, regional and/or state GHG emissions are being reduced or will be reduced by adopted, funded, and feasible measures in order to meet broader state targets.
- (2) Mandatory state or local GHG reduction measures would apply to the project's emissions such that broader GHG reduction goals would still be met and the project contributions would not be cumulatively considerable.
- (3) Project GHG emissions are below an adopted significance threshold designed to take into account the cumulative nature of GHG emissions.

A similar argument could be made relative to the use of a ND (provided no additional mitigation (beyond existing mandates) is required to control GHG emissions) and to the use of a MND instead of an EIR. However, due to the “fair argument” standard, which is discussed in Chapter 3, caution is recommended in use of a ND or MND unless all three elements above can be fully supported through substantial evidence and there is no substantial evidence to the contrary. Establishing a significance threshold of zero is likely to preclude the use of a categorical exemption.

Relevant Citations

The full text of relevant citations is in Appendix A.

Public Resources Code – §21004, Mitigating or Avoiding a Significant Effect; Powers of Public Agency.

State CEQA Guidelines – § 15064, Determining the Significance of the Environmental Effects Caused by a Project.

State CEQA Guidelines – § 15130, Discussion of Cumulative Impacts.

State CEQA Guidelines – § 15064.7, Thresholds of Significance.

Introduction

A non-zero threshold could minimize the resources spent reviewing environmental analyses that do not result in real GHG reductions or to prevent the environmental review system from being overwhelmed. The practical advantages of considering non-zero thresholds for GHG significance determinations can fit into the concept regarding whether the project's GHG emissions represent a "considerable contribution to the cumulative impact" and therefore warrant analysis.

Specifying a 11011-zero threshold could be construed as setting a *de minimis* value for a cumulative impact. In effect, this would be indicating that there are certain GHG emission sources that are so small that they would not contribute substantially to the global GHG budget. This could be interpreted as allowing public agencies to approve certain projects without requiring any mitigation of their GHG. Any threshold framework should include a proper context to address the *de minimis* issue. However, the CEQA Guidelines recognize that there may be a point where a project's contribution, although above zero, would not be a *considerable contribution* to the cumulative impact and, therefore, not trigger the need for a significance determination.

GHG emissions from all sources are under the purview of CARB and as such may eventually be "regulated" no matter how small. Virtually all projects will result in some direct or indirect release of GHG. However, a decision by CARB to regulate a class of sources does not necessarily mean that an individual source in that class would constitute a project with significant GHG impacts under CEQA. For example, CARB has established criteria pollutant emission standards for automobiles, but the purchase and use of a single new car is not considered a project with significant impacts under CEQA. At the same time, it is important to note that it is likely that all meaningful sources of emissions, no matter how small are likely to be considered for regulation under AB 32. It is expected that projects will have to achieve some level of GHG reduction to comply with CARB's regulations meant to implement AB 32. As such all projects will have to play a part in reducing our GHG emissions budget and no project, however small, is truly being considered *de minimis* under CARB's regulations.

This chapter evaluates a range of conceptual approaches toward developing GHG significance criteria. The air districts retained the services of J&S an environmental consulting, firm to assist with the development of a Statute and Executive Order-based threshold (Approach 1) and a tiered threshold (Approach 2) based on a prescribed list of tasks and deliverables. Time and financial constraints limited the scope and depth of this analysis, however, the work presented here may be useful in developing interim guidance while AB 32 is being implemented. J&S recognized that approaches other than those described here could be used.

As directed, J&S explored some overarching issues, such as:

- what constitutes "new" emissions?

- how should “baseline emissions” be established?
- what is cumulatively “considerable” under CEQA?
- what is “business as usual” ? and
- should an analysis include “life-cycle” emissions?

The answers to these issues were key to evaluating each of the threshold concepts.

Approach 1 – Statute and Executive Order Approach

Thresholds could be grounded in existing mandates and their associated GHG emission reduction targets. A project would be required to meet the targets, or reduce GHG emissions to the targets, to be considered less than significant.

AB 32 and S-3-05 target the reduction of statewide emissions. It should be made clear that AB 32 and S-3-05 do not specify that the emissions reductions should be achieved through uniform reduction by geographic location or by emission source characteristics. For example, it is conceivable, although unlikely, that AB 32 goals could be achieved by new regulations that only apply to urban areas or that only apply to the transportation and/or energy sector. However, this approach to evaluating GHG under CEQA is based on the presumption that a new project must at least be consistent with AB 32 GHG emission reduction mandates.

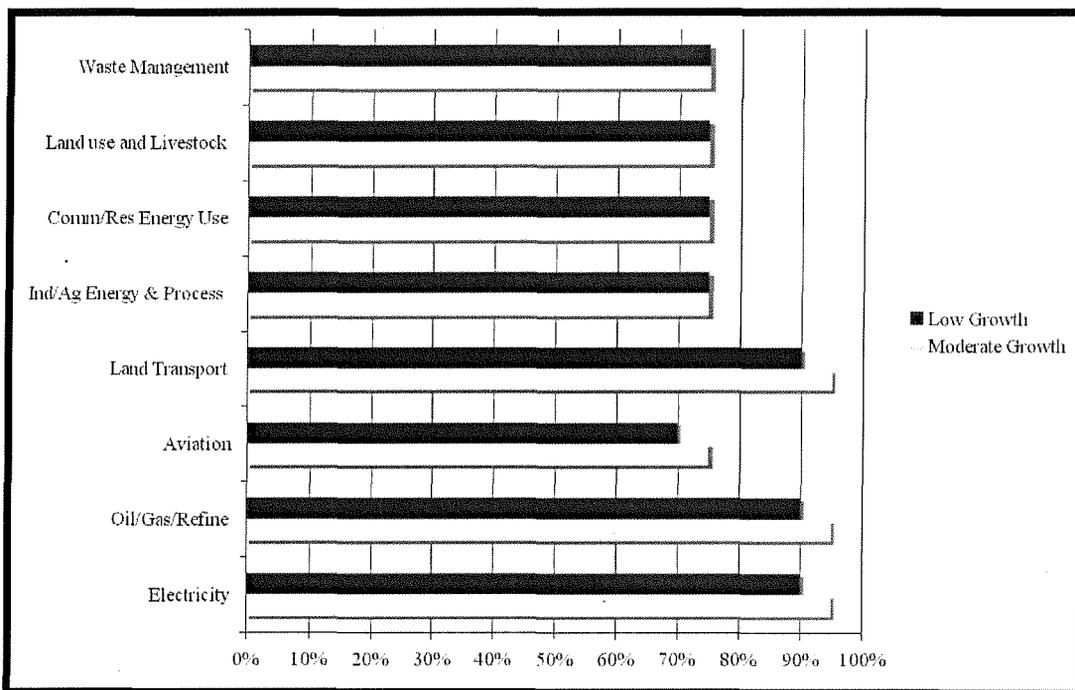
The goal of AB 32 and S-3-05 is the significant reduction of future GHG emissions in a state that is expected to rapidly grow in both population and economic output. As such, there will have to be a significant reduction in the per capita GHG output for these goals to be met. CEQA is generally used to slow or zero the impact of new emissions, leaving the reduction of existing emission sources to be addressed by other regulatory means. With these concepts in mind, four options were identified for statute/executive order-based GHG significance thresholds and are described below.

Threshold 1.1: AB 32/S-3-05 Derived Uniform Percentage-Based Reduction. AB 32 requires the state to reduce California-wide GHG emissions to 1990 levels by 2020. Reducing greenhouse gas emission levels from 2020 to 1990 levels could require a 28 to 33 percent reduction of business-as-usual GHG emissions depending on the methodology used to determine the future emission inventories. The exact percent reduction may change slightly once CARB finalizes its 1990 and 2020 inventory estimates. In this context, business-as-usual means the emissions that would have occurred in the absence of the mandated reductions. The details of the business-as-usual scenario are established by CARB in the assumptions it uses to project what the state’s GHG emissions would have been in 2020, and the difference between that level and the level that existed in 1990 constitutes the reductions that must be achieved if the mandated goals are to be met.

Chapter 7

- CEQA with Non-Zero GHG Thresholds
- Approach 1: Statute and Executive Order
- 1.1: AB32/S-3-05 Derived Uniform Percentage-Based Reduction

This threshold approach would require a project to meet a percent reduction target based on the average reductions needed from the business-as-usual emission from all GHG sources. Using the 2020 target, this approach would require all discretionary projects to achieve a 33 percent reduction from projected business-as-usual emissions in order to be considered less than significant. A more restrictive approach would use the 2050 targets. S-3-05 seeks to reduce GHG emissions to 80 percent below 1990 levels by 2050. To reach the 2050 milestone would require an estimated 90 percent reduction (effective immediately) of business-as-usual emissions. Using this goal as the basis for a significance threshold may be more appropriate to address the long-term adverse impacts associated with global climate change. Note that AB 32 and S-3-05 set emission inventory goals at milestone years; it is unclear how California will progress to these goals in non-milestone years.



SOURCE: ARB 2007

Threshold 1.2: Uniform Percentage-Based (e.g.50%) Reduction for New Development.

This threshold is based on a presumption that new development should contribute a greater percent reduction from business-as-usual because greater reductions can be achieved at lower cost from new projects than can be achieved from existing sources. This approach would establish that new development emit 50 percent less GHG emissions than business-as-usual development. This reduction rate is greater than the recommended reduction rate for meeting the Threshold 1.1 2020 target (33 percent) but is significantly less restrictive than the Threshold 1.1 2050 target reduction rate (90 percent). If a 50 percent GHG reduction were achieved from new development, existing emissions would have to be reduced by 25 to 30 percent in order to meet the 2020 emissions goal depending on the year used to determine the baseline inventory. Although this reduction goal is reasonable for achieving the 2020 goal, it would not be possible to

reach the 2050 emissions target with this approach even if existing emissions were 100 percent controlled.

Threshold 1.3: Uniform Percentage-Based Reduction by Economic Sector. This threshold would use a discrete GHG reduction goal specific to the economic sector associated with the project. There would be specific reduction goals for each economic sector, such as residential, commercial, and industrial development. Specifying different reduction thresholds for each market sector allows selection of the best regulatory goal for each sector taking into account available control technology and costs. This approach would avoid over-regulating projects (i.e. requiring emissions to be controlled in excess of existing technology) or under-regulating projects (i.e. discouraging the use of available technology to control emissions in excess of regulations). This approach requires extensive information on the emission inventories and best available control technology for each economic sector. This data will be compiled as CARB develops its scoping plan under AB 32 and its implementing regulations; as a result, this approach will be more viable in the long term.

Threshold 1.4: Uniform Percentage-Based Reduction by Region. AB 32 and S-3-05 are written such that they apply to a geographic region (i.e. the entire state of California) rather than on a project or sector level. One could specify regions of the state such as the South Coast Air Basin, Sacramento Valley, or Bay Area which are required to plan (plans could be developed by regional governments, such as councils of governments) and demonstrate compliance with AB 32 and S-3-05 reduction goals at a regional level. To demonstrate that a project has less than significant emissions, one would have to show compliance with the appropriate regional GHG plan. Effectively this approach allows for analysis of GHG emissions at a landscape scale smaller than the state as a whole.

Specifying regions in rough correlation to existing air basins or jurisdictional control allows for regional control of emissions and integration with regional emission reduction strategies for criteria and toxic air pollutants. Although differing GHG reduction controls for each region are possible, it is likely that all regions would be

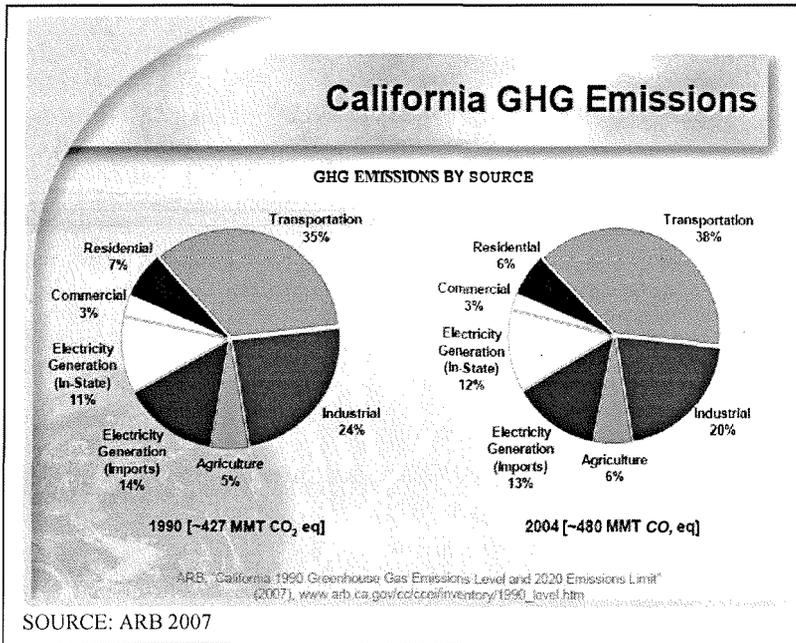


required to achieve 1990 emission inventories by the year 2020 and 80 percent less emissions by 2050. Threshold 1.4 is considered viable long-term significance criteria that is unlikely to be used in the short term.

Implementing CEQA Thresholds Based on Emission Reduction Targets

Characterizing Baseline and Project Emissions

While the population and economy of California is expanding, all new projects can be considered to contribute new emissions. Furthermore, GHG impacts are exclusively cumulative impacts; there are no non-cumulative GHG emission impacts from a climate change perspective. “Business-as-usual” is the projection of GHG emissions at a future date based on current technologies and regulatory requirements in absence of other reductions. For example to determine the future emissions from a power plant for “business-as-usual” one would multiply the projected energy throughput by the current emission factor for that throughput. If adopted regulations such as those that may be promulgated by CARB



for AB 32) dictate that power plant emissions must be reduced at some time in the future, it is appropriate to consider these regulation standards as the new business-as-usual for a future date. In effect, business-as-usual will continue to evolve as regulations manifest. Note that “business-as-usual” defines the CEQA No Project conditions, but does not necessarily form the baseline under

CEQA. For instance, it is common to subtract the future traffic with and without a project to determine the future cumulative contribution of a project on traffic conditions. However, existing conditions at the time of issuance of the notice of preparation is normally the baseline.

Establishing Emission Reduction Targets

One of the obvious drawbacks to using a uniform percent reduction approach to GHG control is that it is difficult to allow for changes in the 1990 and future emission inventories estimates. To determine what emission reductions are required for new projects one would have to know accurately the 1990 budget and efficacy of other GHG promulgated regulations as a function of time. Since CARB will not outline its

regulation strategy for several more years, it is difficult to determine accurately what the new project reductions should be in the short term. Future updates to the 1990 inventory could necessitate changes in thresholds that are based on that inventory. It is important to note that it is difficult to create near term guidance for a uniform reduction threshold strategy since it would require considerable speculation regarding the implementation and effectiveness of forthcoming CARB regulations.

Of greater importance are the assumptions used to make the projected 2020 emission inventories. Projecting future inventories over the next 15-50 years involves substantial uncertainty. Furthermore, there are likely to be federal climate change regulations and possibly additional international GHG emission treaties in the near future. To avoid such speculation, this paper defines all future emission inventories as hypothetical business-as-usual projections.

This white paper is intended to support local decisions about CEQA and GHG in the near term. During this period, it is unlikely that a threshold based on emission reduction targets would need to be changed. However, it is possible that future inventory updates will show that targets developed on the current inventory were not stringent enough, or were more stringent than was actually needed.

Approach 2 – Tiered Approach

The goal of a tiered threshold is to maximize reduction predictability while minimizing administrative burden and costs. This would be accomplished by prescribing feasible mitigation measures based on project size and type, and reserving the detailed review of an EIR for those projects of greater size and complexity. This approach may require inclusion in a General Plan, or adoption of specific rules or ordinances in order to fully and effectively implement it.

A tiered CEQA significance threshold could establish different levels at which to determine if a project would have a significant impact. The tiers could be established based on the gross GHG emission estimates for a project or could be based on the physical size and characteristics of the project. This approach would then prescribe a set of GHG mitigation strategies that would have to be incorporated into the project in order for the project to be considered less than significant.

The framework for a tiered threshold would include the following:

- disclosure of GHG emissions for all projects;
- support for city/county/regional GHG emissions reduction planning;
- creation and use of a “green list” to promote the construction of projects that have desirable GHG emission characteristics;
- a list of mitigation measures;

- a decision tree approach to tiering; and
- quantitative or qualitative thresholds.

Decision-Tree Approach to Tiering

CEQA guidance that allows multiple methodologies to demonstrate GHG significance will facilitate the determination of significance for a broad range of projects/plans that would otherwise be difficult to address with a single non-compound methodology. Even though there could be multiple ways that a project can determine GHG significance using a decision-tree approach, only one methodology need be included in any single CEQA document prepared by the applicant. The presence of multiple methodologies to determine significance is designed to promote flexibility rather than create additional analysis overhead. Figure 1 shows a conceptual approach to significance determination using a tiered approach that shows the multiple routes to significance determination.

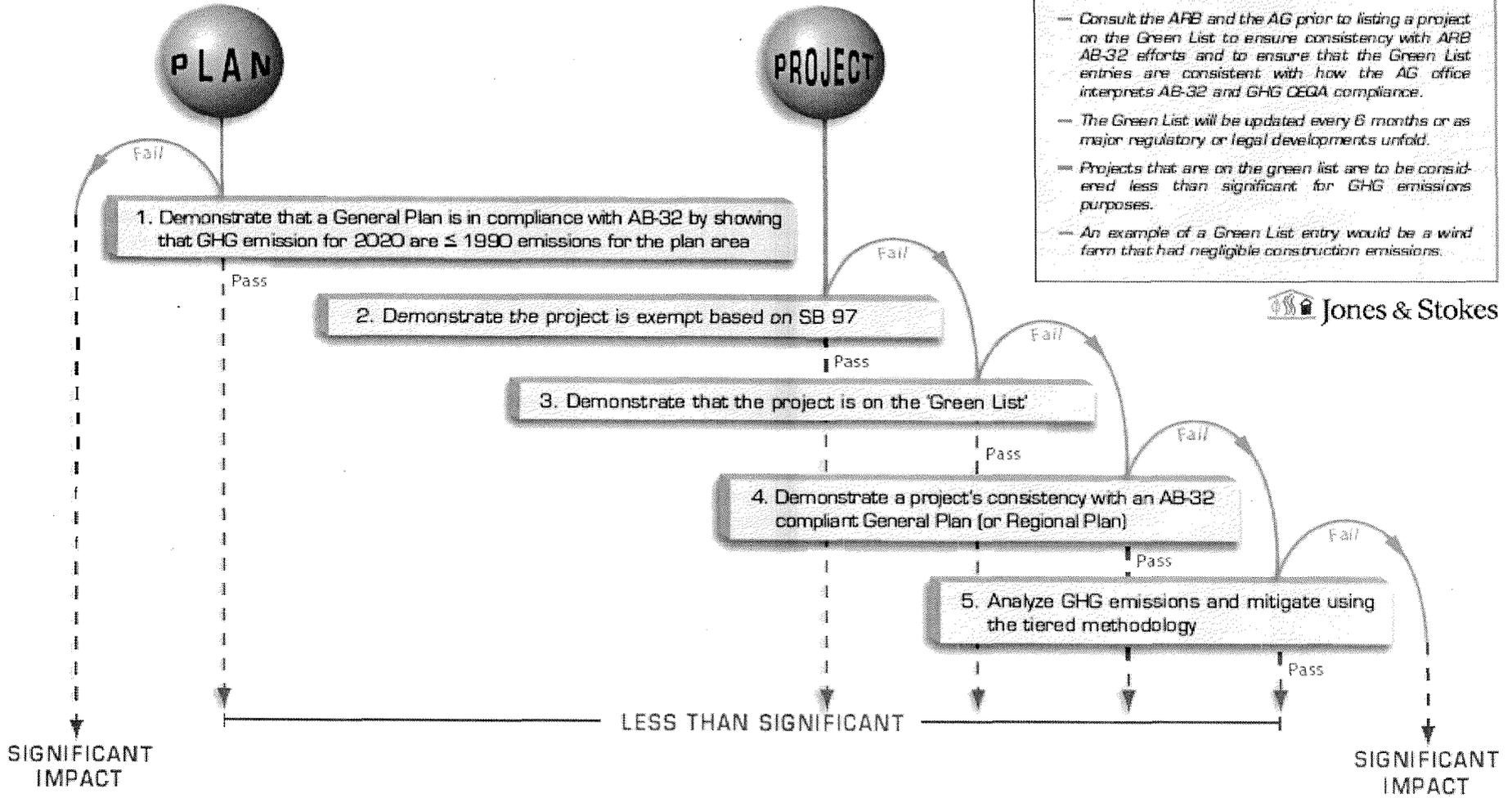
Figure 1 Detail Description

Figure 1 pictorially represents how an agency can determine a project's or plan's significance for CEQA analysis using the non-zero threshold methodology. The emissions associated with a project/plan are assumed to have a significant impact unless one can arrive at a less-than-significant finding by at least one of the methodologies below.

1. Demonstrate that a General Plan (GP) or Regional Plan is in Compliance with AB32
 - For most GPs or RPs this will require demonstration that projected 2020 emissions will be equal to or less than 1990 emissions.
 - GPs or RPs are expected to fully document 1990 and 2020 GHG emission inventories.
 - Projection of 2020 emissions is complicated by the fact that CARB is expected to promulgate emission reductions in the short term. Until explicit CARB regulations are in place, unmitigated GP 2020 emission inventories represent business-as-usual scenarios.
 - EIRs for GPs or RPs which demonstrate 2020 mitigated emissions are less than or equal to 1990 emissions are considered less than significant.
2. Demonstrate the Project is Exempt Based on SB 97
 - As specified in SB 97, projects that are funded under November 2006 Proposition 1B (Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act) and 1C (Disaster Preparedness and Flood Prevention Bond Act) may be exempt from analysis until January 1, 2010.

Climate Change Significance Criteria Flow Chart

- This chart pictorially represents how an agency can determine a project's or plan's significance for CEQA analysis.
- The emissions associated with a project/plan are assumed to have a significant impact unless one can arrive at a less-than-significant finding by at least one of the methodologies below.



 Jones & Stokes

060802.07 GHG Emissions (rev. 10/07)

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Figure 1
Climate Change Significance Criteria Flow Chart

- An exemption can be used in an ND, MND, or EIR to support a less than significant finding for GHG impacts.
3. Demonstrate that the Project is on the ‘Green List’
- This list would include projects that are deemed a positive contribution to California efforts to reduce GHG emissions. If the project is of the type described on the Green List it is considered less than significant.
 - If the Green List entry description requires mitigation for impacts other than GHG, this methodology can be used in MNDs or EIRs; if the Green List entry does not require mitigation this methodology can be used in NDs, MNDs, or EIRs.
4. Demonstrate a Project’s Compliance with a General Plan
- If a project is consistent with an appropriate General Plan’s Greenhouse Gas Reduction Plan (GGRP), a project can be declared less than significant.
 - Note that at this time there are no known jurisdictions that have a GGRP that has been fully subject to CEQA review. While Marin County has adopted a forward-thinking GGRP and it is described in the most recent GP update, the associated EIR does not analyze the secondary environmental impacts of some of the GGRP measures such as tidal energy. While one can reference GGRPs that have not been reviewed fully in CEQA, to attempt to show a project’s GHG emission contributions are less than significant may not be supported by substantial evidence that cumulative emissions are being fully addressed in the particular jurisdiction.
 - Compliance with a CEQA-vetted GGRP can be cited as evidence for all CEQA documents (Categorical Exemption, ND, MND, and EIR).
5. Analyze GHG Emissions and Mitigate using the Tiered Methodology
- Guidance and mitigation methodology for various development projects (residential, commercial, industrial) are listed in the form of tiered thresholds. If a project incorporates the mitigation measures specified in the tiered threshold tables the project is considered less than significant.
 - All project emissions are considered less than significant if they are less than the threshold(s).
 - If the tiered approach requires mitigation, this methodology can be used in MNDs or EIRs; if the tiered approach does not require mitigation this methodology can be used in NDs, MNDs, or EIRs.

The Green List

- The Green List would be a list of projects and project types that are deemed a positive contribution to California's efforts to reduce GHG emissions.
- If this approach is followed, it is suggested that CARB and the Attorney General (AG) are consulted prior to listing a project on the Green List to ensure consistency with CARB AB 32 efforts and to ensure that the Green List entries are consistent with how the AG office interprets AB 32 and GHG CEQA compliance.
- The Green List should be updated every 6 months or as major regulatory or legal developments unfold.
- Projects that are on the Green List are to be considered less than significant for GHG emissions purposes.
- A tentative list of potential Green List entries is presented below. Actual Green List entries should be far more specific and cover a broad range of project types and mitigation approaches. The list below is merely a proof-of-concept for the actual Green List.
 1. Wind farm for the generation of wind-powered electricity
 2. Extension of transit lines to currently developed but underserved communities
 3. Development of high-density infill projects with easily accessible mass transit
 4. Small hydroelectric power plants at existing facilities that generate 5 mw or less (as defined in Class 28 Categorical Exemption)
 5. Cogeneration plants with a capacity of 50 mw or less at existing facilities (as defined in Class 29 Cat Exemption)
 6. Increase in bus service or conversion to bus rapid transit service along an existing bus line
 7. Projects with LEED "Platinum" rating
 8. Expansion of recycling facilities within existing urban areas
 9. Recycled water projects that reduce energy consumption related to water supplies that services existing development
 10. Development of bicycle, pedestrian, or zero emission transportation infrastructure to serve existing regions

There are also several options for tiering and thresholds, as shown in Table 2 below. One could establish strictly numeric emissions thresholds and require mitigation to below the specific threshold to make a finding of less than significant. One could establish narrative emissions threshold that are based on a broader context of multiple approaches to GHG reductions and a presumption that projects of sufficiently low GHG intensity are less than significant.

In Concept 2A, a zero threshold would be applied to projects and thus only projects that result in a reduction of GHG emissions compared to baseline emissions would be less than significant absent mitigation. All projects would require quantified inventories. All projects that result in a net increase of GHG emissions would be required to mitigate their emissions to zero through direct mitigation or through fees or offsets or the impacts

Table 2 Approach 2 Tiering Option

	Concept 2A Zero	Concept 2B Quantitative	Concept 2C Qualitative
Tier 1	Project results in a net reduction of GHG emissions <i>Less than Significant</i>	Project in compliance with an AB 32-compliant General/Regional Plan, on the Green List, or below Tier 2 threshold. Level 1 Reductions (Could include such measures as: bike parking, transit stops for planned route, Energy Star roofs, Energy Star appliances, Title 24, water use efficiency, etc.) <i>Less than Significant</i>	Project in compliance with an AB 32-compliant General/Regional Plan, on the Green List, or below Tier 2 threshold. Level 1 Reductions (See measures under 2B) <i>Less than Significant</i>
Tier 2	Project results in net increase of GHG emissions Mitigation to zero (including offsets) <i>Mitigated to Less than Significant</i>	Above Tier 2 threshold Level 2 Mitigation (Could include such measures as: Parking reduction beyond code, solar roofs, LEED Silver or Gold Certification, exceed Title 24 by 20%, TDM measures, etc.) <i>Mitigated to Less than Significant</i>	Above Tier 2 threshold Level 2 Mitigation (See measures under 2B) <i>Mitigated to Less than Significant</i>
Tier 3	Mitigation infeasible to reduce emissions to zero (e.g., cost of offsets infeasible for project or offsets not available) <i>Significant and Unavoidable</i>	Above Tier 2 threshold With Level 1, 2 Mitigation Level 3 Mitigation: (Could include such measures as: On-site renewable energy systems, LEED Platinum certification, Exceed Title 24 by 40%, required recycled water use for irrigation, zero waste/high recycling requirements, mandatory transit passes, offsets/carbon impact fees) <i>Mitigated to Less than Significant</i>	Above Tier 3 thresholds Quantify Emissions, Level 3 Mitigation (see measures under 2B), and Offsets for 90% of remainder <i>Significance and Unavoidable</i>

would be identified as significant and unavoidable. This could be highly problematic and could eliminate the ability to use categorical exemptions and negative declarations for a wide range of projects.

In Concepts 2B and 2C, the first tier of a tiered threshold includes projects that are within a jurisdiction with an adopted greenhouse gas reduction plan (GGRP) and General Plan/Regional Plan that is consistent with AB 32 (and in line with S-3-05), or are on the Green List, or are below the Tier 2 threshold. All Tier 1 projects would be required to implement mandatory reductions required due to other legal authority (Level 1 reductions) such as AB 32, Title 24, or local policies and ordinances. With Level 1

reduction measures, qualifying Tier 1 projects would be considered less than significant without being required to demonstrate mitigation to zero.

In Concept 2B, the Tier 2 threshold would be quantitative, and quantified inventories would be required. Several quantitative threshold options are discussed below. A more comprehensive set of Level 2 mitigation would be required. If the project's emissions still exceed the Tier 2 threshold, an even more aggressive set of Level 3 mitigation measures would be required including offsets (when feasible) to reduce emissions below the Tier 2 threshold.

In Concept 2C, there would be two thresholds, a lower Tier 2 threshold (the "low bar") and a higher Tier 3 threshold (the "high bar"). The Tier 2 threshold would be the significance threshold for the purposes of CEQA and would be qualitative in terms of units (number of dwelling units, square feet of commercial space, etc.) or a per capita ratio. Projects above the Tier 2 threshold would be required to implement the comprehensive set of Level 2 mitigation. Projects below the Tier 2 threshold would not be required to quantify emissions or reductions. The Tier 3 threshold would be a threshold to distinguish the larger set of projects for which quantification of emissions would be required. Level 3 mitigation would be required and the project would be required to purchase offsets (when feasible) in the amount of 90 percent of the net emissions after application of Level 1 reductions and Level 2 and 3 mitigation. A variant on Concept 2C would be to require mandatory Level 3 mitigation without quantification and offsets.

Approach 2 Threshold Options

Seven threshold options were developed for this approach. The set of options are framed to capture different levels of new development in the CEQA process and thus allow different levels of mitigation. Options range from a zero first-tier threshold (Threshold 2.1) up to a threshold for GHG that would be equivalent to the capture level (i.e., number of units) of the current criteria pollutant thresholds used by some air districts (Threshold 2.4). The decision-based implementation approach discussed above could be used for any of these options. Table 3 below compares the results of each of the approaches discussed here.

Threshold 2.1: Zero First Tier Tiered Threshold.

This option would employ the decision tree concept and set the first tier cut-point at zero. The second tier cut-point could be one of the qualitative or quantitative thresholds discussed below. First-tier projects would be required to implement a list of very feasible and readily available mitigation measures.

Threshold 2.2: Quantitative Threshold Based on Market Capture

A single quantitative threshold was developed in order to ensure capture of 90 percent or more of likely future discretionary developments. The objective was to set the emission

threshold low enough to capture a substantial fraction of future residential and non-residential development that will be constructed to accommodate future statewide population and job growth, while setting the emission threshold high enough to exclude small development projects that will contribute a relatively small fraction of the cumulative statewide GHG emissions.

The quantitative threshold was created by using the following steps:

- Reviewing data from four diverse cities (Los Angeles in southern California and Pleasanton, Dublin, and Livermore in northern California) on pending applications for development.
- Determining the unit (dwelling unit or square feet) threshold that would capture approximately 90 percent of the residential units or office space in the pending application lists.
- Based on the data from the four cities, the thresholds selected were 50 residential units and 30,000 square feet of commercial space.
- The GHG emissions associated with 50 single-family residential units and 30,000 square feet of office were estimated and were found to be 900 metric tons and 800 metric tons, respectively. Given the variance on individual projects, a single threshold of 900 metric tons was selected for residential and office projects.
- A 900 metric ton threshold was also selected for non-office commercial projects and industrial projects to provide equivalency for different projects in other economic sectors.
- If this threshold is preferred, it is suggested that a more robust data set be examined to increase the representativeness of the selected thresholds. At a minimum, a diverse set of at least 20 cities and/or counties from throughout the state should be examined in order to support the market capture goals of this threshold. Further, an investigation of market capture may need to be conducted for different commercial project types and for industrial projects in order to examine whether multiple quantitative emissions thresholds or different thresholds should be developed.

The 900-ton threshold corresponds to 50 residential units, which corresponds to the 84th percentile of projects in the City of Los Angeles, the 79th percentile in the City of Pleasanton, the 50th percentile in the City of Livermore and the 4th percentile in the City of Dublin. This is suggestive that the GHG reduction burden will fall on larger projects that will be a relatively small portion of overall projects within more developed central cities (Los Angeles) and suburban areas of slow growth (Pleasanton) but would be the higher portion of projects within moderately (Livermore) or more rapidly developing areas (Dublin). These conclusions are suggestive but not conclusive due to the small sample size. The proposed threshold would exclude the smallest proposed developments

from potentially burdensome requirements to quantify and mitigate GHG emissions under CEQA. While this would exclude perhaps 10 percent of new residential development, the capture of 90 percent of new residential development would establish a strong basis for demonstrating that cumulative reductions are being achieved across the state. It can certainly serve as an interim measure and could be revised if subsequent regulatory action by CARB shows that a different level or different approach altogether is called for.

The 900-ton threshold would correspond to office projects of approximately 35,000 square feet, retail projects of approximately 11,000 square feet, or supermarket space of approximately 6,300 square feet. 35,000 square feet would correspond to the 46th percentile of commercial projects in the City of Los Angeles, the 54th percentile in the City of Livermore, and the 35th percentile in the City of Dublin. However, the commercial data was not separated into office, retail, supermarket or other types, and thus the amount of capture for different commercial project types is not known. The proposed threshold would exclude smaller offices, small retail (like auto-parts stores), and small supermarkets (like convenience stores) from potentially burdensome requirements to quantify and mitigate GHG emissions under CEQA but would include many medium-scale retail and supermarket projects.

The industrial sector is less amenable to a unit-based approach given the diversity of projects within this sector. One option would be to adopt a quantitative GHG emissions threshold (900 tons) for industrial projects equivalent to that for the residential/commercial thresholds described above. Industrial emissions can result from both stationary and mobile sources. CARB estimates that their suggested reporting threshold for stationary sources of 25,000 metric tons accounts for more than 90 percent of the industrial sector GHG emissions (see Threshold 2.3 for 25,000 metric ton discussion). If the CARE3 rationale holds, then a 900 metric ton threshold would likely capture at least 90 percent (and likely more) of new industrial and manufacturing sources. If this approach is advanced, we suggest further examination of industrial project data to determine market capture.

This threshold would require the vast majority of new development emission sources to quantify their GHG emissions, apportion the forecast emissions to relevant source categories, and develop GHG mitigation measures to reduce their emissions.

Threshold 2.3: CARB Reporting Threshold

CARB has recently proposed to require mandatory reporting from cement plants, oil refineries, hydrogen plants, electric generating facilities and electric retail providers, cogeneration facilities, and stationary combustion sources emitting $\geq 25,000$ MT CO₂e/yr. AB 32 requires CARB to adopt a regulation to require the mandatory reporting and verification of emissions. CARB issued a preliminary draft version of its proposed reporting requirements in August 2007 and estimates that it would capture 94 percent of the GHG emissions associated with stationary sources.



This threshold would use 25,000 metric tons per year of GHG as the CEQA significance level. CARB proposed to use the 25,000 metric tons/year value as a reporting threshold, not as a CEQA significance threshold that would be used to define mitigation requirements. CARB is proposing the reporting threshold to begin to compile a statewide emission inventory, applicable only for a limited category of sources (large industrial facilities using fossil fuel combustion).

A 25,000 metric ton significance threshold would correspond to the GHG emissions of approximately 1,400 residential units, 1 million square feet of office space, 300,000 square feet of retail, and 175,000 square feet of supermarket space. This threshold would capture far less than half of new residential or commercial development.

As noted above, CARB estimates the industrial-based criteria would account for greater than 90 percent of GHG emissions emanating from stationary sources. However, industrial and manufacturing projects can also include substantial GHG emissions from mobile sources that are associated with the transportation of materials and delivery of products. When all transportation-related emissions are included, it is unknown what portion of new industrial or manufacturing projects a 25,000-ton threshold would actually capture.

An alternative would be to use a potential threshold of 10,000 metric tons considered by the Market Advisory Committee for inclusion in a Greenhouse Gas Cap and Trade System in California. A 10,000 metric ton significance threshold would correspond to the GHG emissions of approximately 550 residential units, 400,000 square feet of office space, 120,000 square feet of retail, and 70,000 square feet of supermarket space. This threshold would capture roughly half of new residential or commercial development.

Threshold 2.4: Regulated Emissions Inventory Capture

Most California air districts have developed CEQA significance thresholds for NOx and ROG emissions to try to reduce emissions of ozone precursors from proposed sources that are not subject to NSR pre-construction air quality permitting. The historical management of ozone nonattainment issues in urbanized air districts is somewhat analogous to today's concerns with greenhouse gas emissions in that regional ozone concentrations are a cumulative air quality problem caused by relatively small amounts of NOx and ROG emissions from thousands of individual sources, none of which emits enough by themselves to cause elevated ozone concentrations. Those same conditions apply to global climate change where the environmental problem is caused by emissions from a countless number of individual sources, none of which is large enough by itself to cause the problem. Because establishment of NOx/ROG emissions CEQA significance thresholds has been a well-tested mechanism to ensure that individual projects address cumulative impacts and to force individual projects to reduce emissions under CEQA, this threshold presumes the analogy of NOx/ROG emission thresholds could be used to develop similar GHG thresholds.

The steps to develop a GHG emission threshold based on the NOx/ROG analogy were as follows:

- For each agency, define its NOx/ROG CEQA thresholds.
- For each agency, define the regional NOx/ROG emission inventory the agency is trying to regulate with its NOx/ROG thresholds.
- For each agency, calculate the percentage of the total emission inventory for NOx represented by that agency's CEQA emission threshold. That value represents the "minimum percentage of regulated inventory" for NOx.
- The current (2004) California-wide GHG emission inventory is 499 million metric tons per year of CO₂ equivalent (MMT CO₂e). Apply the typical "minimum percentage of regulated inventory" value to the statewide GHG inventory, to develop a range of analogous GHG CEQA thresholds.

The preceding methodology was applied to two different air quality districts: the Bay Area Air Quality Management District (BAAQMD), a mostly-urbanized agency within which most emissions are generated from urban areas; and the San Joaquin Valley Air Pollution Control District (SJVAPCD), which oversees emissions emanating in part from rural areas that are generated at dispersed agricultural sources and area sources. For example, in the Bay Area the NOx threshold is 15 tons/year. The total NOx inventory for 2006 was 192,000 tons/year (525 tons/day). The threshold represents 0.008 percent of the total NOx inventory. Applying that ratio to the total statewide GHG emissions inventory of 499 MMT CO₂e (2004) yields an equivalent GHG threshold of 39,000 MMT CO₂e.

The range of analogous CEQA GHG thresholds derived from those two agencies is tightly clustered, ranging from 39,000 to 46,000 tons/year. A 39,000 to 46,000 metric ton threshold would correspond to the GHG emissions of approximately 2,200 to 2,600 residential units, 1.5 to 1.8 million square feet of office space, 470,000 to 560,000 square feet of retail, and 275,000 to 320,000 square feet of supermarket space. This threshold would capture far less than half of new residential or commercial development. Similarly, this threshold would capture less of new industrial/manufacturing GHG emissions inventory than Thresholds 2.2 or 2.3.

Threshold 2.5: Unit-Based Thresholds Based on Market Capture

Unit thresholds were developed for residential and commercial developments in order to capture approximately 90 percent of future development. The objective was to set the unit thresholds low enough to capture a substantial fraction of future housing and commercial developments that will be constructed to accommodate future statewide population and job growth, while setting the unit thresholds high enough to exclude small development projects that will contribute a relatively small fraction of the cumulative statewide GHG emissions. Sector-based thresholds were created by using the same steps



and data used to create Threshold 2.2- Quantitative Threshold Based on Market Capture above.

The distribution of pending application data suggests that the GHG reduction burden will fall on larger projects that will be a relatively small portion of overall projects within more developed central cities and suburban areas of slow growth but would be the higher portion of projects within moderately or rapidly developing areas. The proposed threshold would exclude the smallest proposed developments from potentially burdensome requirements to quantify and mitigate GHG emissions under CEQA. While this would exclude perhaps 10 percent of new residential development, the capture of 90 percent of new residential development would establish a strong basis for demonstrating that cumulative reductions are being achieved across the state. It can certainly serve as an interim measure and could be revised if subsequent regulatory action by CAM shows that a different level or different approach altogether is called for.

A similar rationale can be applied to the development of a commercial threshold. Threshold 2.5 would exclude many smaller businesses from potentially burdensome requirements to quantify and mitigate GHG emissions under CEQA. It should be noted that the GHG emissions of commercial projects vary substantially. For example, the carbon dioxide emissions associated with different commercial types were estimated as follows:

- 30,000 square-foot (SF) office = 800 metric tons/year CO₂
- 30,000 SF retail = 2,500 metric tons/year CO₂
- 30,000 SF supermarket = 4,300 metric tons/year CO₂

Thus, in order to assure appropriate market capture on an emissions inventory basis, it will be important to examine commercial project size by type, instead of in the aggregate (which has been done in this paper).

The industrial sector is less amenable to a unit-based approach given the diversity of projects within this sector. One option would be to use a quantitative threshold of 900 tons for industrial projects in order to provide for rough equivalency between different sectors. Industrial emissions can result from both stationary and mobile sources. However, if the CARB rationale for > 90 percent stationary source capture with a threshold of 25,000 metric tons holds, then a 900 metric ton threshold would likely capture at least 90 percent (and likely more) of new industrial sources. Further examination of unit-based industrial thresholds, such as the number of employees or manufacturing floor space or facility size, may provide support for a unit-based threshold based on market capture.

This threshold would require the vast majority of new development emission sources to quantify their GHG emissions, apportion the forecast emissions to relevant source categories, and develop GHG mitigation measures to reduce their emissions.

Threshold 2.6. Projects of Statewide, Regional, or Areawide Significance

For this threshold, a set of qualitative, tiered CEQA thresholds would be adopted based on the definitions of “projects with statewide, regional or areawide significance” under the Guidelines for California Environmental Quality Act, CCR Title 14, Division 6, Section 15206(b).

Project sizes defined under this guideline include the following:

- Proposed residential development of more than 500 dwelling units.
- Proposed shopping center or business establishment employing more than 1,000 persons or encompassing more than 500,000 square feet of floor space.
- Proposed commercial office building employing more than 1,000 persons or encompassing more than 250,000 square feet of floor space.
- Proposed hotel/motel development of more than 500 rooms.
- Proposed industrial, manufacturing or processing plant or industrial park planned to house more than 1,000 persons, or encompassing more than 600,000 square feet of floor space.

These thresholds would correspond to the GHG emissions of approximately 9,000 metric tons for residential projects, 13,000 metric tons for office projects, and 41,000 metric tons for retail projects. These thresholds would capture approximately half of new residential development and substantially less than half of new commercial development. It is unknown what portion of the new industrial or manufacturing GHG inventory would be captured by this approach.

Threshold 2.7 Efficiency-Based Thresholds

For this approach, thresholds would be based on measurements of efficiency. For planning efforts, the metric could be GHG emissions per capita or per job or some combination thereof. For projects, the metric could be GHG emission per housing unit or per square foot of commercial space. In theory, one could also develop metrics for GHG emissions per dollar of gross product to measure the efficiency of the economy.

This approach is attractive because it seeks to benchmark project GHG intensity against target levels of efficiency. The thresholds would need to be set such that there is reasonably foreseeable and sufficient reductions compared to business as usual to support meeting AB 32 and S-3-05 goals in time (in combination with command and control regulations). Because this approach would require substantial data and modeling to fully develop, this is a concept considered as a potential future threshold and not appropriate

for interim guidance in the short term. Thus, it is not evaluated in the screening evaluation in the next section.

Table 3 compares the results for each of the approaches.

Table 3: Comparison of Approach 2 Tiered Threshold Options

Threshold	GHG Emission Threshold (metric tons/year)	Future Development Captured by GHG Threshold
2.1: Zero Threshold	0 tons/year	All
2.2: Quantitative Threshold Based on Market Capture	-900 tons/year	Residential development > 50 dwelling units Office space > 36,000 ft ² Retail space > 1,000 ft ² Supermarkets > 6,300 ft ² small, medium, large industrial
2.3: CARB GHG Mandatory Reporting Threshold OR Potential Cap and Trade Entry Level	25,000 metric tons/year OR 10,000 metric tons/year	Residential development > 1,400 dwelling units OR 550 dwelling units Office space > 1 million ft ² OR 400,000 ft ² Retail space > 300,000 ft ² OR 120,000 ft ² Supermarkets > 175,000 ft ² OR 70,000 ft ² medium/larger industrial
2.4: Regulated Inventory Capture	40,000 – 50,000 metric tons/year	Residential development > 2,200 to 2,600 dwelling units Office space > 1.5 to 1.8 million ft ² Retail space > 470,000 to 560,000 ft ² Supermarkets > 270,000 to 320,000 ft ² medium/larger industrial
2.5: Unit-Based Threshold Based on Market Capture	Not applicable.	Residential development > 50 dwelling units Commercial space > 50,000 ft ² > small, medium, large industrial (with GHG emissions > 900 tonsCO ₂ e)
2.6: Projects of Statewide, Regional, or Areawide Significance	Not applicable.	Residential development > 500 dwelling units Office space > 250,000 ft ² Retail space > 500,000 ft ² Hotels > 500 units Industrial project > 1,000 employees Industrial project > 40 acre or 650,000 ft ²
2.7: Efficiency-Based Thresholds	TBD tons/year/person TBD tons/year/unit	Depends on the efficiency measure selected.

Implementing CEQA With Tiered Thresholds

Several issues related to Approach 2 are addressed below:

1. *Some applications of this approach may need to be embodied in a duly approved General Plan, or in some other formal regulation or ordinance to be fully enforceable.* Because CEQA does not expressly provide that projects may be deemed insignificant based on implementation of a set of mitigations, this approach may need to be supported with specific and enforceable mechanisms adopted with due public process.
2. *How would this concept affect adoption of air district rules and regulations?* Proposed air district rules and regulations may be subject to CEQA like other projects and plans. Thus, if significance thresholds were adopted by an APCD or AQMD, then they could also apply to air district discretionary actions. If GHG emissions would be increased by a rule or regulation for another regulated pollutant, that would be a potential issue for review under CEQA.
3. *Mitigation measures may not be all-inclusive; better measures now or new future technology would make these measures obsolete.* The mandatory mitigation measures could be periodically updated to reflect current technology, feasibility, and efficiency.
4. *Total reduction may not be quantified or difficult to quantify.* CEQA only requires the adoption of feasible mitigation and thus the reduction effectiveness of required mitigation should not be in question. However, the precise reduction effectiveness may indeed be difficult to identify. As described above, if a quantitative threshold is selected as the measure of how much mitigation is mandated, then best available evidence will need to be used to estimate resultant GHG emissions with mitigation adoption. If a qualitative threshold is selected, then it may not be necessary to quantify reductions.
5. *Difficult to measure progress toward legislative program goals.* One could require reporting of project inventories to the Climate Action Registry, air district, or regional council of governments, or other suitable body. Collection of such data would allow estimates of the GHG intensity of new development over time, which could be used by CARB to monitor progress toward AB 32 goals.
6. *Measures may have adverse impacts on other programs.* The identification of mandatory mitigation will need to consider secondary environmental impacts, including those to air quality.
7. *Consideration of life-cycle emissions.* In many cases, only direct and indirect emissions may be addressed, rather than life-cycle emissions. A project applicant has traditionally been expected to only address emissions that are closely related and within the capacity of the project to control and/or influence. The long chain

8. of economic production resulting in materials manufacture, for example, involves numerous parties, each of which in turn is responsible for the GHG emissions associated with their particular activity. However, there are situations where a lead agency could reasonably determine that a larger set of upstream and downstream emissions should be considered because they are being caused by the project and feasible alternatives and mitigation measures may exist to lessen this impact.

Approach 2 Tiered Threshold with Mandatory Mitigation

As shown in Table 2, due to the cumulative nature of GHG emissions and climate change impacts, there could be a level of mandatory reductions and/or mitigation for all projects integrated into a tiered threshold approach. In order to meet AB 32 mandates by 2020 and S-3-05 goals, there will need to be adoption of GHG reduction measures across a large portion of the existing economy and new development. As such, in an effort to support a determination under CEQA that a project has a less than considerable contribution to significant cumulative GHG emissions, mitigation could be required on a progressively more comprehensive basis depending on the level of emissions.

- Level 1 Reductions – These reduction measures would apply to all projects and would only consist of AB 32 and other local/state mandates. They would be applied to a project from other legal authority (not CEQA). Level 1 reductions could include such measures as bike parking, transit stops for planned routes, Energy Star roofs, Energy Star appliances, Title 24 compliance, water use efficiency, and other measures. All measures would have to be mandated by CARB or local regulations and ordinances.
- Level 2 Mitigation – Projects that exceed the determined threshold would be required to first implement readily available technologies and methodologies with widespread availability. Level 2 Mitigation could include such measures as: parking reduction below code minimum levels, solar roofs, LEED Silver or Gold Certification, exceed Title 24 building standards by 20 percent, Traffic Demand Management (TDM) measures, and other requirements.
- Level 3 Mitigation - If necessary to reduce emissions to the thresholds, more extensive mitigation measures that represent the top tier of feasible efficiency design would also be required. Level 3 Mitigation could include such measures as: on-site renewable energy systems, LEED Platinum certification, exceed Title 24 building requirements by 40 percent, required recycled water use for irrigation, zero waste/high recycling requirements, mandatory transit pass provision, and other measures.
- Offset Mitigation – If, after adoption of all feasible on-site mitigation, the project is still found to exceed a Tier 2 quantitative threshold, or exceed a Tier 3 qualitative threshold, or if a project cannot feasibly implement the mandatory on-site mitigation, then purchases of offsets could be used for mitigation. In the case

of a quantitative threshold, the amount of purchase would be to offset below the Tier 2 significance threshold. In the case of a qualitative threshold, the amount of purchase could be to offset GHG emissions overall to below the lowest equivalent GHG emissions among the Tier 2 qualitative thresholds. With Threshold 2.5, this would be approximately 900 tons of GHG emissions (corresponding to 50 residential units). With Threshold 2.6, this would be approximately 9,000 tons (corresponding to 500 residential units). Alternatively, one could require purchase of offsets in the amount of a set percentage (such as 90% or 50% for example) of the residual GHG emissions (after other mitigation). As discussed earlier, any decision to include or require the use of emission reduction credits (or offsets) must consider issues of availability, quality, and environmental justice.

Substantial Evidence Supporting Different Thresholds

If a project can be shown by substantial evidence not to increase GHG emissions relative to baseline emissions, then no fair argument will be available that the project contributes considerably to a significant cumulative climate change impact.

It is more challenging to show that a project that increases GHG emissions above baseline emissions does not contribute considerably to a significant cumulative climate change impact. It is critical therefore, to establish an appropriate cumulative context, in which, although an individual project may increase GHG emissions, broader efforts will result in net GHG reductions.

Approach 1-based thresholds that by default will require an equal level of GHG reductions from the existing economy (Thresholds 1.1, 1.3, and 1.4) may be less supportable in the short run (especially before 2012) than Approach 1.2 (which requires new development to be relatively more efficient than a retrofitted existing economy). This is because, prior to 2012, there will only be limited mandatory regulations implementing AB 32 that could address the existing economy in a truly systematic way that can be relied upon to demonstrate that overall GHG reduction goals can be achieved by 2020. Approach 1.2 will still rely on substantial reductions in the existing economy but to a lesser degree.

Approach 1-based thresholds that would spread the mitigation burden across a sector (Threshold 1.3) or across a region (Threshold 1.4) will allow for tradeoffs between projects or even between municipalities. In order to demonstrate that a sector or a region is achieving net reductions overall, there would need to be feasible, funded, and mandatory requirements in place promoting an overall reduction scheme, in order for a project to result in nominal net increased GHG emissions.

Approach 2-based thresholds that capture larger portions of the new development GHG inventory (Thresholds 2.2 and 2.5) would promote growth that results in a smaller increase in GHG emissions; they may therefore be more supportable than thresholds that do not and that have a greater reliance on reductions in the existing economy (Thresholds

2.3, 2.4, and 2.6), especially in the next three to five years. With an established cumulative context that demonstrates overall net reductions, all threshold approaches could be effective in ensuring growth and development that significantly mitigates GHG emissions growth in a manner that will allow the CARB to achieve the emission reductions necessary to meet AB 32 targets. In that respect, all of these thresholds are supported by substantial evidence.

Evaluation of Non-Zero Threshold Options

Overarching issues concerning threshold development are reviewed below. Where appropriate, different features or application of the two conceptual approaches and the various options for thresholds under each conceptual approach described above are analyzed. The screening evaluation is summarized in Tables 4 (Approach 1) and 5 (Approach 2). The summary tables rate each threshold for the issues discussed below based on the level of confidence (low, medium or high) ascribed by J&S. The confidence levels relate to whether a threshold could achieve a particular attribute, such as emission reduction effectiveness. For example, a low emission reduction effectiveness rating means the threshold is not expected to capture a relatively large portion of the new development inventory.

As described above, Threshold 2.7 is not included in this evaluation because the data to develop an efficiency-based threshold has not been reviewed at this time and because this threshold is not considered feasible as an interim approach until more detailed inventory information is available across the California economy.

What is the GHG Emissions Effectiveness of Different Thresholds?

Effectiveness was evaluated in terms of whether a threshold would capture a large portion of the GHG emissions inventory and thus require mitigation under CEQA to control such emissions within the larger framework of AB 32. In addition, effectiveness was also evaluated in terms of whether a threshold would require relatively more or less GHG emissions reductions from the existing economy versus new development. This is presumptive that gains from the existing economy (through retrofits, etc.) will be more difficult and inefficient relative to requirements for new development.

Approach 1-based thresholds that require equivalent reductions relative to business-as-usual (Thresholds 1.1, 1.3, and 1.4) for both the existing and new economy will be less effective than thresholds that support lower-GHG intensity new development (Approach 1.2). However, since Approach 1-based thresholds do not establish a quantitative threshold below which projects do not have to mitigate, the market capture for new development is complete.

Approach 2-based thresholds can be more or less effective at capturing substantial portions of the GHG inventory associated with new development depending on where the quantitative or qualitative thresholds are set. Lower thresholds will capture a broader range of projects and result in greater mitigation. Based on the review of project data for

the select municipalities described in the Approach 2 section above, thresholds based on the CARB Reporting Threshold/Cap and Trade Entry Level (Threshold 2.4) or CEQA definitions of “Statewide, Regional or Areawide” projects (Threshold 2.6) will result in a limited capture of the GHG inventory. Lower quantitative or qualitative thresholds (Thresholds 2.1, 2.2 and 2.5) could result in capture of greater than 90 percent of new development.

Are the Different Thresholds Consistent with AB 32 and S-3-05?

Thresholds that require reductions compared to business-as-usual for all projects or for a large portion of new development would be consistent with regulatory mandates. In time, the required reductions will need to be adjusted from 2020 (AB 32) to 2050 (S-3-05) horizons, but conceptually broad identification of significance for projects would be consistent with both of these mandates. Thresholds that exclude a substantial portion of new development would likely not be consistent, unless it could be shown that other more effective means of GHG reductions have already been, or will be adopted, within a defined timeframe.

All Approach 1-based thresholds would be consistent with AB 32 and S-3-05 if it can be demonstrated that other regulations and programs are effective in achieving the necessary GHG reduction from the existing economy to meet the overall state goals.

Approach 2-based thresholds that include substantive parts of the new development GHG inventory (Thresholds 2.1, 2.2 and 2.5) will be more consistent with AB 32 and S-3-05 than those that do not (Thresholds 2.3, 2.4, and 2.6) unless it can be demonstrated that other regulations and programs are effective in achieving the necessary GHG reduction from the existing economy to meet the overall state goals.

What are the Uncertainties Associated with Different Thresholds?

All thresholds have medium to high uncertainties associated with them due to the uncertainty associated with the effectiveness of AB 32 implementation overall, the new character of GHG reduction strategies on a project basis, the immaturity of GHG reduction technologies or infrastructure (such as widespread biodiesel availability), and the uncertainty of GHG reduction effectiveness of certain technologies (such as scientific debate concerning the relative lifecycle GHG emissions of certain biofuels, for example).

In general, Approach 1-based thresholds have higher uncertainties than Approach 2 thresholds because they rely on a constantly changing definition of business-as-usual. Threshold 1.2, with its relatively smaller reliance on the existing economy for GHG reductions has relatively less uncertainty than other Approach 1 thresholds. Thresholds that spread mitigation more broadly (Thresholds 1.3 and 1.4) have less uncertainty by avoiding the need for every project to mitigate equally.

Approach 2 thresholds with lower quantitative (2.1 and 2.2) or qualitative (2.5) thresholds will have uncertainties associated with the ability to achieve GHG reductions

from small to medium projects. Approach 2 thresholds with higher quantitative (2.3, 2.4) or qualitative (2.6) thresholds will have uncertainties associated with the ability to achieve relatively larger GHG reductions from the existing economy.

What are Other Advantages/Disadvantages of the Different Thresholds?

Thresholds with a single project metric (Thresholds 1.1, 1.2, 2.1, 2.2, 2.3, 2.4, 2.5, and 2.6) will be easier to apply to individual projects and more easily understood by project applicants and lead agencies broadly. Thresholds that spread mitigation across sectors (1.3) or regions (1.4), while simple in concept, will require adoption of more complicated cross-jurisdictional reduction plans or evaluation of broad sector-based trends in GHG intensity reduction over time. Approach 1 options would require all projects to quantify emissions in order to determine needed reductions relative to business-as-usual (which will change over time as described above). Concepts that are unit-based (Threshold 2.5 and 2.6) will not result in thresholds that have equal amount of GHG emissions, and thus equity issues may arise.

Table 4: Non-Zero Threshold Evaluation Matrix – Approach 1

Approach 1	1.1	1.2	1.3	1.4
	28% - 33% Reduction from BAU by 2020 by Project	50% Reduction from BAU by 2020 by Project	28% - 33% Reduction by 2020 by Sector	18% - 33% Reduction by 2020 by Region
<i>GHG Emissions Reduction Effectiveness</i>	Low - Captures all new projects but relies on a high level of reductions from the existing economy.	Medium - Captures all new projects and has a more realistic level of reductions from the existing economy.	Low - Captures all new projects but relies on a high level of reductions from the existing economy	Low - Captures all new projects but relies on a high level of reductions from the existing economy.
<i>Economic Feasibility</i>	Low - Some projects will not be able to afford this level of reduction without effective market-based mechanisms like offsets.	Low - Some projects will not be able to afford this level of reduction without effective market-based mechanisms like offsets.	Medium - Sectors as a whole will be better able to achieve reduction? than individual projects	Low - Some regions and newly developed areas may not be able to afford this level of reduction without effective market-based mechanisms like offsets.
<i>Technical Feasibility</i>	Medium - Some projects will not be able to achieve this level of reduction without effective market-based mechanisms like offsets	Low - Relatively larger set of projects will not be able to achieve this level of reduction without effective market-based mechanisms like offsets	High - Some projects will not be able to achieve this level of reduction without effective market-based mechanisms like offsets	Medium - Some regions and newly developed areas may not be able to afford this level of reduction without effective market-based mechanisms like offsets.
<i>Logistical Feasibility</i>	Low - Absent broader reductions strategies, each project may reinvent the wheel each time to achieve mandated reductions.	Low - Absent broader reductions strategies, each project may reinvent the wheel each time to achieve mandated reductions.	Low - Absent broader reductions strategies, each project may reinvent the wheel each time to achieve mandated reductions.	Low - Absent broader reductions strategies, each project may reinvent the wheel each time to achieve mandated reductions.
<i>Consistency with AB-32 and S-03-05</i>	Medium - Would require heavy reliance on command and control gains.	High	Medium-High - Would rely on command and control gains, but would allow sectoral flexibility.	Medium-High - Would rely on command and control gains, but would allow regional flexibility.
<i>Cost Effectiveness</i>	Low - Will require all types of projects to reduce the same regardless of the cost/ton of GHG reductions.	Low - Will require all types of projects to reduce the same regardless of the cost/ton of GHG reductions.	Low/Medium - Allows tradeoffs within sector between high and low cost reduction possibilities but not between sectors.	Low/Medium - Allows tradeoffs within region between high and low cost reduction possibilities, but not between regions.
<i>Uncertainties</i>	High - BAU changes over time. Ability to reduce GHG emissions from existing economy will take years to demonstrate. Ability to limit GHG emissions from other new development will take years to demonstrate.	Medium/High - BAU changes over time. Ability to limit GHG emissions from other new development will take years to demonstrate.	High - BAU changes over time. Ability to reduce GHG emissions from existing economy will take years to demonstrate. Ability to limit GHG emissions from other new development will take years to demonstrate.	High - BAU changes over time. Ability to reduce GHG emissions from existing economy will take years to demonstrate. Ability to limit GHG emissions from other new development will take years to demonstrate.
<i>Other Advantages</i>	Simple/easy to explain.	Simple/easy to explain.	Spreads mitigation broadly	Spreads mitigation broadly
<i>Other Disadvantages</i>	Requires all projects to quantify emissions.	Requires all projects to quantify emissions	Requires all projects to quantify emissions	Requires all projects to quantify emissions.

Table 5: Non-Zero Threshold Evaluation Matrix – Approach 2

Approach 2	2.1	2.2	2.3	2.4	2.5	2.6
	Zero Threshold	Quantitative (900 tons)	Quantitative CARB Reporting Threshold/Cap and Trade (25,000 tons/ 10,000 tons)	Quantitative Regulated Inventory Capture (~40,000 - 50,000 tons)	Qualitative Unit-Based Thresholds	Statewide, Regional or Areawide CEQA Guidelines (5206(b)).
<i>GHG Emissions Reduction Effectiveness</i>	High - Captures all sources.	High - Market capture at >90%. Captures diverse sources.	Medium - Moderate market capture.	Low - Low market capture.	High - Market capture at ~90%. Captures diverse sources; excl. smallest proj.	Medium - Moderate market capture. Excludes small and med. projects.
<i>Economic Feasibility</i>	Low - Early phases will be substantial change in BAU, esp. for smaller projects; may be infeasible to mitigate.	Medium - Early phases will be substantial change in BAU, esp. for smaller projects; may be infeasible to mitigate.	High - Large projects have greater ability to absorb cost.	High - Large projects have greater ability to absorb cost.	Medium - Early phases will be substantial change in BAU, esp. for smaller projects; may be infeasible to mitigate.	High - Large projects have greater ability to absorb cost.
<i>Technical Feasibility</i>	Low - Early phases will be substantial change in BAU, esp. for smaller projects; may be infeasible to mitigate.	Medium - Early phases will be substantial change in BAU, esp. for smaller projects; may be inefficient to mitigate.	High - Greater opportunities for multiple reduction approaches.	High - Greater opportunities for multiple reduction approaches.	Medium - Early phases will be substantial change in BAU, particularly for smaller projects may be inefficient to mitigate.	High - Greater opportunities for multiple reduction approaches.
<i>Logistical Feasibility</i>	Low - Unless fee or offset basis, very difficult to mitigate all projects.	Medium - BMPs broadly written to allow diversity; new req. will take time to integrate into new dev.	High - Less mitigation.	High - Less mitigation.	Medium - BMPs broadly written to allow diversity; new req. will take time to integrate into new dev.	High - Less mitigation.
<i>Consistency with AB-32 and S-03-05</i>	High - Market capture.	High - Market capture at >90%.	Low - Would rely on command and control success heavily.	Low - Would rely on command and control success heavily.	Medium - Need to demonstrate adequate market capture over time.	Low - Would rely on command and control success heavily.
<i>Cost Effectiveness</i>	Low - Will result in inefficient mitigation approaches. Efficiency will improve in time.	Medium - Emphasis is on new dev., req. for mitigation will result in inefficient mitigation approaches in early phases. Efficiency will improve in time.	Medium - Relies on command and control reductions for existing economy more heavily. With focus on larger projects, eff. of mitigation for new dev. high.	Medium - Relies on command and control reductions for existing economy more heavily. With focus on larger projects, eff. of mitigation for new dev. high.	Medium - Emphasis is on new dev.; req. for mitigation will result in inefficient mitigation approaches in early phases. Efficiency will improve in time.	Medium - Relies on command and control reductions for existing economy more heavily. With focus on larger projects, eff. of mitigation for new dev. high.
<i>Uncertainties</i>	High - Time to adapt for res. and comm. sectors. Ability to mitigate without market-based mechanism for smaller projects unlikely.	Medium/High - Time to adapt for res. and comm. sectors. Ability to mitigate without market-based mechanism for smaller projects uncertain.	High - Gains from command and control likely longer to be realized.	High - Gains from command and control likely longer to be realized.	Medium/High - Time to adapt for res. and comm. sectors. Ability to mitigate without market-based mechanism for smaller projects uncertain.	High - Gains from command and control likely longer to be realized.
<i>Other Advantages</i>	Single threshold.	Single threshold. BMPs can be updated. Greenlist can be updated.	Single threshold. Does not change CEQA processing for most projects. CARB inventory = project inv.. All projects treated same.	Single threshold. Does not change CEQA processing for most projects. Follows established SIP practice.	BMPs can be updated. Greenlist can be updated. Unit-Based thresholds can be updated.	Existing guideline. Does not change CEQA processing for most projects. Endorsed by Cal. Chapter of the APA.
<i>Other Disadvantages</i>	Requires all projects to quantify emissions.	Requires nearly all projects to quantify emissions.			Sectoral projects have different GHG emis. Only largest projects to quantify	Sectoral projects have different GMG emissions.

Introduction

This chapter evaluates the availability of various analytical methods and modeling tools that can be applied to estimate the greenhouse gas emissions from different project types subject to CEQA. This chapter will also provide comments on the suitability of the methods and tools to accurately characterize a project's emissions and offer recommendations for the most favorable methodologies and tools available. Some sample projects will be run through the methodologies and modeling tools to demonstrate what a typical GHG analysis might look like for a lead agency to meet its CEQA obligations. The air districts retained the services of EDAW environmental consultants to assist with this effort.

Methodologies/Modeling Tools

There are wide varieties of discretionary projects that fall under the purview of CEQA. Projects can range from simple residential developments to complex expansions of petroleum refineries to land use or transportation planning documents. It is more probably than not, that a number of different methodologies would be required by any one project to estimate its direct and indirect GHG emissions. Table 10 contains a summary of numerous modeling tools that can be used to estimate GHG emissions associated with various emission sources for numerous types of project's subject to CEQA. The table also contains information about the models availability for public use, applicability, scope, data requirements and its advantages and disadvantages for estimating GHG emissions.

In general, there is currently not one model that is capable of estimating all of a project's direct and indirect GHG emissions. However, one of the models identified in Table 9 would probably be the most consistently used model to estimate a project's direct GHG emissions based on the majority of projects reviewed in the CEQA process. The Urban Emissions Model (URBEMIS) is designed to model emissions associated with development of urban land uses. URBEMIS attempts to summarize criteria air pollutants and CO₂ emissions that would occur during construction and operation of new development. URBEMIS is publicly available and already widely used by CEQA practitioners and air districts to evaluate criteria air pollutants emissions against air district-adopted significance thresholds. URBEMIS is developed and approved for statewide use by CARB. The administrative reasons for using URBEMIS are less important than the fact that this model would ensure consistency statewide in how CO₂ emissions are modeled and reported from various project types.

One of the shortfalls of URBEMIS is that the model does not contain emission factors for GHGs other than CO₂, except for methane (CH₄) from mobile-sources, which is converted to CO₂e. This may not be a major problem since CO₂ is the most important GHG from land development projects. Although the other GHGs have a higher global warming potential, a metric used to normalize other GHGs to CO₂e, they are emitted in far fewer quantities. URBEMIS does not calculate other GHG emissions associated with

off-site waste disposal, wastewater treatment, emissions associated with goods and services consumed by the residents and workers supported by a project. Nor does URBEMIS calculate GHGs associated with consumption of energy produced off-site. (For that matter, URBEMIS does not report criteria air pollutant emissions from these sources either).

Importantly, URBEMIS does not fully account for interaction between land uses in its estimation of mobile source operational emissions. Vehicle trip rates are defaults derived from the Institute of Transportation Engineers trip generation manuals. The trip rates are widely used and are generally considered worst-case or conservative. URBEMIS does not reflect “internalization” of trips between land uses, or in other words, the concept that a residential trip and a commercial trip are quite possibly the same trip, and, thus, URBEMIS counts the trips separately. There are some internal correction settings that the modeler can select in URBEMIS to correct for “double counting”; however, a project-specific “double-counting correction” is often not available. URBEMIS does allow the user to overwrite the default trip rates and characteristics with more project-specific data from a traffic study prepared for a project.

Residential, Commercial, Mixed-Use Type Projects/ Specific Plans

Direct Emissions

URBEMIS can be used to conduct a project-specific model run and obtain CO₂e emissions for area and mobile sources from the project, and convert to metric tons CO₂e. When a project-specific traffic study is not available, the user should consult with their local air district for guidance. Many air district staff are experienced practitioners of URBEMIS and can advise the lead agency or the modeler on how to best tailor URBEMIS default input parameters to conduct a project-specific model run. When a traffic study has been prepared for the project, the user must overwrite default trip length and trip rates in URBEMIS to match the total number of trips and vehicle miles traveled (VMT) contained in the traffic study to successfully conduct a project-specific model run. URBEMIS is recommended as a calculation tool to combine the transportation study (if available) and EMFAC emission factors for mobile-sources. Use of a project-specific traffic study gets around the main shortfall of URBEMIS: the lack of trip internalization. URBEMIS also provides the added feature of quantifying direct area-source GHG emissions.

Important steps for running URBEMIS

1. Without a traffic study prepared for the project, the user should consult with the local air district for direction on which default options should be used in the modeling exercise. Some air districts have recommendations in the CEQA guidelines.
2. If a traffic study was prepared specifically for the project, the following information must be provided:

- a. Total number of average daily vehicle trips *or* trip-generation rates by land use type per number of units; and,
 - b. Average VMT per residential *and* nonresidential trip.
 - c. The user overwrites the “Trip Rate (per day)” fields for each land use in URBEMIS such that the resultant “Total Trips” and the “Total VMT” match the number of total trips and total VMT contained in the traffic study.
 - d. Overwrite “Trip Length” fields for residential and nonresidential trips in URBEMIS with the project-specific lengths obtained from the traffic study.
3. Calculate results and obtain the CO₂ emissions from the URBEMIS output file (units of tons per year [TPY]).

Indirect Emissions

URBEMIS does estimate indirect emissions from landscape maintenance equipment, hot water heaters, etc. URBEMIS does not however, provide modeled emissions from indirect sources of emissions, such as those emissions that would occur off-site at utility providers associated with the project’s energy demands. The California Climate Action Registry (CCAR) Protocol v.2.2 includes methodology, which could be used to quantify and disclose a project’s increase in indirect GHG emissions from energy use. Some assumptions must be made for electrical demand per household or per square foot of commercial space, and would vary based on size, orientation, and various attributes of a given structure. An average rate of electrical consumption for residential uses is 7,000 kilowatt hours per year per household and 16,750 kilowatt hours per thousand square feet of commercial floor space. Commercial floor space includes offices, retail uses, warehouses, and schools. These values have been increasing steadily over the last 20 years. Energy consumption from residential uses has increased due to factors such as construction and occupation of larger homes, prices of electricity and natural gas, and increased personal income allowing residents to purchase more electronic appliances. Commercial energy consumption is linked to factors such as vacancy rates, population, and sales.

The modeler will look up the estimated energy consumption for the project’s proposed land uses under year of project buildout, or use the values given in the previous paragraph for a general estimate. The CCAR Protocol contains emission factors for CO₂, CH₄, and nitrous oxide. The “CALI” region grid serves most of the State of California. If a user has information about a specific utility provider’s contribution from renewable sources, the protocol contains methodology to reflect that, rather than relying on the statewide average grid. The incremental increase in energy production associated with project operation should be accounted for in the project’s total GHG emissions for inclusion in the environmental document.

The incremental increase in energy production associated with project operation should be accounted for in the project’s total GHG emissions, but it should be noted that these emissions would be closely controlled by stationary-source control-based regulations and additional regulations are expected under AB 32. However, in the interest of disclosing project-generated GHG emissions and mitigating to the extent feasible, the indirect emissions from off-site electricity generation can be easily calculated for inclusion in the environmental document.

Example Project Estimates for GHG Emissions

Residential Project

Project Attributes:

- 68 detached dwelling units
- 15.9 acres
- 179 residents
- 0 jobs
- Located in unincorporated Placer County (PCAPCD jurisdiction)
- Analysis year 2009

As shown in Table 6, the project’s direct GHG emissions per service population (SP) would be approximately 8 metric tons CO₂e/SP/year.

Table 6: Residential Project Example GHG Emissions Estimates

URBEMIS Output (Project Specific)	Metric Tons/Year CO ₂ e	Demographic Data	
Area-source emissions	251	Residents	179
Mobile-source emissions	1,044	Jobs	0
Indirect emissions (from CCAR Protocol)	174		
Total operational emissions	1,469	Service population	179
Operational emissions/SP	8.2		
Notes: CO ₂ e = carbon dioxide equivalent; CCAR = California Climate Action Registry; SP = service population (see definition of service population below in discussion of Normalization/Service Population Metric).			
Sources: EDAW 2007, ARB 2007b, CCAR 2007, CEC 2000			

Commercial Project

Project Attributes:

- Free Standing Discount Superstore: 241 thousand square feet (ksf)
- 0 residents

- 400 jobs
- Located in the San Joaquin Valley Air Pollution Control District's (SJVAPCD) jurisdiction
- Analysis year 2009

Table 7: Commercial Project Example GHG Emissions Estimates

URBEMIS Output (Project Specific)	Metric Tons/Year CO ₂ e	Demographic Data	
Area-source emissions	464	Residents	0
Mobile-source emissions	13,889	Jobs	400
Indirect emissions (from CCAR Protocol)	1,477		
Total operational emissions	15,830	Service population	400
Operational emissions/SP	39.6		

Notes:
CO₂e = carbon dioxide equivalent; CCAR = California Climate Action Registry; SP = service population (see definition of service population below in discussion of Normalization/Service Population Metric).

Sources: EDAW 2007, ARB 2007b, CCAR 2007, CEC 2000

Specific Plan

If used traditionally with default trip rates and lengths, rather than project-specific (Traffic Analysis Zone-specific) trip rates and lengths, URBEMIS does not work well for specific plan or general plan-sized projects with multiple land use types proposed. However, in all instances, projects of these sizes (several hundred or thousand acres) would be accompanied by a traffic study. Thus, for large planning-level projects, URBEMIS can be used as a calculation tool to easily obtain project-specific mobile-source emissions. The user should follow the steps discussed above; wherein he/she overwrites the default ITE trip rates for each land use type with that needed to make total VMT match that contained in the traffic study. The URBEMIS interface is a simple calculator to combine the traffic study and EMFAC emissions factors for mobile-source CO₂.

Project Attributes:

- 985 acres
- Total dwelling units: 5,634
- Commercial/Mixed Use: 429 ksf
- Educational: 2,565 ksf
- 14,648 residents
- 3,743 jobs
- Located in Sacramento County (SMAQMD jurisdiction)
- Analysis year 2009

Table 8: Specific Plan Example GHG Emissions Estimates

URBEMIS Output (Project Specific)	Metric Tons/Year CO ₂ e	Demographic Data	
Area-source emissions	23,273	Residents	14,648
Mobile-source emissions	73,691	Jobs	3,743
Indirect emissions (from CCAR Protocol)	32,744		
Total operational emissions	129,708	Service population	18,391
Operational emissions/SP	7.1		
Notes: CO ₂ e = carbon dioxide equivalent; CCAR = California Climate Action Registry; SP = service population (see definition of service population below in discussion of Normalization/Service Population Metric).			
Sources: EDAW 2007, ARB 2007b, CCAR 2007, CEC 2000			

The specific plan example, when compared to the residential or commercial examples, illustrates the benefit of a mixed-use development when you look at CO₂e emissions per resident or job (service population) metric (see definition of service population below in discussion of Normalization/Service Population Metric). Though this particular specific plan is not an example of a true jobs/housing balance, the trend is clear: accommodating residents and jobs in a project is more efficient than residents or jobs alone.

Stationary- and Area-Source Project Types

GHG emissions from stationary or area sources that require a permit to operate from the air district also contain both direct and indirect sources of emissions. Examples of these types of sources would be fossil fuel power plants, cement plants, landfills, wastewater treatment plants, gas stations, dry cleaners and industrial boilers. All air districts have established procedures and methodologies for projects subject to air district permits to calculate their regulated pollutants. It is anticipated that these same procedures and methodologies could be extended to estimate a permitted facility's GHG calculations. For stationary and area sources that do not require air district permits, the same methodologies used for permitted sources could be used in addition to URBEMIS and CCAR GRP to calculate GHG emissions from these facilities.

Wastewater Treatment Facilities

Direct GHG emissions associated with a proposed waste water treatment plant can be calculated using AP-42 emission factors from Chapter 4.3.5 Evaporative Loss Sources: Waste Water-Greenhouse Gases and the CCAR methodology. In general, most wastewater operations recover CH₄ for energy, or use a flare to convert the CH₄ to CO₂. There are many types of wastewater treatment processes and the potential for GHG emissions from different types of plants varies substantially. There is not one standard set of emission factors that could be used to quantify GHG emissions for a state

“average” treatment plant. Thus, research will need to be conducted on a case-by-case basis to determine the “Fraction Anaerobically Digested” which is a function of the type of treatment process. Indirect emissions from these facilities can be calculated using the CCAR energy use protocols and URBEMIS model for transportation emissions.

Solid Waste Disposal Facilities

Air districts will have emission estimate methodologies established for methane emissions at permitted landfills. In addition, EPA’s Landfill Gas Emissions Model (LandGem) and the CCAR methodology could also be used to quantify GHG emissions from landfill off gassing; however, this model requires substantial detail be input. The model uses a decomposition rate equation, where the rate of decay is dependent on the quantity of waste in place and the rate of change over time. This modeling tool is free to the public, but substantial project detail about the operation of the landfill is needed to run the model. Indirect emissions from these facilities can be calculated using the CCAR energy use protocols and URBEMIS model for transportation emissions.

Construction Emissions

GHG emissions would occur during project construction, over a finite time. In addition, a project could result in the loss of GHG sequestration opportunity due primarily to the vegetation removed for construction. URBEMIS should be used to quantify the mass of CO₂ that would occur during the construction of a project for land development projects. Some construction projects would occur over an extended period (up to 20–30 years on a planning horizon for general plan buildout, or 5–10 years to construct a dam, for example). OFFROAD emission factors are contained in URBEMIS for CO₂ emissions from construction equipment. For other types of construction projects, such as roadway construction projects or levee improvement projects, SMAQMD’s spreadsheet modeling tool, the Road Construction Emissions Model (RoadMod), should be used. This tool is currently being updated to include CO₂ emissions factors from OFFROAD.

The full life-cycle of GHG emissions from construction activities is not accounted for in the modeling tools available, and the information needed to characterize GHG emissions from manufacture, transport, and end-of-life of construction materials would be speculative at the CEQA analysis level. The emissions disclosed will be from construction equipment and worker commutes during the duration of construction activities. Thus, the mass emissions in units of metric tons CO₂e/year should be reported in the environmental document as new emissions.

General Plans

In the short-term, URBEMIS can be used as a calculation tool to model GHG emissions from proposed general plans, but only if data from the traffic study is incorporated into model input. The same methodology applied above in the specific plan example applies to general plans. The CCAR GRP can be used to approximate indirect emissions from

increased energy consumption associated with the proposed plan area. The same models and methodologies discussed previously for wastewater, water supply and solid waste would be used to estimate indirect emissions resulting from buildout of the general plan.

In the longer-term, more complex modeling tools are needed, which would integrate GHG emission sources from land use interaction, such as I-PLACE³S or CTG Energetics' Sustainable Communities Custom Model attempt to do. These models are not currently available to the public and only have applicability in certain areas of the state. It is important that a tool with statewide applicability be used to allow for consistency in project treatment, consideration, and approval under CEQA.

Scenarios

At the general plan level, the baseline used for analyzing most environmental impacts of a general plan update is typically no different from the baseline for other projects. The baseline for most impacts represents the existing conditions, normally on the date the Notice of Preparation is released. Several comparative scenarios could be relevant, depending on the exact methodological approach and significance criteria used for GHG assessment:

- Existing Conditions. The GHG emissions associated with the existing, on-the-ground conditions within the planning area.
- 1990 conditions. The GHG emissions associated with the general plan area in 1990. This is relevant due to the state's AB 32 GHG emission reduction goals' benchmark year of 1990. The GHG-efficiency of 1990 development patterns could be compared to that of the general plan buildout.
- Buildout of the Existing General Plan. The GHG emissions associated with buildout of the existing general plan (without the subject update). This is the no project alternative for the purposes of general plan CEQA analysis.
- Buildout of the Updated General Plan. The GHG emissions associated with buildout of the general plan, as proposed as a part of the subject update. This would include analysis of any changes included as a part of the general plan update for the existing developed portions of the planning area. Many communities include redevelopment and revitalization strategies as a part of the general plan update. The general plan EIR can include assumptions regarding what level and type of land use change could be facilitated by infill and redevelopment. Many jurisdictions wish to provide future projects consistent with these land use change assumptions with some environmental review streamlining. In addition, many communities include transit expansions, pedestrian/bicycle pathway improvements, multi-modal facility construction, travel demand policies, energy efficiency policies, or other measures that could apply to the existing developed area, just as they may apply to any new growth

areas. Such policies could affect the overall GHG emissions of the built out general plan area.

- Increment between Buildout of Updated General Plan and Existing General Plan Area. There are many important considerations associated with the characterization of the impact of the General Plan update. The actual GHG emissions impact could be described as the difference between buildout under the existing and proposed land use plan (No-Build Alternative). However, the courts have held that an EIR should also analyze the difference between the proposed General Plan and the existing environment (*Environmental Planning & Information Council v. County of El Dorado* (EPIC) (1982) 131 Cal.App.3d 350). At the General Plan level, over the course of buildout, some new land uses are introduced, which could potentially add operational GHG emissions and potentially remove existing sequestration potential. Some properties become vacant and are not redeveloped. Other properties become vacant and then are redeveloped. Communities cannot pretend to understand fully in advance each component of land use change. The programmatic document is the preferred method of environmental analysis. Through this programmatic framework, communities develop buildout assumptions as a part of the General Plan that are normally used as a basis of environmental analysis. For certain aspects of the impact analysis, it becomes important not just to understand how much “new stuff” could be accommodated under the updated General Plan, but also the altered interactions between both “new” and “existing” land uses within the planning area. As addressed elsewhere, there are tools available for use in understanding land use/transportation interactions at the General Plan level. Without the GHG targets established by AB 32, a simple mass comparison of existing conditions to General Plan buildout might be appropriate.

However, within the current legal context, the GHG efficiency of the updated General Plan becomes the focus of analysis. Some options in this regard include:

- Estimate the GHG emissions associated with all the land uses included within the planning area upon buildout of the General Plan using no project specific information (regional, countywide, or statewide defaults). Estimate GHG emissions using project specific information from the transportation engineer, transportation demand policies, community design elements, energy efficiency requirements, wastewater treatment and other public infrastructure design changes, and other components. Compare these two calculations. Is the second calculation reduced by the percent needed to meet AB 32 goals compared to the first calculation?
- Estimate the GHG emissions associated with the 1990 planning area and the per-capita or per-service population GHG associated with the 1990 planning area. (Many communities are establishing GHG inventories using different tools). Estimate the GHG emissions associated with buildout of the proposed General Plan update and the resulting per-capita or per-service population GHG

emissions. Compare the two calculations. Is the General Plan buildout per-capita or per-service population level greater than the 1990 estimate?

Example General Plan Update: Proposed new growth area

Project Attributes:

- 10,050 single family dwelling units
- 652 multi-family dwelling units
- 136 acres parks
- 2,047 ksf cominercial (regional shopping center)
- 2,113 ksf office
- 383 acres industrial park
- 31,293 new residents
- 4,945 new jobs
- Located in Stanislaus County (SJVAPCD jurisdiction)
- Analysis year 2025

Table 9: General Plan Example GHG Emissions Estimates

URBEMIS Output (Project Specific)	Metric CO ₂ e	Tons/Year	Demographic Data
Construction emissions	12,083*		Residents 31,293
Area-source emissions	45,708		
Mobile-source emissions	263,954		Jobs 4,945
Indirect emissions (from CCAR Protocol)	78,385		
Total operational emissions	388,046		Service population 36,238
Operational emissions/SP	10.7		

* Approximately 241,656 metric tons CO₂e total at general plan buildout (assumes 20-year buildout period). Construction emissions were not included in total operational emissions.

Notes:
CO₂e = carbon dioxide equivalent; CCAR = California Climate Action Registry; SP = service population (see definition of service population below in discussion of Normalization/Service Population Metric).
Sources: EDAW 2007, ARB 2007b, CCAR 2007, CEC 2000

Due to the programmatic level of analysis that often occurs at the general plan level, and potential for many relevant GHG emission quantities, it could be preferable to use a qualitative approach. Such an analysis could address the presence of GHG-reducing policy language in the general plan.

Three possible tiers of approaches to addressing GHG mitigation strategies, either as general plan policy, general plan EIR mitigation measures, or both, include:

- Forward planning
- Project toolbox
- Defer to GHG reductions plan

The three basic approaches are described below.

1. Bring reduction strategies into the plan itself. The most effective way for local jurisdictions to achieve GHG emissions reductions in the medium- and long-term is through land use and transportation policies that are built directly into the community planning document. This involves creating land use diagrams and circulation diagrams, along with corresponding descriptive standards, that enable and encourage alternatives to travel and goods movement via cars and trucks. The land use and circulation diagrams provide a general framework for a Community where people can conduct their everyday business without necessarily using their cars. The overall community layout expressed as a part of the land use and circulation diagrams is accompanied by a policy and regulatory scheme designed to achieve this community layout. Impact fees, public agency spending, regulations, administrative procedures, incentives, and other techniques are designed to facilitate land use change consistent with the communities' overall vision, as expressed in policy and in the land use diagram. There are many widely used design principles that can be depicted in land use and circulation diagrams and implemented according to narrative objectives, standards, and policies:

- Connectivity. A finely-connected transportation network shortens trip lengths and creates the framework for a community where homes and destinations can be placed close in proximity and along direct routes. A hierarchical or circuitous transportation network can increase trip lengths and create obstacles for walking, bicycling, and transit access. This policy language would likely be found in the Circulation Element.
- Compactness. Compact development, by its nature, can increase the efficiency of infrastructure provision and enable travel modes other than the car. If communities can place the same level of activity in a smaller space, GHG emissions would be reduced concurrently with VMT and avoid unnecessary conversion of open space. This policy language would likely be found in the Land Use Element.
- Diversity. Multiple land use types mixed in proximity around central "nodes" of higher-activity land uses can accommodate travel through means other than a car. The character and overall design of this land use mix is, of course, different from community to community. This policy language would likely be found in the Land Use Element.
- Facilities. Pedestrian, bicycle, and public transportation improvements, planning, and programming are sometimes an afterthought. To get a more GHG-efficient mode share, safe and convenient bike lanes, pedestrian pathways, transit shelters, and other facilities are required to be planned along with the vehicular travel network. This policy language would likely be found in the Circulation Element.

- Redevelopment. One way to avoid GHG emissions is to facilitate more efficient and economic use of the lands in already-developed portions of a community. Reinvestment in existing neighborhoods and retrofit of existing buildings is appreciably more GHG efficient than greenfield development, and can even result in a net reduction in GHG emissions. This policy language would likely be found in the Conservation or Land Use Element.
 - Housing and Employment. Most communities assess current and future economic prospects along with long-range land use planning. Part of the objective for many communities is to encourage the coalescence of a labor force with locally available and appropriate job opportunities. This concept is best known as “jobs-housing balance.” This policy language would likely be found in the Housing Element.
 - Planning Level Versus Project Level. For transportation-related GHG emissions that local governments can mitigate through land use entitlement authority, the overall community land use strategy and the overall transportation network are the most fruitful areas of focus. The reduction capacity of project-specific mitigation measures is greatly limited if supportive land use and transportation policies are lacking at the community planning level. The regional economic context, of course, provides an important backdrop for land use and transportation policy to address GHG emissions. Within this context, the general plan is the readily available tool for local governments to establish such land use and transportation strategies. This policy language would likely be found in the Land Use and Circulation Elements.
 - Shipping Mode Shift. Locate shipping-intensive land uses in areas with rail access. Some modes of shipping are more GHG-intensive than others. Rail, for example, requires only about 15 to 25 percent of the energy used by trucks to ship freight equivalent distances and involves reduced transportation-related GHG emissions. Cities and counties have little direct control over the method of shipment that any business may choose. Nevertheless, as a part of the general planning process, cities and counties can address constraints on the use of rail for transporting goods. This policy language would likely be found in the Land Use and Circulation Elements.
2. Provide a “toolbox” of strategies after the project site has been selected. In addition to the examples of design principles that are built into the community planning process, communities can offer project applicants a range of tools to reduce GHG emissions. Mitigation strategies are elaborated in detail in Chapter 9.
3. Defer to General Plan implementation measure. Develop and implement a GHG Emissions Reduction Plan. Another option for local governments would be development of an implementation measure as a part of the general plan that outlines an enforceable GHG reduction program. Perhaps the most well known example of this approach is the result of California’s Attorney General settlement of the lawsuit brought against San

Bernardino County. The County has agreed to create a 1990 GHG inventory and develop measures to reduce such emissions according to the state's overall goals. Other communities have pursued similar programs (i.e., the City of San Diego, Marin County). Along with the inventories, targets, and example reduction measures, these programs would include quantitative standards for new development; targets for reductions from retrofitting existing development; targets for government operations; fee and spending program for GHG reduction programs; monitoring and reporting; and other elements. The local government itself should serve as a model for GHG reduction plan implementation, by inventorying emissions from government operations and achieving emission reductions in accordance with the plan's standards. An optional climate change element could be added to contain goals, policies, and this implementation strategy, or this could belong in an optional air quality element.

Other Project Types

Air District Rules, Regulations and Air Quality Plans

Air district air quality plans, rules and regulations could have the potential to increase or decrease GHG emissions within their respective jurisdiction. In general, air district air quality plans, rules and regulations act to reduce ozone precursors, criteria air pollutant and toxic air contaminant emissions, which would almost always act to reduce GHG emissions simultaneously. However, this may not always be the case.

Air Quality Plans

Air districts will have to include GHG emissions analysis as part of their criteria air pollutant and toxic air contaminant air pollutant analysis when considering the adoption of air quality plans and their subsequent rules and regulations needed to implement the plans. Multiple models and methodologies will be needed to accomplish this analysis.

Regional Transportation Plans

Regional transportation plans would also need to be evaluated on a case-by-case basis to determine if a net increase or decrease in GHG emissions would occur. Complex interactions between the roadway network, operating conditions, alternative transportation availability (such as public transit, bicycle pathways, and pedestrian infrastructure), and many other independent parameters specific to a region should be considered. Regional transportation models exist to estimate vehicular emissions associated with regional transportation plans, which includes the ability to estimate GHG emissions.

Normalization/Service Population Metric

The above methodology would provide an estimate of the mass GHG emissions generated by a proposed project, which could be compared to a mass emission threshold. EDAW developed a methodology that would measure a project's overall GHG efficiency

in order to determine if a project is more efficient than the existing statewide average for per capita GHG emissions. The following steps could be employed to estimate the GHG-“efficiency,” which may be more directly correlated to the project’s ability to help obtain objectives outlined in AB 32, although it relies on establishment of an efficiency-based significance threshold. The subcommittee believes this methodology may eventually be appropriate to evaluate the long-term GHG emissions from a project in the context of meeting AB 32 goals. However, this methodology will need substantially more work and is not considered viable for the interim guidance presented in this white paper.

- Divide the total operational GHG emissions by the Service Population (SP) supported by the project (where SP is defined as the sum of the number of residents and the number of jobs supported by the project). This value should be compared to that of the projected statewide GHG emissions inventory from the applicable end-use sectors (electricity generation, residential, commercial/institutional, and mobile-source) in 1990 divided by the projected statewide SP for the year 2020 (i.e., AB 32 requirements), to determine if the project would conflict with legislative goals.
 - If the project’s operational GHG/SP falls below AB 32 requirements, then the project’s GHG emissions are less than cumulatively considerable.
 - If the project’s operational GHG/SP exceed AB 32 requirements (a substantial contribution), then the project’s GHG emissions would conflict with legislative requirements, and the impact would be cumulatively considerable and mitigation would be required where feasible.
- New stationary and area sources/facilities: calculate GHG emissions using the CCAR GRP. All GHG emissions associated with new stationary or area sources should be treated as a net increase in emissions, and if deemed significant, should be mitigated where feasible.
- Road or levee construction projects or other construction-only projects: calculate GHG emissions using the RoadMod, which will be updated to contain GHG emission factors from EMFAC and OFFROAD. All construction-generated GHG emissions should be treated as a net increase, and if deemed significant, should be mitigated to the extent feasible.
- Air District rulemaking or air quality management plan-type projects should be evaluated on a case-by-case basis for secondary impacts of increased GHG emissions generation. In most cases, the types of projects that act to reduce regional air pollution simultaneously act to reduce GHG emissions, and would be beneficial, but should be evaluated for secondary effects from GHG emissions.
- Regional transportation plans should also be evaluated on a case-by-case basis for potential to either reduce or increase GHG emissions from the transportation sector. EMFAC can be utilized to determine the net change in GHG emissions

associated with projected vehicle VMT and from operating speed changes associated with additional or alleviated congestion.

Chapter 8

Analytical
Methodologies
For GHG

To achieve the goals of AB 32, which are tied to GHG emission rates of specific benchmark years (i.e., 1990), California would have to achieve a lower rate of emissions per unit of population and per unit of economic activity than it has now. Further, in order to accommodate future population and economic growth, the state would have to achieve an even lower rate of emissions per unit than was generated in 1990. (The goal to achieve 1990 quantities of GHG emissions by 2020 means that this will need to be accomplished in light of 30 years of population and economic growth in place beyond 1990.) Thus, future planning efforts that would not encourage new development to achieve its fair share of reductions in GHG emissions would conflict with the spirit of the policy decisions contained in AB 32, thus impeding California's ability to comply with the mandate.

Thus, if a statewide context for GHG emissions were pursued, any net increase in GHG emissions within state boundaries would be considered "new" emissions. For example, a land development project, such as a specific plan, does not necessarily create "new" emitters of GHG, but would theoretically accommodate a greater number of residents in the state. Some of the residents that move to the project could already be California residents, while some may be from out of state (or would 'take the place' of in-state residents who 'vacate' their current residences to move to the new project). Some may also be associated with new births over deaths (net population growth) in the state. The out-of-state residents would be contributing new emissions in a statewide context, but would not necessarily be generating new emissions in a global context. Given the California context established by AB 32, the project would need to accommodate an increase in population in a manner that would not inhibit the state's ability to achieve the goals of lower total mass of emissions.

The average net influx of new residents to California is approximately 1.4 percent per year (this value represents the net increase in population, including the net contribution from births and deaths). With population growth, California also anticipates economic growth. Average statewide employment has grown by approximately 1.1 percent over the last 15 years. The average percentage of population employed over the last 15 years is 46 percent. Population is expected to continue growing at a projected rate of approximately 1.5 percent per year through 2050. Long-range employment projection data is not available from the California Department of Finance (DOF) and can be extrapolated in different ways (e.g., linear extrapolation by percentage rate of change, percentage of population employed, mathematical series expansion, more complex extrapolation based on further research of demographic projections such as age distribution). Further study would be needed to refine accurate employment projections from the present to 2050. For developing this framework, employment is assumed to have a constant proportionate relationship with the state's population. The projected number of jobs is assumed to be roughly 46 percent of the projected population.

Method/Tool Description	Availability	Applicability	Scope	Ease of Use	Data Input (Requirements and Guidance)	Data Output	Recommendation Comments	Advantages/ Disadvantages
I-PLACE ³ S	Access fee through local COG Only available for eight California counties	Land use change	Regional, scalable	Fairly Easy	Parcel information	CO ₂ (lb/day or tons/year)	-Recommended for land development projects and land use changes -Especially good for general plans	-Not freely available to public -Not applicable statewide -Actually provides insight into land use interaction -Can include very specific project attributes -Trip rates are from behavioral survey data, instead of ITE
EMFAC 2007	Public domain	On-road mobile sources	Statewide, regional	Fairly Easy	Vehicle information	fleet CO ₂ (grams/mile)	-Not recommended for most projects (URBEMIS preferred) -Could be used for certain Air District Rulemaking applications	-Can compare emissions based on speed-distribution -Emission factors contained in URBEMIS -Not a stand-alone model
OFFROAD 2007	Public domain	Off-road mobile sources (construction equipment)	Statewide, regional	Fairly Easy	Construction information	fleet CO ₂ (lb/day)	-Not recommended (URBEMIS preferred) -could be used for certain Air District Rulemaking applications (re: construction equipment)	-Emission factor2 contained in URBEMIS
RoadMod (to be updated to include CO ₂)	Public domain	Off-road and on-road mobile sources (construction equipment and material haul trucks)	Statewide	Easy	Construction information	CO ₂ (lb/day or tons/project)	-Recommended for construction-only projects (linear in nature; i.e., levees, roads, pipelines)	-To be updated to support emissions factors from OFFROAD 2007

Method/Tool Description	Availability	Applicability	Scope	Ease of Use	Data Input (Requirements and Guidance)	Data Output	Recommendation Comments	Advantages/ Disadvantages
3TIM	Public domain	On-road mobile-sources	Statewide, regional	Difficult (consists of a series of three programs and requires input files from traffic and emissions modeling)	-EMFAC files -Traffic model output files (e.g., link, interzonal, and trip end data) -User optionsfile -Optional files	CO ₂ (tons/year)	-Not recommended	-Not updated to support EMFAC 2007 emission factors -Input files include output files from regional transportation model, which more accurately reflect VMT
Southeast Climate Change Partnership Spreadsheet Model (UK)	Public domain http://www.climate-southeast.org.uk/	UK government/agencies/organizations used for emissions inventories	Local, county, regional	Fairly easy	Energy usage, waste generation/disposal, transportation	CO ₂ (tonnes/year)	-Not recommended for use in California, but could be a valuable source for building an applicable spreadsheet model	-Applicability for UK, but could be updated with CA specific emission factors
EPA AP-42; Evaporation Loss Sources Chapter 4.3.5	Public reference document	GHG emissions from waste water treatment facilities	Facility level	Easy equation; substantial research needed to use	Biochemical oxygen demand (BOD) loading, anaerobically digested	Fraction CHI (lb/year)	-Recommended for publicly owned works (POTW) projects	-Substantial research needed to determine the "fraction anaerobically digested" parameter which is dependent on the type of treatment plant/process
LandGem v. 3.02	Public domain http://www.epa.gov/ttn/catc/dir1/landgem-v302.xls	GHG emissions from anaerobic decomposition associated with landfills	Facility Level	Moderate	Solid waste processing, lifetime of waste in place	CO ₂ , CH ₄ (Mega grams/year)	-Recommended for landfill emissions	-Emission rates change dependent on years of decomposition, waste placement rates of change. -Complex decomposition rate equation, but good first approximation

Method/Tool Description	Availability	Applicability	Scope	Ease of Use	Data Input (Requirements and Guidance)	Data Output	Recommendation Comments	Advantaged Disadvantages
CARROT	Registry members	Stationary source emissions, vehicle fleet sources	Facility level	Moderate	Facility-specific information	All GHGs	-Recommended for reporting facilities under AB 32 and for indirect emissions from energy consumption (CCAR Protocol)	-Estimates all GHGs and normalizes to CO ₂ e -Not publicly available
<p>Notes:</p> <p>GHG = greenhouse gas; AB = assembly bill; CO₂e = carbon dioxide equivalent; CH₄ = methane; N₂O = nitrous oxide; COG = council of governments ; ITE = Institute of Transportation Engineers; CCAR = California Climate Action Registry</p> <p>Source: Data compiled by EDAW and the California Air Pollution Control Officers Association in 2007</p>								

Introduction

This chapter (and Appendix B) identifies existing and potential mitigation measures that could be applied to projects during the CEQA process to reduce a project's GHG emissions that would be identified using the analytical methodologies included in this white paper. The Subcommittee retained the services of EDAW to assist with this effort. EDAW performed a global search of mitigation measures currently in practice and under study that would reduce GHG emissions.

Table 16 (Appendix B) provides a brief description of each measure along with an assessment of their feasibility (from a standpoint of economical, technological, and logistical feasibility, and emission reduction effectiveness), and identifies their potential for secondary impacts to air quality. During the global search performed, EDAW also took note of GHG reduction strategies being implemented as rules and regulation (e.g., early action items under AB 32), which are summarized in Table 18 (Appendix C). It is important to note that though compliance with such would be required by regulation for some sources, such strategies may be applicable to other project and source types.

The recurring theme that echoes throughout a majority of these measures is the shift toward New Urbanism, and research has consistently shown that implementation of Neotraditional Development techniques reduces VMT and associated emissions. The material reviewed assessed reductions from transportation-related measures (e.g., bicycle, pedestrian, transit, and parking) as a single comprehensive approach to land use. This comprehensive approach focuses on development design criteria conducive to enhancing alternate modes of transportation, including transit, walking, and bicycling. Transportation Demand Management (TDM) programs are viewed as a mechanism to implement specific measures. TDM responsibilities may include offering incentives to potential users of alternative modes of transportation and monitoring and reporting mode split changes.

The comprehensive approach makes it more difficult to assess reductions attributable to each measure. Nevertheless, there is a strong interrelationship between many of the measures, which justifies a combined approach. Consider the relationship between bike parking nonresidential, bike parking residential, endtrip facilities, and proximity to bike path/bike lane measures. In reality, these measures combined act as incentives for one individual to bike to work, while implementation of a single measure without the others reduces effectiveness.

The global nature of GHG emissions is an important feature that enables unique mitigation: abatement. When designing a project subject to CEQA, the preferred practice is first to avoid, then to minimize, and finally to compensate for impacts. Where the impact cannot be mitigated on-site, off-site mitigation is often and effectively implemented in several resource areas, either in the form of offsetting the same impact or preserving the resource elsewhere in the region. Frequently, mitigation fee programs or funds are established, where the proponent pays into the program and fees collected

throughout the region or state are used to implement projects that, in turn, proportionately offset the impacts of the projects to the given resource. It may be more cost-effective to reduce as much GHG on-site as feasible (economically and technologically). Then the proponent would pay into a “GHG retrofit fund” to reduce equivalent GHG emissions off-site. In contrast to regional air pollutant offset programs such as the Carl Moyer Program, it matters greatly where reductions of ozone precursors occur, as ozone affects regional air quality. The GHG retrofit fund could be used to provide incentives to upgrade older buildings and make them more energy efficient. This would reduce demand on the energy sector and reduce stationary source emissions associated with utilities. This program has been successfully implemented in the United Kingdom where developments advertise “carbon neutrality.” Of course, some GHG emissions occur associated with operation of the development, but the development would offset the remainder of emissions through off-site retrofit. Avoiding emissions that would otherwise continue to occur at existing development would be a unique opportunity for mitigation of GHG emissions. Reduction of GHG emissions also may have important side benefits including reduction of other forms of pollution.

Depending on the significance threshold concept adopted, projects subject to the CEQA process would either qualitatively or quantitatively identify the amount of GHG emissions associated with their project using the analytical methodologies identified in the previous chapter. The analysis would then apply the appropriate number of mitigation measures listed in Appendix B to their project to reduce their GHG emissions below the significance level. Calculating the amount of GHG emission reductions attributable to a given mitigation measure would require additional research. The examples below illustrate how a project would be mitigated using this approach.

Residential Project Example

Project Attributes:

- 68 detached dwelling units
- 15.9 acres
- Located in unincorporated Placer County PCAPCD jurisdiction)
- Assume URBEMIS defaults for a rural project in Placer County, in absence of a traffic study (This is contrary to the recommendations contained under Task 1; a traffic study is necessary to assess project-specific GHG emissions).
- Analysis year 2009

Table 11: Residential Project Example GHG Emissions Estimates with Mitigation

URBEMIS Output (Unmitigated)	Metric Tons/Year CO ₂ e	URBEMIS Output (Mitigated)	Metric Tons/Year CO ₂ e	Percent Reduction
Area-source emissions	252	Area-source emissions	215	14.6
Mobile-source emissions	1,047	Mobile-source emissions	916	12.5
Total direct operational emissions (area + mobile)	1,299	Total operational emissions (area + mobile)	1,131	12.9
Notes: CO ₂ e = carbon dioxide equivalent				
Sources: Data compiled by EDAW in 2007				

Using URBEMIS 2007 and assuming the project would implement the mitigation measures listed below, yearly project-generated emissions of CO₂e would be reduced by approximately 13 percent. Implementation of the following mitigation measures is assumed:

- 100 housing units within one-half-mile radius of project's center, including this project's 68 residential units;
- provision of 80 jobs in the study area;
- retail uses present with one-half-mile radius of project's center;
- 10 intersections per square mile;
- 100% of streets with sidewalks on one side;
- 50% of streets with sidewalks on both sides;
- 30% of collectors and arterials with bike lanes, or where suitable, direct parallel routes exist;
- 15% of housing units deed restricted below market rate;
- 20% energy efficiency increase beyond Title 24; and
- 100% of landscape maintenance equipment electrically powered and electrical outlets in front and rear of units.

Example Project Methodology and Mitigation

Table 12 – Residential Projects Example Methodology and Mitigation

Source	Methodology	Mitigation
Direct Emissions		
Construction	URBEMIS (OFFROAD emission factors)	MM C-1+MM C-4
Mobile Sources	URBEMIS (EMFAC emission factors)	MM T-3→MM T-8, MM T-10→ MM T-14, MM T-16, MM T-19→ MM T-21 MM D-2→MM D-8, MM D-10→ MM D-15, MM D-17 MM S-1→MM S-2 MM M-1→MM M-2
Area Sources	URBEMIS	MM D-13→MM D-15, MM D-17
Indirect Emissions		
Energy Consumption	CCAR GRP & CEC	MM E-12→MM E-23 MM S-1→MM S-2 MM M-1→MM M-2

Table 13 – Commercial Projects Example Methodology and Mitigation

Source	Methodology	Mitigation
Direct Emissions		
Construction	URBEMIS (OFFROAD emission factors)	MM C-1→MM C-4
Mobile Sources	URBEMIS (EMFAC emission factors)	MM T-1→MM T-2, MM T-4→ MM T-15, MM T-17→MM T-21 MM D-1→MM D-3, MM D-5→ MM D-6, MM D-10, MM D-12, MM D-14→MM D-17 MM E-24 MM S-1+MM S-2 MM M-1→MM M-2
Area Sources	URBEMIS	MM D-14→MM D-17
Indirect Emissions		
Energy Consumption	CCAR GRP & CEC	MM E-16→MM E-24 MM S-1→MM S-2 MM M-1→MM M-2

Table 14 – Specific Plans Example Methodology and Mitigation

Source	Methodology	Mitigation
Direct Emissions		
Construction	URBEMIS (OFFROAD emission factors)	MM C-1→MM C-4
Mobile Sources	Short-term: URBEMIS (EMFAC emission factors). Long-term: I-PLACE ³ S/CTG SCM	MM T-1→MM T-21 MM D-1→MM D-12, MM D-18– MM D-19 MM E-24 MM S-1→MM S-2 MM M-1+MM M-2
Area Sources	Short-term: URBEMIS (EMFAC emission factors). Long-term: I-PLACE ³ S/CTG SCM	MM D-13→MM D-19 MM E-1+MM E-24
Indirect Emissions		MM S-1→MM S-2
Energy Consumption	Short-term: CCAR GRP & CEC. Long-term: I-PLACE ³ S/CTG SCM	MM M-1→MM M-2

Construction	URBEMIS (OFFROAD emission factors).	MS G-1 MM G-15
Mobile Sources	Short-term: URBEMIS (EMFAC emission factors). Long-term: I-PLACE ³ S/CTG SCM	MS G-1 MS G-2→MS C-7, MS G-9, MS G-12 MS-13→MS-14, MS-16→MS-23
Area Sources	Short-term: URBEMIS (EMFAC emission factors). Long-term: I-PLACE ³ S/CTG SCM	MS G-1 MS G-8→MS C-11, MS G-134 MS G-12, MS-15, MS-17, MS-22
Indirect Emissions		
Energy Consumption	Short-term: CCAR GRP & CEC. Long-term: I-PLACE ³ S/CTG SCM	

Other Project Types

Air District Rules and Regulations

Air district rules and regulations could have the potential to increase or decrease GHG emissions within the respective jurisdiction. In general, air district rules and regulations act to decrease criteria air pollutant or toxic air contaminant emissions, which would usually act to reduce GHG emissions simultaneously. However, this may not always be the case and air district rules and regulations could address emissions from a large variety of different source types. Reductions of GHG emissions associated with implementation of applicable mitigation, which could also vary greatly, would need to be evaluated on a case-by-case basis. However, once applicable mitigation measures are identified, percent reductions based on the best available research to date, such as those specified in Table 15, could be applied to determine mitigated emissions.

Air Quality Plans

Similarly to air district rules and regulations, air quality plans could have the potential to increase or decrease GHG emissions because of criteria air pollutant reduction strategies. In general, strategies implemented by air districts to reduce criteria air pollutants also act to reduce GHG emissions. However, this may not always be the case. Reductions of GHG emissions associated with implementation of applicable mitigation would need to be evaluated on a case-by-case basis. The methodology identified above for determining whether the strategies contained within the GHG reduction plan would adhere to the level specified in general plan policy could also be used to determine the reductions associated with CAP strategies.

Regional Transportation Plans

Regional transportation plans and reductions of GHG emissions associated with implementation of applicable mitigation would also need to be evaluated on a case-by-case basis to determine if a net increase or decrease in GHG emissions would occur. Complex interactions between the roadway network, operating conditions, alternative transportation availability (such as public transit, bicycle pathways, and pedestrian infrastructure), and many other independent parameters specific to a region should be considered. EMFAC 2007 can be used with VMT from the RTP to create an inventory of GHG emissions. Reductions associated with implementation of applicable measures contained in Table 16 could be accomplished by accounting for VMT reductions in the traffic model.

Many states, counties, and cities have developed policies and regulations concerning greenhouse gas emissions that seek to require or promote reductions in GHG emissions through standards for vehicle emissions, fuels, electricity production/renewables, building efficiency, and other means. However, we could only identify three public agencies in the United States that are considering formally requiring the analysis of greenhouse gas emissions and climate change for development projects during their associated environmental processes. There may be others, but they were not identified during research conducted during preparation of this paper.

The following is a summary of those three efforts.

Commonwealth of Massachusetts - MEPA Greenhouse Gas Emissions Policy and Protocol

The Massachusetts Executive Office of Energy and Environmental Affairs (EEA) has determined that the phrase “damage to the environment” as used in the Massachusetts Environmental Policy Act (MEPA) includes the emission of greenhouse gases caused by projects subjects to MEPA Review. EEA has published a Greenhouse Gas Emissions Policy (GGEP) to fulfill the statutory obligation to take all feasible measures to avoid, minimize or mitigate damage to the environment.

The GGEP concerns the following projects only:

- The Commonwealth or a state agency is the proponent;
- The Commonwealth or a state agency is providing financial assistance;
- The project is privately funded, but requires an Air Quality Permit from the department of Environmental Protection;
- The project is privately funded, but will generate:
 - 3,000 or more new vehicle trips per day for office projects;
 - 6,000 or more new vehicle trips per day for mixed use projects that are 25% or more office space; or
 - 10,000 or more new vehicle trips per day for other projects.

As a comparison, the trip generation amounts correspond as follows:

- 3,000 vehicle trips per day = approximately 250,000 square foot office development;
- 6,000 or more new vehicle trips per day for mixed use projects that are 25% or more office space = if 25% office space, then equivalent to approximately 130,000 square feet of office and either 100,000 square feet of retail or 450 single-family residential units or some combination thereof.
- 10,000 or more new vehicle trips per day = approximately 1,000 single family residential units or 250,000 square feet retail.

The draft policy states it is not intended to create a numerical GHG emission limit or a numerical GHG emissions reduction target, but rather to ensure that project proponents and reviewers have considered the GHG emissions impacts of their projects and taken all feasible means and measure to reduce those impacts.

The draft policy notes that some projects within these categories will have little or no greenhouse gas emission and the policy will not apply to such projects. EEA intends to identify in the scoping certificate whether a project falls within this *de minimis* exception.

The GGEP requires qualifying projects to do the following:

- to quantify their GHG emissions;
- identify measures to minimize or mitigate such emissions;
- quantify the reduction in emissions and energy savings from mitigation.

Emissions inventories are intended to focus on carbon dioxide, but analysis of other GHGs may be required for certain projects. EEA will require analysis of direct GHG emissions and indirect (electricity and transportation) emissions. The GGEP references the protocols prepared by the World Resource Institute as guidance for inventory preparation.

The policy is still in draft form, but the comment period closed on August 10, 2007.

King County, Washington - Executive Order on the Evaluation of Climate Change Impacts through the State Environmental Policy Act (SEPA)

On June 27, 2007, the King County Executive Ron Sims directed all King County Departments, as follows:

“...effective September 1, 2007 to require that climate impacts, including, but not limited to those pertaining to greenhouse gases, be appropriately identified and evaluated when such Departments are acting as the lead agency in reviewing the environmental impacts of private or public proposals pursuant to the State Environmental Policy Act”.

The Executive Order does not define what a “climate impact” is. Based on statements of the County Deputy Chief of Staff“

- County agencies will ask project proponents to supply information on transportation, energy usage and other impacts of proposed projects using the County’s existing SEPA checklist.

* Marten Law Group: Environmental News, August 1, 2007, “King County (WA) First in Nation to Require Climate Change Impacts to be Considered During Environmental Review of New Projects”.



- There is no current plan to require project proponents to take action to mitigate the impacts identifies.
- Development of emissions thresholds and mitigation requirements will be undertaken in connection with the County's upcoming 2008 update of its Comprehensive Plan.

Sacramento Metropolitan Air Quality Management District

The Sacramento Metropolitan Air Quality Management District released an interim guidance on addressing climate change in CEQA documents on September 6, 2007. While very general in nature, the District recommends that CEQA environmental documents include a discussion of anticipated GHG emissions during both the construction and operation phases of the project. This includes assessing the GHG emissions from projects (using readily available models) to determine whether a project may have a significant impact. If so, then the District recommends addressing all of the District's GHG mitigation measures (drawn from comments made by the California Attorney General) – with explanations on how the mitigation will be implemented or providing rationale for why a measure would be considered infeasible. The District provides assistance to agencies in their analysis of GHG emissions and the applicability of specific mitigation measures. The District's guidance can be found at: <http://64.143.64.21/climatechange/ClimateChangeCEQAGuidance.pdf>

Mendocino Air Quality Management District – CEQA Guidelines

The Mendocino AQMD updated its “Guidelines for Use During Preparation of Air Quality Impacts in EIRs or Mitigated Negative Declarations” in May 2007. The guidelines call for preparing estimates of the increased emissions of air contaminations (including GHG) for projects.

The guidelines state that GHG emissions should be presumed to have a significant impact if CO emissions from District-approved modeling exceed either of the following:

- 80% of the level defined as significant for stationary sources in Regulation 1, Rule 130 (s2) of the District (which is 550 lbs/day for CO, meaning a threshold of 440 lbs/day for CO for stationary sources); or
- levels established in District Regulation 1 Rule 130 (i2) for indirect sources (which is 690 lbs/day for CO for indirect sources).

If an average passenger vehicle emits 22 grains of CO/mile and 0.8 lb/mile of CO₂, then the 690-lb/day threshold for CO corresponds to approximately 11,400 lb/day CO₂ threshold for passenger vehicle-related emissions. If one assumes that the average passenger vehicle goes 12,500 miles/year (about 35 miles/day), then this is a threshold equivalent to about 420 vehicles. Using an average in California of about 1.77 vehicles/household, this would correspond to about 250 households/dwelling units.

Appendix A

Relevant Citations

Citations from the Public Resources Code (Division 13, 621000 et seq.) as amended through January 1, 2005.

Public Resources Code – Section 21004, MITIGATING OR AVOIDING A SIGNIFICANT EFFECT; POWERS OF PUBLIC AGENCY:

“In mitigating or avoiding a significant effect of a project on the environment, a public agency may exercise only those express or implied powers provided by law other than this division. However, a public agency may use discretionary powers provided by such other law for the purpose of mitigating or avoiding a significant effect on the environment subject to the express or implied constraints or limitations that may be provided by law.”

Public Resources Code – Section 21082.2, SIGNIFICANT EFFECT ON ENVIRONMENT; DETERMINATION; ENVIRONMENTAL IMPACT REPORT PREPARATION:

- (a) The lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record.
- (b) The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.
- (c) Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.
- (d) If there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment, an environmental impact report shall be prepared.
- (e) Statements in an environmental impact report and coinments with respect to an environmental impact report shall not be deemed determinative of whether the project may have a significant effect on the environment.

Citations from the Guidelines for California Environmental Quality Act, CCR, Title 14, Division 6 (§ 15000 et seq.) as amended through July 27, 2007.

AG=Attorney General; ARB=California Air Resources Board; ASTM=American Society for Testing and Material; BAAQMD=Bay Area Air Quality Management District; BEES= Building for Environmental and Economic Sustainability; CA=California; Caltrans=California Department of Transportation; CAPs=Criteria Air Pollutants; CCAP=Center for Clean Air Policy; CF=Connectivity Factor; CIWMB=California Integrated Waste Management Board; CO= Carbon Monoxide; CO₂=Carbon Dioxide; DGS=Department of General Services; DOE=U.S. Department of Energy; DPF=Diesel particulate Filter; E85=85% Ethanol; EERE=Energy Efficiency and Renewable Energy; EOE=Encyclopedia of Earth; EPA=U.S. Environmental Protection Agency; ETC=Edmonton Trolley Coalition; EVs/CNG=Electric Vehicles/Compressed Natural Gas FAR=Floor Area Ratio; GHG=Greenhouse Gas; ITE=Institute of Transportation Engineers; kg/m²=kilogram per square meter; km=Kilometer; lb=pound; LEED=Leadership in Energy and Environmental Design; M=Million; NA=Not Available; NEV=Neighborhood Electric Vehicle; NIST=National Institute of Standards and Technology; NO_x=Oxides of Nitrogen; NREL=National Renewable Energy Laboratory; N/S=North/South; PG&E=Pacific Gas and Electric; PM=Particulate Matter; SJVAPCD=San Joaquin Valley Air Pollution Control District; SMAQMD=Sacramento Metropolitan Air Quality Management District; SMUD=Sacramento Municipal Utilities District; SO_x=Sulfur Oxides; SRI=Solar Reflectance Index; TACs=Toxic Air Contaminants; TDM=Transportation Demand Management; TMA=Transportation Management Association; THC=Total Hydrocarbon; ULEV=Ultra Low Emission Vehicle; USGBC=U.S. Green Building Council; and VTPI=Victoria Transit Policy.

State CEQA Guidelines – Section 15064, DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT:

(a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.

(1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.

(2) When a final EIR identifies one or more significant effects, the Lead Agency and each Responsible Agency shall make a finding under Section 15091 for each significant effect and may need to make a statement of overriding considerations under Section 15093 for the project.

(b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.

(c) In determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the Lead Agency must still determine whether environmental change itself might be substantial.

(d) In evaluating the significance of the environmental effect of a project, the Lead Agency 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.

(1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

(2) 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. 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. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.

(3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.

(e) Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a

project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

(f) The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.

(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68).

(2) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared.

(3) If the lead agency determines there is no substantial evidence that the project may have a significant effect on the environment, the lead agency shall prepare a negative declaration (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App. 3d 988).

(4) The existence of public controversy over the environmental effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a significant effect on the environment.

(5) Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts.

(6) Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment.

(7) The provisions of sections 15162, 15163, and 15164 apply when the project being analyzed is a change to, or further approval for, a project for which an EIR or negative declaration was previously certified or adopted (e.g. a tentative subdivision, conditional use permit). Under case law, the fair argument standard does not apply to determinations of significance pursuant to sections 15162, 15163, and 15164.

(g) After application of the principles set forth above in Section 15064(f)(g), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts

over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

(h)(1) When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(2) A lead agency may determine in an initial study that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. When a project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a mitigated negative declaration, the initial study shall briefly indicate and explain how the contribution has been rendered less than cumulatively considerable.

(3) A lead agency may determine that a project's incremental contribution to a cumulative effect is not Cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem (e.g., water quality control plan, air quality plan, integrated waste management plan) within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project.

(4) The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable.

State CEQA Guidelines – Section 15130, DISCUSSION OF CUMULATIVE IMPACTS:

(a)(3). "An EIR may determine that a project's contribution to a significant Cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than Cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than Cumulatively considerable.

State CEQA Guidelines – Section 15064.7, THRESHOLDS OF SIGNIFICANCE:

"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.”

Appendix B

Mitigation Measure Summary

**Table 16
Mitigation Measure Summary**

Mitigation Measure	Applicable Project/Source Type ¹	Effective	Emissions Reduction/Score ²			
			Feasible (Yes/No)	Secondary Effects (Yes/No)	Cost (Yes/No) ³	Technical ⁴ Logistical ⁵
Description/Comments	Agency/Organization/Other ⁶					
MM T-1: Bike Parking LD (C, M), I, SP, TP, AQP, RR, P/Mobile 1%-5%/High: CCAP Yes: Lockers Yes (Caltrans) Yes (Caltrans) 2005, (Caltrans) Dierkers et al. 2005, CAPs, TACs \$2,950, \$700/bike on average), Racks (\$70-2007, VTPI Dierkers et of mitigation measures for a range \$2,950, \$700/bike on average), Racks (\$70-2007, VTPI Dierkers et al. 2007), (Dierkers et al. 2007). SMAQMD allocates combined reductions among individual measures (e.g., 2.5% reduction for all bicycle-related measures and one-quarter of 2.5% for each individual measure) (TMAX 2005, EDAPW 2006, SMAQMD 2007). VTPI presents % reductions for showers and combined measures in the TDM encyclopedia (VTPI	Caltrans, Portland Bicycle Master Plan (City of Portland 1998), CCAP Transportation Emissions Guidebook (Dierkers et al. 2007), SMAQMD Recommended Guidance for Land Use Emission Reductions (SMAQMD 2007), VTPI, CA air quality management and control districts, and cities/counties.	Adverse: No	Beneficial: CAPs, TACs	Yes (Caltrans)	Yes (Caltrans)	Yes
MM T-2: End of Trip Facilities LD (C, M), I, SP, TP, AQP, RR, P/Mobile reduction for all bicycle-related measures and one-quarter of 2.5% for each individual measure) (TMAX 2005, EDAPW 2006, SMAQMD 2007). VTPI presents % reductions for showers and combined measures in the TDM encyclopedia (VTPI	Nonresidential projects provide "end-of-trip" facilities including showers, lockers, and changing space (e.g., four clothes lockers and one shower provided for every 80 employee parking spaces, separate facilities for each gender for projects with 160 or more employee parking spaces).	Adverse: No	Beneficial: CAPs, TACs	Yes (Caltrans)	Yes (Caltrans)	Yes
MM T-3: Bike-LD (R, M), SP, AQP, RR, Parking at Multi- LD (R, M), SP, AQP, RR, Parking at Multi-encyclopedia (VTPI	Long-term bicycle parking is provided at apartment	Adverse: No	Beneficial:	Yes (Caltrans)	Yes (Caltrans)	Yes: Lockers Yes (Caltrans)

**Transportation
Bicycle/Pedestrian/Transit Measures**

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Mitigation Measure	Applicable Project/Source Type ¹	Effective	Feasible (Yes/No)		Secondary Effects (Yes/No)	Agency/Organization/Other ⁶	Description/Comments
		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴			
Jnit Residential	P/Mobile	2007). JSA bases estimates on CCAP information (JSA 2004).	\$2,950, \$700/bike on average), Racks (\$70-\$2,000, \$70/bike on average).	Dierkers et al. 2007, VTPI 2007)	2005, Dierkers et al. 2007, VTPI 2007)	CAPs, TACs	complexes or condominiums without garages (e.g., one long-term bicycle parking space for each unit without a garage). Long-term facilities shall consist of one of the following: a bicycle locker, a locked room with standard racks and access limited to bicyclists only, or a standard rack in a location that is staffed and/or monitored by video surveillance 24 hours per day.
MM T-4: Proximity to Bike Path/Bike Lanes	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile		Yes	Yes (Caltrans 2005, Dierkers et al. 2007, VTPI 2007)	Yes (Caltrans 2005, Dierkers et al. 2007, VTPI 2007)	Adverse: No Beneficial: CAPs, TACs	Entire project is located within one-half mile of an existing/planned Class I or Class II bike lane and project design includes a comparable network that connects the project uses to the existing offsite facility. Project design includes a designated bicycle route connecting all units. on-site bicycle parking facilities, offsite bicycle facilities, site entrances, and primary building entrances to existing Class I or Class II bike lane(s) within one-half mile. Bicycle route connects to all streets contiguous with project site. Bicycle route has minimum conflicts with automobile parking and circulation

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
								facilities. All streets internal to the project wider than 75 feet have Class II bicycle lanes on both sides.

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Mitigation Measure	Applicable Project/Source Type ¹	Effective	Feasible(Yes/No)			Secondary Effects (Yes/No)	Agency/Organization/Other ⁶	Description/Comments
		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
MM T-5: Pedestrian Network	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	1%-10%/High: CCAP presents combined % reductions for a range of mitigation measures (Dierkers et al. 2007). SMAQMD allocates 1% for each individual measure (TIAX 2005, EDAW 2006, SMAQMD 2007).	Yes	Yes (Dierkers et al. 2007, VTPI 2007)	Yes (Dierkers et al. 2007, VTPI 2007)	Adverse: No Beneficial: CAPs, TACs	CCAP Transportation Emissions Guidebook (Dierkers et al. 2007), SMAQMD Recommended Guidance for Land Use Emission Reductions (SMAQMD 2007), VTPI, CA air quality management and control districts, and cities/counties.	The project provides a pedestrian access network that internally links all uses and connects to all existing/planned external streets and pedestrian facilities contiguous with the project site. Project design includes a designated pedestrian route interconnecting all internal uses, site entrances, Primary building entrances, public facilities, and adjacent uses to existing external pedestrian facilities and streets. Route has minimal conflict with parking and automobile circulation facilities. Streets (with the exception of alleys) within the project have sidewalks on both sides. All sidewalks internal and adjacent to project site are minimum of five feet wide. All sidewalks feature vertical curbs. Pedestrian facilities and improvements such as grade separation, wider sidewalks, and traffic calming are implemented wherever feasible to minimize pedestrian barriers. All site entrances provide pedestrian access.
MM T-6: Pedestrian	LD (R, C, M), I, SP, TP,		Yes	Yes (Dierkers et al. 2007,	Yes (Dierkers et	Adverse: No Beneficial:		Site design and building placement minimize barriers to

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
Barriers Minimized	AQP, RR, P/Mobile			VTPI 2007)	al. 2007, VTPI 2007)	CAPs, TACs		pedestrian access and interconnectivity. Physical barriers such as walls, berms, landscaping, and slopes between residential and nonresidential uses that impede bicycle or pedestrian circulation are eliminated.
MM T-7: Bus Shelter for Existing/Planned Transit Service	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	1%-2%/High: CCAP presents these % reductions (Dierkers et al., 2007). SMAQMD assigns from .25%-1% depending on headway frequency (TIAX 2005, EDAW 2006, SMAQMD 2007).	Yes: \$15,000-\$70,000.	Yes (Dierkers et al. 2007, VTPI 2007)	Yes (Dierkers et al. 2007, VTPI 2007)	Adverse: No Beneficial: CAPs, TACs	CCAP Transportation Emissions Guidebook (Dierkers et al. 2007), SMAQMD Recommended Guidance for Land Use Emission Reductions (SMAQMD 2007), VTPI, City of Calgary (City of Calgary 2004), CA air quality management and control districts, and cities/counties.	Bus or streetcar service provides headways of one hour or less for stops within one-quarter mile; project provides safe and convenient bicycle/pedestrian access to transit stop(s) and provides essential transit stop improvements (i.e., shelters, route information, benches, and lighting).

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Mitigation Measure	Applicable Project/Source Type ¹	Effective	Feasible(Yes/No)			Secondary Effects (Yes/No)	Agency/Organization/Other ⁶	Description/Comments
			Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴			
MM T-8: Traffic Calming	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	1%-10%/High: CCAP presents combined % reductions for a range of mitigation measures (Dierkers et al. 2007). SMAQMD allocates .25%-1.0% for each individual measure depending on percent of intersections and streets with improvements (TIAX 2005, EDAW 2006, SMAQMD 2007).	Yes	Yes (Dierkers et al. 2007, VTPI 2007)	Yes (Dierkers et al. 2007, VTPI 2007)	Adverse: No Beneficial: CAPs, TACs	CCAP Transportation Emissions Guidebook (Dierkers et al. 2007), SMAQMD Recommended Guidance for Land Use Emission Reductions (SMAQMD 2007), VTPI, CA air quality management and control districts, and cities/counties.	Project design includes pedestrian/bicycle safety and traffic calming measures in excess of jurisdiction requirements. Roadways are designed to reduce motor vehicle speeds and encourage pedestrian and bicycle trips by featuring traffic calming features. All sidewalks internal and adjacent to project site are minimum of five feet wide. All sidewalks feature vertical curbs. Roadways that converge internally within the project are routed in such a way as to avoid "skewed intersections;" which are intersections that meet at acute, rather than right, angles. Intersections internal and adjacent to the project feature one or more of the following pedestrian safety/traffic calming design techniques: marked crosswalks, count-down signal timers, curb extensions, speed tables, raised crosswalks, raised intersections, median islands, tight corner radii, and roundabouts or mini-circles. Streets internal and adjacent to the project feature pedestrian safety/traffic calming measures such as on-street parking, planter strips with street trees,

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
and chicanes/chokers (variations in road width to discourage high-speed travel).								
Parking Measures								
MM T-9: Paid Parking (Parking Cash Out)	LD (C, M), 1, SP, TP, AQP, RR, P/Mobile	1%-30%/High: CCAP presents a range of 15%-30% reduction for parking programs (Dierkers et al. 2007). SMAQMD presents a range of 10%-7.2%, depending on cost/day and distance to transit (TIAX 2005, EDAW 2006, SMAQMD 2007). Shoupe presents a 21% reduction [\$5/day for commuters to downtown LA, with elasticity of -0.18 (e.g., if price increases 10%, then solo driving goes down by 1.8% more)] (Shoupe 2005). Urban Transit Institute	Yes: Vary by location and project size.	Yes (Dierkers et al. 2007, VTPI 2007)	Yes (Dierkers et al. 2007, VTPI 2007)	Adverse: No Beneficial: CAPs, TACs	CCAP Transportation Emissions Guidebook (Dierkers et al. 2007), SMAQMD Recommended Guidance for Land Use Emission Reductions (SMAQMD 2007), VTPI, CA air quality management and control districts, and cities/counties.	Project provides employee and/or customer paid parking system. Project must have a permanent and enforceable method of maintaining user fees for all parking facilities. The facility may not provide customer or employee validations. Daily charge for parking must be equal to or greater than the cost of a transit day/monthly pass plus 20%.

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
		presents a range of 1%- 10% reduction in trips to central city sites, and 2%-4% in suburban sites (VTPI 2007).						
MM T-10: Minimum Parking	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	1%-30%/High: CCAP presents a range of 15%-30% reduction for parking programs (Dierkers et al. 2007). SMAQMD presents a maximum of 6% (Nelson/Nygaard Consulting Associates, 2005, TIAX 2005, EDAW 2006).	Yes	Yes (Dierkers et al. 2007, VTPI 2007)	Yes (Dierkers et al. 2007, VTPI 2007), Note that in certain areas of the state, the minimum parking required by code is greater than the peak period parking demand for most land uses. Simply meeting minimum code requirements in these areas would not result in an emissions reduction.	Adverse: No Beneficial: CAPs, TACs	CCAP Transportation Emissions Guidebook (Dierkers et al. 2007), SMAQMD Recommended Guidance for Land Use Emission Reductions (SMAQMD 2007), VTPI, Governor's Office of Smart Growth (Annapolis, Maryland) (Zimbler), CA air quality management and control districts, and cities/counties.	Provide minimum amount of parking required. Once land uses are determined, the trip reduction factor associated with this measure can be determined by utilizing the ITE parking generation publication. The reduction in trips can be computed as shown below by the ratio of the difference of minimum parking required by code and ITE peak parking demand for the land uses multiplied by 50%. Percent Trip Reduction = 50 * [(min parking required by code - ITE peak parking demand) / (ITE peak parking demand)]

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Mitigation Measure Summary**

Mitigation Measure	Applicable Project/Source Type ¹	Effective	Feasible (Yes/No)		Secondary Effects (Yes/No)	Agency/Organization/Other ⁶	Description/Comments
		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴			
MM T-11: Parking Reduction Beyond Code/Shared Parking	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	1%-30%/High: CCAP presents a range of 15%-30% reduction for parking programs (Dierkers et al. 2007). SMAQMD presents a maximum of 12% (Nelson/Nygaard, 2005, TIAX 2005, EDAW 2006).	Yes	Yes (Dierkers et al. 2007, VTPI 2007)	Yes (Dierkers et al. 2007, VTPI 2007)	Adverse: No Beneficial: CAPs, TACs	Provide parking reduction less than code. This measure can be readily implemented through a shared parking strategy, wherein parking is utilized jointly among different land uses, buildings, and facilities in an area that experience peak parking needs at different times of day and day of the week.
MM T-12: Pedestrian Pathway Through Parking	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	1%-4%/Moderate: CCAP presents combined % reductions for a range of mitigation measures (Dierkers et al. 2007). SMAQMD allocates 0.5% reduction for this measure (TIAX 2005, EDAW 2006, SMAQMD 2007).	Yes	Yes (Dierkers et al. 2007, VTPI 2007)	Yes (Dierkers et al. 2007, VTPI 2007)	Adverse: No Beneficial: CAPs, TACs	Provide a parking lot design that includes clearly marked and shaded pedestrian pathways between transit facilities and building entrances.

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Mitigation Measure	Applicable Project/Source Type ¹	Effective	Feasible(Yes/No)			Secondary Effects (Yes/No)	Agency/Organization/Other ⁶	Description/Comments
		Emissions Reduction/Score ²	Cost(Yes/No) ³	Technical ⁴	Logistical ⁵			
MM T-13: Off-Street Parking	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	1%-4%/Moderate: CCAP presents combined % reductions for a range of mitigation measures (Dierkers et al. 2007). SMAQMD allocates a range of 0.1%-1.5% for this measure (TIAX 2005, EDAW 2006, SMAQMD 2007).	Yes	Yes (Dierkers et al. 2007, VTPI 2007)	Yes (Dierkers et al. 2007, VTPI 2007)	Adverse: No Beneficial: CAPs, TACs		Parking facilities are not adjacent to street frontage.
MM T-14: Parking Area Tree Cover	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	Annual net CO ₂ reduction of 3.1 kgm ³ canopy cover/Moderate (McPherson 2001).	Yes: \$19 per new tree for CA, cost varies for maintenance, removal and replacement (McPherson 2001).	Yes	Yes	Adverse: VOCs Beneficial: CAPs, TACs	AG, State of CA Department of Justice (Goldberg 2007) and cities/counties (e.g., parking lot ordinances in Sacramento, Davis, and Los Angeles, CA).	Provide parking lot areas with 50% tree cover within 10 years of construction, in particular low emitting, low maintenance, native drought resistant trees. Reduces urban heat island effect and requirement for air conditioning, effective when combined with other measures (e.g., electrical maintenance equipment and reflective paving material).
MM T-15: Valet Bicycle Parking	LD (C, M), SP, AQP, TP, RR, P/Mobile	NA/Low	Yes	Yes	Yes: Raley Field (Sacramento, CA)	Adverse: No Beneficial: CAPs, TACs	Raley Field (Sacramento, CA).	Provide spaces for the operation of valet bicycle parking at community event "centers" such as amphitheatres, theatres, and stadiums.
MM T-16: Garage Bicycle Storage	LD (R, M), SP, AQP, TP, RR, P/Mobile	NA/Low	Yes: Less than \$200/multiple bike rack.	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	City of Fairview, OR	Provide storage space in one-car garages for bicycles and bicycle trailers.

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵				
MM T-17: Preferential Parking for EVs/CNG Vehicles	LD (C, M), I, SP, TP, AQP, RR, P/Mobile	NA/Low	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	USGBC, CA air quality management and control districts and cities/counties (e.g., BAAQMD).	Provide preferential parking space locations for EVs/CNG vehicles.	
MM T-18: Reduced/No Parking Fee for EVs/CNG Vehicles	LD (C, M), I, SP, TP, AQP, RR, P/Mobile	NA/Low	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	Hotels (e.g., Argonaut in San Francisco, CA)	Provide a reduced/no parking fee for EVs/CNG vehicles.	

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Mitigation Measure	Applicable Project/Source Type ¹	Effective	Feasible (Yes/No)			Secondary Effects (Yes/No)	Agency/Organization/Other ⁶	Description/Comments
		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
<i>Miscellaneous Measure</i>								
MM T-19: TMA Membership	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	1%-28%/High: CCAP presents a range of 3%-25% for TDMs with complementary transit and land use measures (Dierkers et al. 2007). VTPI presents a range of 6%-7% in the TDM encyclopedia (VTPI 2007). URBEMIS offers a 2%-10% range in reductions for a TDM that has 5 elements that are pedestrian and transit friendly and 1%-5% for 3 elements. SMAQMD presents a reduction of 5% (TIAX 2005, EDAW 2006, SMAQMD 2007).	Yes	Yes (Dierkers et al. 2007, VTPI 2007)	Yes (Dierkers et al. 2007, VTPI 2007)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Include permanent TMA membership and funding requirement. Funding to be provided by Community Facilities District or County Service Area or other nonrevocable funding mechanism. TDMs have been shown to reduce employee vehicle trips up to 28% with the largest reductions achieved through parking pricing and transit passes. The impact depends on the travel alternatives.
MM T-20: ULEV	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	NA/Low	Yes: Higher than corresponding gasoline models.	Yes	Yes: IFueling stations might not be readily available depending on location. More than 900 E185 fueling	Adverse: No Beneficial: CAPs, TACs	DGS, CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Use of and/or provide ULEV that are 50% cleaner than average new model cars (e.g., natural gas, ethanol, electric).

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴			
					stations in the U.S., 5 in CA. Vehicles available in select regions only		
MM T-21: Flex Fuel Vehicles	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	5466.97 lb GHG/year/Low (DOE Fuel Economy)	Yes: E85 costs less than gasoline per gallon, but results in lower fuel economy.	Yes	Yes: More than 900 E85 fueling stations in the U.S., 5 in CA. Vehicles available in select regions only	Adverse: Yes Issues with the energy intensive ethanol production process (e.g., wastewater treatment requirements). Beneficial: CAPs, TACs	DGS, CA air quality management and control districts and cities/counties (e.g., SJVAPCD). Use of and/or provide vehicles that utilize gasoline/ethanol blends (e.g., E85).
Design							
Commercial & Residential Building Design Measures							
MM D-1: Office/Mixed Use Density	LD (C, M), SP, TP, AQP, RR, P/Mobile	0.05%-2%/Moderate: This range is from SMAQMD, depending	Yes	Yes (VTPI 2007)	Yes (VTPI 2007)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties Project provides high density office or mixed-use proximate to transit. Project must provide

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
		on FAR and headway frequencies (Nelson/Nygaard Consulting Associates 2005, EDAW 2006, SMAQMD 2007).					(e.g., SMAQMD).	safe and convenient pedestrian and bicycle access to all transit stops within one-quarter mile.
MM D-2: Orientation to Existing/Planned Transit, Bikeway, or Pedestrian Corridor	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	0.4%-1%/Moderate: CCAP attributes a 0.5% reduction per 1% improvement in transit frequency (Dierkers et al. 2007). SMAQMD presents a range of 0.25%-5% (JSA 2005, EDAW 2006, SMAQMD 2007).	Yes	Yes (Dierkers et al. 2007)	Yes (Dierkers et al. 2007)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project is oriented towards existing transit, bicycle, or pedestrian corridor. Setback distance between project and existing or planned adjacent uses is minimized or nonexistent. Setback distance between different buildings on project site is minimized. Setbacks between project buildings and planned or existing sidewalks are minimized. Buildings are oriented towards existing or planned street frontage. Primary entrances to buildings are located along planned or existing public street frontage. Project provides bicycle access to any planned bicycle corridor(s). Project provides pedestrian access to any planned pedestrian corridor(s).
MM D-3: Services Operational	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	0.5%-5%/Moderate	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project provides on-site shops and services for employees.

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
MM D-4: Residential Density (Employ sufficient Density for New Residential Development to Support the Use of Public Transit)	LD (R, M), SP, TP, AQP, RR, P/Mobile	1%-40%/High: #7, EPA presents a range of 32%-40% (EPA 2006). SMAQMD presents a range of 1%-12% depending on density and headway frequencies (Nelson/Nygaard Consulting Associates 2005, JSA 2005, EDAW 2006, SMAQMD 2007). Nelson/Nygaard presents a trip reduction formula: Trip Reduction = $0.6 * (1 - (19749 * ((4.814 + \text{households per residential acre}) / (4.814 + 7.14)))^{0.639} / 25914)$.	Yes	Yes (VTPI 2007, Holtzclaw 2007)	Yes (VTPI 2007, Holtzclaw 2007)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project provides high-density residential development. Transit facilities must be within one-quarter mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within one-quarter mile of project border.
MM D-5: Street Grid	LD (R, C, M), I, SP, TP, AQP, RR,	1%/Moderate: SMAQMD presents this % reduction (JSA	Yes	Yes (Dierkers et al. 2007, VTPI 2007)	Yes (Dierkers et al. 2007,	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties	Multiple and direct street routing (grid style). This measure only applies to projects

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
	P/Mobile	2005, EDAW 2006, SMAQMD 2007).					(e.g., SMAQMD).	with an internal CF \geq 0.80, and average of one-quarter mile or less between external connections along perimeter of project. [CF= # of intersections (# of cul-de-sacs + intersections)]. Cul-de-sacs with bicycle/pedestrian through access may be considered "complete intersections" when calculating the project's internal connectivity factor. External connections are bicycle/pedestrian pathways and access points, or streets with safe and convenient bicycle and pedestrian access that connect the project to adjacent streets, sidewalks, and uses. If project site is adjacent to undeveloped land; streets, pathways, access points, and right-of-ways that provide for future access to adjacent uses may count for up to 50% of the external connections. Block perimeter (the sum of the measurement of the length of all block sides) is limited to no more than 1,350 feet. Streets internal to the project should connect to streets external to the project whenever possible.

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		Emissions Reduction/Score ²	Cost(Yes/No) ³	Technical ⁴				Logisticals
MM D-6: NEV Access	LD (R, C, M), SP, TP, AQP, RR, P/Mobile	0.5%-1.5%/Low: SMAQMD presents this % reduction (EDAW 2006, SMAQMD 2007).	Yes	Yes (Litman 1999, Sperling 1994)	Yes (Litman 1999, Sperling 1994)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Make physical development consistent with requirements for neighborhood electric vehicles. Current studies show that for most trips, NEVs do not replace gas-fueled vehicles as the primary vehicle.
MM D-7: Affordable Housing Component	LD (R, M), SP, TP, AQP, RR, P/Mobile	0.4%-6%/Moderate: SMAQMD presents this % reduction (Nelson/Nygaard Consulting Associates 2005, EDAW 2006, SMAQMD 2007).	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Residential development projects of five or more dwelling units provide a deed-restricted low-income housing component on-site (or as defined in the code). Developers who pay into In-Lieu Fee Programs are not considered eligible to receive credit for this measure. The award of emission reduction credit shall be based only on the proportion of affordable housing developed on-site because in-lieu programs simply induce a net increase in development. Percentage reduction shall be calculated according to the following formula:

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
								% reduction = % units deed-restricted below market rate housing * 0.04
MM D-8: Recharging Area	LD (R, M), SP, TP, AQP, RR, P/Mobile	NA/Low	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs		Provide residential buildings with a "utility" room or space for recharging batteries, whether for use in a car, electric lawnmower, other electric landscaping equipment, or even batteries for small items such as flashlights.
Mixed-Use Development Measures								
MM D-9: Urban Mixed-Use	LD (M), SP, TP, AQP, RR, P/Mobile	3%-9%/Moderate: SMAQMD presents this % reduction (TIAX 2005, EDAW 2006, SMAQMD 2007).	Yes	Yes (EPA 2006)	Yes (EPA 2006)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Development of projects predominantly characterized by properties on which various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with functional interrelationships as a coherent physical design.
MM D-10: Suburban Mixed-Use	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	3%/Moderate: SMAQMD presents this % reduction (TIAX 2005, EDAW 2006, SMAQMD 2007).	Yes	Yes (EPA 2006)	Yes (EPA 2006)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Have at least three of the following on site and/or offsite within one-quarter mile: Residential Development, Retail Development, Park, Open Space, or Office.
MM D-11: Other Mixed-Use	LD (R, M), SP, TP, AQP, RR, P/Mobile	1%/Moderate: SMAQMD presents this % reduction (TIAX 2005, EDAW	Yes	Yes (EPA 2006)	Yes (EPA 2006)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	All residential units are within one-quarter mile of parks, schools or other civic uses.

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		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴				Logistical ⁵
		2006, SMAQMD 2007).						
MM D-12: Infill Development	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	3%-30%/High: Infill development reduces vehicle trips and VMT by 3% and 20%, respectively (Fehr & Peers 2007). CCAP identifies a site level VMT reduction range of 20%-30% (Dierkers et al. 2007).	Yes	Yes (Dierkers et al. 2007)	Yes (Dierkers et al. 2007)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project site is on a vacant infill site, redevelopment area, or brownfield or greyfield lot that is highly accessible to regional destinations, where the destinations rating of the development site (measured as the weighted average travel time to all other regional destinations) is improved by 100% when compared to an alternate greenfield site.
Miscellaneous Measures								
MM D-13: Electric Lawnmower	LD (R, M), SP, AQP, RR, P/Area	1%/Low: SMAQMD presents this % reduction (EDAW 2006, SMAQMD 2007).	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Provide a complimentary electric lawnmower to each residential buyer.

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MM D-14: Enhanced Recycling/Waste Reduction, Reuse, Composting	LD (R, C, M), I, SP, AQP, RR, P/Stationary & Area	NA/Low	Yes	Yes	Yes: Association with social awareness.	Adverse: No Beneficial: CAPs, TACs	CIWMB	Provide infrastructure/education that promotes the avoidance of products with excessive packaging, recycle, buying of refills, separating of food and yard waste for composting, and using rechargeable batteries.
MM D-15: LEED Certification	LD (R, C, M), I, SP, AQP, RR, P/Stationary & Area	NA/Moderate	Yes: Receive tax rebates, incentives (e.g., EDAAW San Diego office interior remodel cost \$1,700,000 for 32,500 square feet) (USGBC 2007)	Yes	Yes: More than 700 buildings of different certifications in CA (USGBC 2007).	Adverse: No Beneficial: CAPs, TACs	USGBC, CA air quality management and control districts and cities/counties (e.g., BAAQMD).	LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality.
MM D-16: Retro-Commissioning	LD (C, M), I, SP, AQP, RR, P/Stationary & Area	8%-10% reduction in energy usage/Moderate: (Mills et al. 2004)	Yes: Average \$0.28/square feet, varies with building size (Haas and Sharp 1999).	Yes	Yes: 27 projects underway in CA, 21 more to be completed in 2007, mostly state buildings owned by DGS (DGS 2007).	Adverse: No Beneficial: CAPs, TACs	DGS, CA air quality management and control districts and cities/counties (e.g., BAAQMD).	The process ensures that all building systems perform interactively according to the contract documents, the design intent and the owner's operational needs to optimize energy performance.
MM D-17 Landscaping	LD (R, C, M), I, SP, AQP, RR,	NA/Low	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	Alliance for the Chesapeake Bay, EPA Green Landscaping	Project shall use drought resistant native trees, trees with low emissions and high carbon

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	P/Stationary & Area						Resources	sequestration potential. Evergreen trees on the north and west sides afford the best protection from the setting summer sun and cold winter winds. Additional considerations include the use of deciduous trees on the south side of the house that will admit summer sun; evergreen plantings on the north side will slow cold winter winds; constructing a natural planted channel to funnel summer cooling breezes into the house. Neighborhood CCR's not requiring that front and side yards of single family homes be planted with turf grass. Vegetable gardens, bunch grass, and low-water landscaping shall also be permitted, or even encouraged.
MM D-18: Local Farmers' Market	LD (M), SP/Mobile, Stationary, &	NA/Low	Yes	Yes	Yes: Associated with social	Adverse: No Beneficial: CAPs, TACs	Cities/counties (e.g., Davis, Sacramento)	Project shall dedicate space in a centralized, accessible location for a weekly farmers' market.

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	Area							choice and public awareness.
MM D-19: Community Gardens	LD (M), SP/Mobile, Stationary, & Area	NA/Low	Yes	Yes	Yes: Associated with social choice and public awareness.	Adverse: No Beneficial: CAPs, TACs	Cities/counties (e.g., Davis)	Project shall dedicate space for community gardens.
Energy Efficiency/Building Component								
MM E-1: High-Efficiency Pumps	LD (R, C, M), SP, AQP, RR, P/Stationary & Area	NA/Low	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., BAAQMD).	Project shall use high-efficiency pumps.
MM E-2: Wood Burning Fireplaces/Stoves	LD (R, M), SP, AQP, RR, P/Stationary & Area	NA/Low: EDAW 2006	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project does not feature fireplaces or wood burning stoves.
MM E-3: Natural Gas Stove	LD (R, M), SP, AQP, RR, P/Stationary & Area	NA/Low: EDAW 2006	Yes: Cost of stove—\$350 (gas) and \$360 (electric) same brand, total yearly cost of \$42.17 as opposed to \$56.65 for electric (Saving Electricity 2006).	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project features only natural gas or electric stoves in residences

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MM E-4: Energy Star Roof	LD (R, C, M), I, SP, AQP, RR, P/Stationary & Area	0.5%-1%/Low: SMAQMD presents this % reduction (EDAW 2006, SMAQMD 2007).	Yes	Yes	Yes: 866 Energy Star labeled buildings in California (Energy Star 2007)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project installs Energy Star labeled roof materials.
MM E-5: On-site Renewable Energy System	LD (R, C, M), I, SP, AQP, RR, P/Stationary & Area	1%-3%/Moderate: SMAQMD presents this % reduction (USGBC 2002 and 2005, EDAW 2006, SMAQMD 2007).	Yes	Yes (USGBC 2002 and 2005)	Yes (USGBC 2002 and 2005)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project provides onsite renewable energy system(s). Nonpolluting and renewable energy potential includes solar, wind, geothermal, low-impact hydro, biomass and bio-gas strategies. When applying these strategies, projects may take advantage of net metering with the local utility.

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MM E-6: Exceed Title 24	LD (R, C, M), I, GSP, AQP, RR, P/Stationary & Area	1%/Moderate: SMAQMD presents this % reduction (EDAW 2006, SMAQMD 2007).	Yes	Yes (PG&E 2002, SMUD 2006)	Yes (PG&E 2002, SMUD 2006)	Adverse: No Beneficial: CAPs, TACs	PG&E, SMUD, CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project exceeds title 24 requirements by 20%.
MM E-7: Solar Orientation	LD (R, C, M), I, SP, AQP, RR, P/Stationary & Area	0.5%/Low: SMAQMD presents this % reduction (EDAW 2006, SMAQMD 2007).	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project orients 75% or more of homes and/or buildings to face either north or south (within 30° of N/S). Building design includes roof overhangs that are sufficient to block the high summer sun, but not the lower winter sun, from penetrating south facing windows. Trees, other landscaping features and other buildings are sited in such a way as to maximize shade in the summer and maximize solar access to walls and windows in the winter.
MM E-8: Nonroof Surfaces	LD (R, C, M), I, GSP, AQP, RR, P/Stationary & Area	1.0%/Low: SMAQMD presents this % reduction (EDAW 2006, SMAQMD 2007).	Yes	Yes (USGBC 2002 and 2005)	Yes (USGBC 2002 and 2005)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Provide shade (within 5 years) and/or use light-colored/high- albedo materials (reflectance of at least 0.3) and/or open grid pavement for at least 30% of the site's nonroof impervious surfaces, including parking lots, walkways, plazas, etc.; OR place a minimum of 50% of parking spaces underground or covered by structured parking; OR use an open-grid pavement system (less than 50% impervious) for a minimum of

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								50% of the parking lot area. The mitigation measure reduces heat islands (thermal gradient differences between developed and undeveloped areas to minimize impact on microclimate and human and wildlife habitats. This measure requires the use of patented or copyright protected methodologies created by the ASTM. The SRI is a measure of the constructed surface's ability to reflect solar heat, as shown by a small rise in temperature. It is defined so that a standard black (reflectance 0.05, emittance 0.90) is "0" and a standard white (reflectance 0.80, emittance 0.90) is 100. To calculate SRI for a given material, obtain the reflectance value and emittance value for the material. SRI is calculated according to ASTM E 1980-01. Reflectance is measured

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								according to ASTM E 903, ASTM E 1918, or ASTM C 1549. Emittance is measured according to ASTM E 408 or ASTM C 1371. Default value? for some materials will be available in the LEED-NC v2.2 Reference Guide.
MM E-9: Low-Energy Cooling	LD (C, M), I, SP, AQP, RR, P/Stationary & Area	1%-10%/Low: EDAW presents this percent reduction range (EDAW 2006).	Yes	Yes (USGBC 2002 and 2005)	Yes (USGBC 2002 and 2005)	Adverse: No Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Project optimizes building's thermal distribution by separating ventilation and thermal conditioning systems.
MM E-10: Green Roof	LD (R, C, M), I, SP, AQP, RR, P/Stationary & Area	1.0%/Moderate: SMAQMD presents this % reduction (EDAW 2006, SMAQMD 2007).	Yes	Yes (USGBC 2002 and 2005)	Yes (USGBC 2002 and 2005)	Adverse: Increased Water Consumption Beneficial: CAPs, TACs	CA air quality management and control districts and cities/counties (e.g., SMAQMD).	Install a vegetated roof that covers at least 50% of roof area. The reduction assumes that a vegetated roof is installed on a least 50% of the roof area or that a Combination high albedo and vegetated roof surface is installed that meets the following standard: (Area of SRI Roof/0.75)+(Area of vegetated roof/0.5) >= Total Roof Area. Water consumption reduction measures shall be considered in the design of the green roof.
MM E-11: EV Charging Facilities	LD (C, M), SP, AQP, RR, P/Stationary & Area	NA/Low	Yes: \$500-\$5000/vehicle site (PG&E 1999)	Yes	Yes: 381 facilities in CA (Clean Air Maps 2007).	Adverse: No Beneficial: CAPs, TACs	DOE, EERE, CA air quality management and control districts and cities/counties (e.g., BAAQMD).	Project installs EV charging facilities.
MM E-12:	LD (R, C, M),	NA/Low: Increasing	Yes: Light	Yes	Yes: Apply	Adverse: No		Project provides light-colored

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Light-Colored Paving	I, SP, AQP, RR, P/Stationary & Area	the albedo of 1,250 km of pavement by 0.25 would save cooling energy worth \$15M per year.	colored aggregates and white cement are more expensive than gray cement. Certain blended cements are very light in color and may reflect similarly to white cement at an equivalent cost to normal gray cement.		natural sand or gravel colored single surface treatments to asphalt (EOE 2007).	Beneficial: CAPs, TACs		paving (e.g., increased albedo pavement).
MM E-13: Cool Roofs	LD (R, C, M), I, SP, AQP, RR, P/Stationary & Area	NA/Low	Yes: 0.75–1.5/square feet coating (EPA 2007a)	Yes	Yes: Over 90% of the roofs in the United States are dark colored	Adverse: No Beneficial: CAPs, TACs	CEC	Project provides cool roofs. Highly reflective, highly emissive roofing materials that stay 50-60°F cooler than a normal roof under a hot summer sun. CA's Cool Savings

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					(EPA 2007a).			Program provided rebates to building owners for installing roofing materials with high solar reflectance and thermal emittance. The highest rebate went to roofs on air conditioned buildings, while buildings with rooftop ducts and other nonresidential buildings were eligible for slightly less. The program aimed to reduce peak summer electricity demand and was administered by the CEC.
MM E-14: Solar Water Heaters	LD (R, M), SP, AQP, RR, P/Stationary & Area	20%–70% reduction in cooling energy needs/Moderate	Yes: \$1675/20 square feet, requires a 50 gallon tank, annual operating cost of \$176 (DOE 2007).	Yes	Yes: Based on solar orientation, building codes, zoning ordinances.	Adverse: No Beneficial: CAPs, TACs	Europe	Project provides solar water heaters.
MM E-15: Electric Yard Equipment Compatibility	LD (R, M), SP, AQP, RR, P/Stationary & Area	NA/Low	Yes: \$75–\$250/outlet from existing circuit (Cost Helper 2007).	Yes	Yes	Adverse: No Beneficial: CAPs, TACs		Project provides electrical outlets at building exterior areas.
MM E-16: Energy Efficient Appliance Standards	LD (R, C, M), SP, AQP, RR, P/Stationary & Area	NA/Low	Yes: Varies for each appliance—higher capital costs, lower operating costs (Energy	Yes	Yes: Major retail stores.	Adverse: No Beneficial: CAPs, TACs		Project uses energy efficient appliances (e.g., Energy Star).

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			Star 2007).					
MM E-17: Green Building Materials	LD (R, C, M), SP, AQP, RR, P/Stationary & Area	NA/Low: 25-30% more efficient on average.	Yes	Yes: BEES software allows users to balance the environmental and economic performance of building products; developed by NIST (NIST 2007).	Yes	Adverse: No Beneficial: CAPs, TACs		Project uses materials which are resource efficient, recycled, with long life cycles and manufactured in an environmentally friendly way.
MM E-18: Shading Mechanisms	LD (R, C, M), I, SP, AQP, RR, P/Stationary, & Area	NA/Low: Up to \$450 annual energy savings (Energy Star 2007).	Yes: Higher capital costs, lower operating and maintenance costs (Energy Star 2007).	Yes	Yes: Major retail stores.	Adverse: No Beneficial: CAPs, TACs		Install energy-reducing shading mechanisms for windows, porch, patio and walkway overhangs.

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MM E-19: Ceiling/Whole-House Fans	LD (R, C, M), I, SP, AQP, RR, P/Stationary, & Area	NA/Low: 50% more efficient than conventional fans (Energy Star 2007).	Yes: \$45-\$200/fan, installation extra (Lowe's 2007).	Yes	Yes: Major retail stores.	Adverse: No Beneficial: CAPs, TACs		Install energy-reducing ceiling/whole-house fans.
MM E-20: Programmable Thermostats	LD (R, C, M), I, SP, AQP, RR, P/Stationary, & Area	NA/Low: \$100 annual savings in energy costs (Energy Star 2007).	Yes: \$60/LCD display and 4 settings for typical residential use (Lowe's 2007).	Yes	Yes: Major retail stores.	Adverse: Yes, Mercury Beneficial: CAPs, TACs		Install energy-reducing programmable thermostats that automatically adjust temperature settings.
MM E-21: Passive Heating and Cooling Systems	LD (R, C, M), I, SP, AQP, RR, P/Stationary, & Area	NA/Low	Yes: \$800 (wall heaters) to \$4,000+ (central systems)	Yes	Yes	Adverse: No Beneficial: CAPs, TACs		Install energy-reducing passive heating and cooling systems (e.g., insulation and ventilation).
MM E-22: Day Lighting Systems	LD (R, C, M), I, SP, AQP, RR, P/Stationary, & Area	NA/Low	Yes: \$1,300 to \$1,500 depending upon the kind of roof (Barrier 1995), installation extra.	Yes	Yes: Work well only for space near the roof of the building, little benefit in multi-floor buildings.	Adverse: No Beneficial: CAPs, TACs		Install energy-reducing day lighting systems (e.g., skylights, light shelves and interior transom windows).
MM E-23: Low-Water Use Appliances	LD (R, C, M), I, SP, AQP, RR, P/Stationary, & Area	NA/Low: Avoided water agency cost for using water-efficient kitchen pre-rinse spray valves of \$65.18 per acre-foot.	Yes: Can return their cost through reduction in water consumption,	Yes	Yes	Adverse: No Beneficial: CAPs, TACs		Require the installation of low-water use appliances.

**Table 16
Mitigation Measure Summary**

Mitigation Measure	Applicable Project/Source Type ¹	Effective		Feasible (Yes/No)		Secondary Effects (Yes/No)	Agency/Organization/Other ⁶	Description/Comments
		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
			pumping, and treatment.					
MM E-24: Goods Transport by Rail	LD (C, M), I, SP, AQP, RR, P/Mobile	NA/Moderate	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs	ARB Goods Movement Plan (ARB 2007)	Provide a spur at nonresidential projects to use nearby rail for goods movement.
Social Awareness/Education								
MM S-1: GHG Emissions Reductions Education	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile, Stationary, & Mobile	NA/Low	Yes	Yes	Yes: Similar programs currently exist in CA.	Adverse: No Beneficial: CAPs, TACs		Provide local governments, businesses, and residents with guidance/protocols/information on how to reduce GHG emissions (e.g., energy saving, food miles).
MM S-2: School Curriculum	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile, Stationary, & Mobile	NA/Low	Yes	Yes	Yes: Similar programs currently exist in CA.	Adverse: No Beneficial: CAPs, TACs		Include how to reduce GHG emissions (e.g., energy saving, food miles) in the school curriculum.
Construction								
MM C-1: ARB-Certified Diesel Construction Equipment	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	NA/Low	Yes: Oxidation Catalysts, \$1,000-	Yes	Yes	Adverse: Yes, NO _x Beneficial: CAPs, TACs	AG , EPA, ARB, and CA air quality management and pollution control districts.	Use ARB-certified diesel construction equipment. Increases CO ₂ emissions when trapped CO and carbon particles

AG=Attorney General, ARB=California Air Resources Board, ASTM=American Society for Testing and Material, BAAQMD=Bay Area Air Quality Management District, BEES= Building for Environmental and Economic Sustainability; CA=California; Caltrans=California Department of Transportation; CAPs=Criteria Air Pollutants; CCAP=Center for Clean Air Policy; CF=Connectivity Factor; CIWMB=California Integrated Waste Management Board, CO= Carbon Monoxide, CO₂=Carbon Dioxide, DGS=Department of General Services, DOE U.S. Department of Energy, DPF=Diesel particulate Filter, E85=85% Ethanol, EERE=Energy Efficiency and Renewable Energy; EOE=Encyclopedia of Earth; EPA=U.S. Environmental Protection Agency; ETC=Edmonton Trolley Coalition; EVs/CNG=Electric Vehicles/Compressed Natural Gas; FAR=Floor Area Ratio; GHG=Greenhouse Gas; ITE=Institute of Transportation Engineers; kg/m²=kilogram per square meter; km=Kilometer; lb=pound; LEED=Leadership in Energy and Environmental Design; M=Million; NA=Not Available; NEV=Neighborhood Electric Vehicle; NIST=National Institute of Standards and Technology; NO_x=Oxides of Nitrogen; NREL=National Renewable Energy Laboratory; N/S=North/South; PG&E=Pacific Gas and Electric; PM=Particulate Matter; SJVAPCD=San Joaquin Valley Air Pollution Control District; SMAQMD=Sacramento Metropolitan Air Quality Management District; SMUD=Sacramento Municipal Utilities District; SO_x=Sulfur Oxides; SRI=Solar Reflectance Index; TACs=Toxic Air Contaminants; TDM=Transportation Demand Management; TMA=Transportation Management Association; THC=Total Hydrocarbon; ULEV=Ultra Low Emission Vehicle, USGBC=U S Green Building Council, and VTPI=Victoria Transit Policy

**Table 16
Mitigation Measure Summary**

Mitigation Measure	Applicable Project/Source Type ¹	Effective		Feasible (Yes/No)		Secondary Effects (Yes/No)	Agency/Organization/Other ⁶	Description/Comments
		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
			\$2,000. DPF, \$5000-\$10,000; installation extra (EPA 2007b).					are oxidized (Catalyst Products 2007, ETC 2007).
MM C-2: Alternative Fuel Construction Equipment	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	NA/Low	Yes	Yes	Yes	Adverse: Yes, THC, NO _x Beneficial: CO, PM, SO,	AG, EPA, ARB, and CA air quality management and pollution control districts.	Use alternative fuel types for construction equipment. At the tailpipe biodiesel emits 10% more CO ₂ than petroleum diesel. Overall lifecycle emissions of CO ₂ from 100% biodiesel are 78% lower than those of petroleum diesel (NREL 1998, EPA 2007b).
MM C-3: Local Building Materials	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	NA/Low	Yes	Yes	Yes: Depends on location of building material manufacture sites.	Adverse: No Beneficial: CAPs, TACs		Use locally made building materials for construction of the project and associated infrastructure.
MM C-4: Recycle Demolished Construction Material	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile	NA/Low	Yes	Yes	Yes	Adverse: No Beneficial: CAPs, TACs		Recycle/Reuse demolished construction material. Use locally made building materials for construction of the project and associated infrastructure.

**Table I 6
Mitigation Measure Summary**

Mitigation Measure	Applicable Project/Source Type ¹	Effective		Feasible(Yes/No)		Secondary Effects (Yes/No)	Agency/Organization/Other ⁶	Description/Comments
		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logistical ⁵			
Miscellaneous								
MM M-1: Off-Site Mitigation Fee Program	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile & Area	“Moderate-High: Though there is currently no program in place, the potential for real and quantifiable reductions of GHG emissions could be high if a defensible fee program were designed.	Yes	Yes	No: Program does not exist in CA, but similar programs currently exist (e.g., Carl Moyer Program, SJVAPCD Rule 9510, SMAQMD Off-Site Construction Mitigation Fee Program).	Adverse: No Beneficial: CAPs, TACs		Provide/Pay into an off-site mitigation fee program, which focuses primarily on reducing emissions from existing development and buildings through retro-fit (e.g., increased insulation).
MM M-2: Offset Purchase	LD (R, C, M), I, SP, TP, AQP, RR, P/Mobile, Stationary, & Area	NA/Low	Yes	Yes	No: ARB has not adopted official program, but similar programs	No		Provide/purchase offsets for additional emissions by acquiring carbon credits or engaging in other market “cap and trade” systems.

AG=Attorney General; ARB=California Air Resources Board; ASTM=American Society for Testing and Material; BAAQMD=Bay Area Air Quality Management District; BEES= Building for Environmental and Economic Sustainability; CA=California; Caltrans=California Department of Transportation; CAPs=Criteria Air Pollutants; CCAP=Center for Clean Air Policy; CF=Connectivity Factor; CIWMB=California Integrated Waste Management Board; CO= Carbon Monoxide; CO₂=Carbon Dioxide; DGS=Department of General Services; DOE=U.S. Department of Energy; DPF=Diesel particulate Filter; E85=85% Ethanol; EERE=Energy Efficiency and Renewable Energy; EOE=Encyclopedia of Earth; EPA=U.S. Environmental Protection Agency; ETC=Edmonton Trolley Coalition; EVs/CNG=Electric Vehicles/Compressed Natural Gas; FAR=Floor Area Ratio; GHG=Greenhouse Gas; ITE=Institute of Transportation Engineers; kg/m²=kilogram per square meter; km=Kilometer; lb=pound; LEED=Leadership in Energy and Environmental Design; M=Million; NA=Not Available; NEV=Neighborhood Electric Vehicle; NIST=National Institute of Standards and Technology; NO_x=Oxides of Nitrogen; NREL=National Renewable Energy Laboratory; N/S=North/South; PG&E=Pacific Gas and Electric; PM=Particulate Matter; SJVAPCD=San Joaquin Valley Air Pollution Control District; SMAQMD=Sacramento Metropolitan Air Quality Management District; SMUD=Sacramento Municipal Utilities District; SO_x=Sulfur Oxides; SRI=Solar Reflectance Index; TACs=Toxic Air Contaminants; TDM=Transportation Demand Management; TMA=Transportation Management Association; THC=Total Hydrocarbon; ULEV=Ultra Low Emission Vehicle; USGBC=U.S. Green Building Council; and VTPI=Victoria Transit Policy.

**Table 16
Mitigation Measure Summary**

Mitigation Measure	Applicable Project/Source Type ¹	Effective		Feasible (Yes/No)		Secondary Effects (Yes/No)	Agency/Organization/Other ⁶	Description/Comments
		Emissions Reduction/Score ²	Cost (Yes/No) ³	Technical ⁴	Logisticals			
currently exist.								
Regional Transportation Plan Measures								
MM RTP-1: Dedicate High Occupancy Vehicle (HOV) lanes prior to adding capacity to existing highways.	RTP		Yes	Yes	Yes	Adverse: possible local CO Beneficial: regional CAPs, TACs	Caltrans, local government	Evaluate the trip reduction (and GHG reduction) potential of adding HOV lanes prior to adding standard lanes.
MMRTP-2: Implement toll/user fee programs prior to adding capacity to existing highways.	RTP		Yes	Yes	Yes	Adverse: possible local CO. Beneficial: regional CAPs, TACs	Caltrans	Evaluate price elasticity and associated trip reduction (and GHG reduction) potential with adding or increasing tolls prior to adding capacity to existing highways.
<p>Note: ¹Where LD (R, C, M) =Land Development (Residential, Commercial, Mixed-Use), I=Industrial, GP=General Plan, SP=Specific Plan, TP=Transportation Plans, AQP=Air Quality Plans, RR=Rules/Regulations, and P=Policy. It is important to note that listed project types may not be directly specific to the mitigation measure (e.g., TP, AQP, RR, and P) as such could apply to a variety of source types, especially RR and P. ²This score system entails ratings of high, moderate, and low that refer to the level of the measure to provide a substantive, reasonably certain (e.g., documented emission reductions with proven technologies), and long-term reduction of GHG emissions. ³Refers to whether the measure would provide a cost-effective reduction of GHG emissions based on available documentation. ⁴Refers to whether the measure is based on currently, readily available technology based on available documentation. ⁵Refers to whether the measure could be implemented without extraordinary effort based on available documentation. ⁶List is not meant to be all inclusive. Source: Data compiled by EDAW in 2007</p>								

Table 17
General Planning Level Mitigation Strategies Summary

Strategy	Source Type ¹	Agency/Organization ²	Description/Comments
MS G-1: Adopt a GHG reduction plan	GP/ Mobile, Stationary, & Area	City of San Bernardino	<ul style="list-style-type: none"> - Adopt GHG reduction targets for the planning area, based on the current legislation providing direction for state-wide targets, and update the plan as necessary. -The local government agency should serve as a model by inventorying its GHG emissions from agency operations, and implementing those reduction goals.
Circulation			
MS G-2: Provide for convenient and safe local travel	GP/ Mobile	Cities/Counties (e.g., Aliso Viejo, Claremont)	<ul style="list-style-type: none"> - Create a gridded street pattern with small block sizes. This promotes walkability through direct routing and ease of navigation. -Maintain a high level of connectivity of the roadway network. Minimize cul-de-sacs and incomplete roadway segments. -Plan and maintain an integrated ,hierarchical and multi-modal system of roadways, pedestrian walks, and bicycle paths throughout the area. -Apply creative traffic management approaches to address congestion in areas with unique problems, particularly on roadways and intersections in the vicinity of schools in the morning and afternoon peak hours, and near churches. parks and community centers. -Work with adjacent jurisdictions to address the impacts of regional development patterns (e.g. residential development in surrounding communities, regional universities, employment centers, and commercial developments) on the circulation system. -Actively promote walking as a safe mode of local travel, particularly for children attending local schools. -Employ traffic calming methods such as median landscaping and provision of bike or transit lanes to slow traffic, improve roadway capacity, and address safety issues.
MS G-3: Enhance the regional transportation network and maintain effectiveness	GP/ Mobile	Cities/Counties (e.g., Aliso Viejo, Claremont)	<ul style="list-style-type: none"> -Encourage the transportation authority to reduce fees for short distance trips. -Ensure that improvements to the traffic corridors do not negatively impact the operation of local roadways and land uses.

**Table 17
General Planning Level Mitigation Strategies Summary**

Strategy	Source Type ¹	Agency/Organization ²	Description/Comments
			<ul style="list-style-type: none"> -Cooperate with adjacent jurisdictions to maintain adequate service levels at shared intersections and to provide adequate capacity on regional routes for through traffic. -Support initiatives to provide better public transportation. Work actively to ensure that public transportation is part of every regional transportation corridor. - Coordinate the different modes of travel to enable users to transfer easily from one mode to another. -Work to provide a strong paratransit system that promotes the mobility of all residents and educate residents about local mobility choices. - Promote transit-oriented development to facilitate the use of the community’s transit services.
<p>MS G-4: Promote and support an efficient public transportation network connecting activity centers in the area to each other and the region.</p>	GP/ Mobile	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> -Promote increased use of public transportation and support efforts to increase bus service range and frequency within the area as appropriate. -Enhance and encourage provision of attractive and appropriate transit amenities, including shaded bus stops, to encourage use of public transportation. -Encourage the school districts, private schools and other operators to coordinate local bussing and to expand ride-sharing programs. All bussing options should be fully considered before substantial roadway improvements are made in the vicinity of schools to ease congestion.
<p>MS G-5: Establish and maintain a comprehensive system, which is safe and convenient, of pedestrian ways and bicycle routes that provide viable options to travel by automobile.</p>	GP/ Mobile	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> -Improve area sidewalks and rights-of-way to make them efficient and appealing for walking and bicycling safely. Coordinate with adjacent jurisdictions and regional agencies to improve pedestrian and bicycle trails, facilities, signage, and amenities. -Provide safe and convenient pedestrian and bicycle connections to and from town centers, other commercial districts, office complexes, neighborhoods, schools, other major activity centers, and surrounding communities. -Work with neighboring jurisdictions to provide well-designed pedestrian and bicycle crossings of major roadways. -Promote walking throughout the community. Install sidewalks where missing and make improvements

**Table 17
General Planning Level Mitigation Strategies Summary**

Strategy	Source Type ¹	Agency/Organization ²	Description/Comments
			<p>to existing sidewalks for accessibility purposes. Particular attention should be given to needed sidewalk improvement near schools and activity centers.</p> <ul style="list-style-type: none"> -Encourage businesses or residents to sponsor street furniture and landscaped areas. - Strive to provide pedestrian pathways that are well shaded and pleasantly landscaped to encourage use. - Attract bicyclists from neighboring communities to ride their bicycles or to bring their bicycles on the train to enjoy bicycling around the community and to support local businesses. <p>Meet guidelines to become nationally recognized as a Bicycle-Friendly community.</p> <ul style="list-style-type: none"> - Provide for an education program and stepped up code enforcement to address and minimize vegetation that degrades access along public rights-of-way. -Engage in discussions with transit providers to increase the number of bicycles that can be accommodated on buses
<p>MS G-6: Achieve optimum use of regional rail transit.</p>	<p>GP/ Mobile</p>	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> -Support regional rail and work with rail authority to expand services. - Achieve better integration of all transit options. -Work with regional transportation planning agencies to finance and provide incentives for multimodal transportation systems. - Promote activity centers and transit-oriented development projects around the transit station.
<p>MS G-7: Expand and optimize use of local and regional bus and transit systems.</p>	<p>GP/ Mobile</p>	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> -Encourage convenient public transit service between area and airports. -Support the establishment of a local shuttle to serve commercial centers. -Promote convenient, clean, efficient, and accessible public transit that serves transit-dependent riders and attracts discretionary riders as an alternative to reliance on single-occupant automobiles.

**Table 17
General Planning Level Mitigation Strategies Summary**

Strategy	Source Type ¹	Agency/Organization ²	Description/Comments
			<ul style="list-style-type: none"> - Empower seniors and those with physical disabilities who desire maximum personal freedom and independence of lifestyle with unimpeded access to public transportation. -Integrate transit service and amenities with surrounding land uses and buildings.
Conservation, Open Space			
<p>MSG-8: Emphasize the importance of water conservation and maximizing the use of native, low-water landscaping.</p>	<p>GP/Stationary & Area</p>	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> -Reduce the amount of water used for landscaping and increase use of native and low water plants. Maximize use of native, low-water plants for landscaping of areas adjacent to sidewalks or other impermeable surfaces. -Encourage the production, distribution and use of recycled and reclaimed water for landscaping projects throughout the community, while maintaining urban runoff water quality objectives. -Promote water conservation measures, reduce urban runoff, and prevent groundwater pollution within development projects, property maintenance, area operations and all activities requiring approval. -Educate the public about the importance of water conservation and avoiding wasteful water habits. -Work with water provider in exploring water conservation programs, and encourage the water provider to offer incentives for water conservation.
<p>MSG-9: Improve air quality within the region.</p>	<p>GPI Mobile, Stationary, & Area</p>	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> -Integrate air quality planning with area land use, economic development and transportation planning efforts. -Support programs that reduce air quality emissions related to vehicular travel. -Support alternative transportation modes and technologies, and develop bike- and pedestrian-friendly neighborhoods to reduce emissions associated with automobile use. -Encourage the use of clean fuel vehicles. -Promote the use of fuel-efficient heating and cooling equipment and other appliances, such as water

Table 17
General Planning Level Mitigation Strategies Summary

Strategy	Source Type ¹	Agency/Organization ²	Description/Comments
			<p>heaters, swimming pool heaters, cooking equipment, refrigerators, furnaces, and boiler units.</p> <ul style="list-style-type: none"> - Promote the use of clean air technologies such as fuel cell technologies, renewable energy sources, UV coatings, and alternative, non-fossil fuels. -Require the planting of street trees along streets and inclusion of trees and landscaping for all development projects to help improve airshed and minimize urban heat island effects. - Encourage small businesses to utilize clean, innovative technologies to reduce air pollution. - Implement principles of green building. - Support jobs/housing balance within the community so more people can both live and work within the community. To reduce vehicle trips, encourage people to telecommute or work out of home or in local satellite offices.
<p>MS G-10: Encourage and maximize energy conservation and identification of alternative energy sources.</p>	<p>GP/ Stationary & Area</p>	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> -Encourage green building designs for new construction and renovation projects within the area. -Coordinate with regional and local energy suppliers to ensure adequate supplies of energy to meet community needs, implement energy conservation and public education programs, and identify alternative energy sources where appropriate. -Encourage building orientations and landscaping that enhance natural lighting and sun exposure. -Encourage expansion of neighborhood-level products and services and public transit opportunities throughout the area to reduce automobile use. - Incorporate the use of energy conservation strategies in area projects. - Promote energy-efficient design features, including appropriate site orientation, use of light color roofing and building materials, and use of evergreen trees and wind-break trees to reduce fuel consumption for heating and cooling.

**Table 17
General Planning Level Mitigation Strategies Summary**

Strategy	Source Type¹	Agency/Organization²	Description/Comments
			<ul style="list-style-type: none"> -Explore and consider the cost/benefits of alternative fuel vehicles including hybrid, natural gas, and hydrogen powered vehicles when purchasing new vehicles. -Continue to promote the use of solar power and other energy conservation measures. - Encourage residents to consider the cost/benefits of alternative fuel vehicles. - Promote the use of different technologies that reduce use of non-renewable energy resources. -Facilitate the use of green building standards and LEED in both private and public projects -Promote sustainable building practices that go beyond the requirements of Title 24 of the California Administrative Code, and encourage energy-efficient design elements, as appropriate. -Support sustainable building practices that integrate building materials and methods that promote environmental quality, economic vitality, and social benefit through the design, construction, and operation of the built environment. - Investigate the feasibility of using solar (photovoltaic) street lights instead of conventional street lights that are powered by electricity in an effort to conserve energy. - Encourage cooperation between neighboring development to facilitate on-site renewable energy supplies or combined heat and power co-generation facilities that can serve the energy demand of contiguous development.

**Table 17
General Planning Level Mitigation Strategies Summary**

Strategy	Source Type ¹	Agency/Organization ²	Description/Comments
<p>MS G-11: Preserve unique community forests, and provide for sustainable increase and maintenance of this valuable resource.</p>	<p>GP/Stationary & Area</p>	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> - Develop a tree planting policy that strives to accomplish specific % shading of constructed paved and concrete surfaces within five years of construction. - Provide adequate funding to manage and maintain the existing forest, including sufficient funds for tree planting, pest control, scheduled pruning, and removal and replacement of dead trees. - Coordinate with local and regional plant experts in selecting tree species that respect the natural region in which Claremont is located, to help create a healthier, more sustainable urban forest. - Continue to plant new trees (in particular native tree species where appropriate), and work to preserve mature native trees. - Increase the awareness of the benefits of street trees and the community forest through a area wide education effort. - Encourage residents to properly care for and preserve large and beautiful trees on their own private property.
Housing			
<p>MS G-12: Provide affordability levels to meet the needs of community residents.</p>	<p>GPI Mobile</p>	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> - Encourage development of affordable housing opportunities throughout the community, as well as development of housing for elderly and low and moderate income households near public transportation services. - Ensure a portion of future residential development is affordable to low and very low income households.
Land Use			
<p>MS G-13: Promote a visually-cohesive urban form and establish connections between the urban core and outlying portions of the</p>	<p>GPI Mobile, Stationary, & Area</p>	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> - Preserve the current pattern of development that encourages more intense and higher density development at the core of the community and less intense uses radiating from the central core. - Create and enhance landscaped greenway, trail and sidewalk connections between neighborhoods and to commercial areas, town centers, and parks.

**Table 17
General Planning Level Mitigation Strategies Summary**

Strategy	Source Type ¹	Agency/Organization ²	Description/Comments
community.			<ul style="list-style-type: none"> -Identify ways to visually identify and physically connect all portions of the community, focusing on enhanced gateways and unifying isolated and/or outlying areas with the rest of the area. -Study and create a diverse plant identity with emphasis on drought-resistant native species.
MS G-14: Provide a diverse mix of land uses to meet the future needs of all residents and the business community.	GP/ Mobile	Cities/Counties (e.g., Aliso Viejo, Claremont)	<ul style="list-style-type: none"> -Attract a broad range of additional retail, medical, and office uses providing employment at all income levels. -Support efforts to provide beneficial civic, religious, recreational, cultural and educational opportunities and public services to the entire Community. -Coordinate with public and private organizations to maximize the availability and use of parks and recreational facilities in the community. -Support development of hotel and recreational commercial land uses to provide these amenities to local residents and businesses.
MS G-15: Collaborate with Providers of solid waste collection, disposal and recycling services to ensure a level of service that promotes a clean community and environment.	GP/ Stationary, & Area	Cities/Counties (e.g., Aliso Viejo, Claremont)	<ul style="list-style-type: none"> -Require recycling, composting, source reduction and education efforts throughout the community, including residential, businesses, industries, and institutions, within the construction industry, and in all sponsored activities.
MS G-16: Promote construction, maintenance and active use of publicly- and privately-operated parks, recreation programs, and a community center.	GP/ Mobile	Cities/Counties (e.g., Aliso Viejo, Claremont)	<ul style="list-style-type: none"> -Work to expand and improve community recreation amenities including parks, pedestrian trails and connections to regional trail facilities. -As a condition upon new development, require payment of park fees and/or dedication and provision of parkland, recreation facilities and/or multi-use trails that improve the public and private recreation system. -Research options or opportunities to provide necessary or desired community facilities.

**Table 17
General Planning Level Mitigation Strategies Summary**

Strategy	Source Type ¹	Agency/Organization ²	Description/Comments
MS G-17: Promote the application of sustainable development practices.	GP/ Mobile, Stationary, & Area	Cities/Counties (e.g., Aliso Viejo, Claremont)	<ul style="list-style-type: none"> - Encourage sustainable development that incorporates green building best practices and involves the reuse of previously developed property and/or vacant sites within a built-up area. - Encourage the conservation, maintenance, and rehabilitation of the existing housing stock. -Encourage development that incorporates green building practices to conserve natural resources as part of Sustainable development practices. -Avoid development of isolated residential areas in the hillsides or other areas where such development would require significant infrastructure investment, adversely impact biotic resources. - Provide land area zoned for commercial and industrial uses to support a mix of retail, office, professional, service, and manufacturing businesses.
MS G-18: Create activity nodes as important destination areas, with an emphasis on public life within the community.	GP/ Mobile	Cities/Counties (e.g., Aliso Viejo, Claremont)	<ul style="list-style-type: none"> -Provide pedestrian amenities, traffic-calming features, plazas and public areas, attractive streetscapes, shade trees, lighting, and retail stores at activity nodes. -Provide for a mixture of complementary retail uses to be located together to create activity nodes to serve adjacent neighborhoods and to draw visitors from other neighborhoods and from outside the area.
MS G-19: Make roads comfortable, safe, accessible, and attractive for use day and night.	GP/ Mobile	Cities/Counties (e.g., Aliso Viejo, Claremont)	<ul style="list-style-type: none"> -Provide crosswalks and sidewalks along streets that are accessible for people with disabilities and people who are physically challenged. -Provide lighting for walking and nighttime activities, where appropriate. -Provide transit shelters that are comfortable, attractive, and accommodate transit riders.
MS G-20: Maintain and expand where possible the system of neighborhood connections that attach neighborhoods to larger roadways.	GPI Mobile	Cities/Counties (e.g., Aliso Viejo, Claremont)	<ul style="list-style-type: none"> - Provide sidewalks where they are missing, and provide wide sidewalks where appropriate with buffers and shade so that people can walk comfortably. -Make walking comfortable at intersections through traffic-calming, landscaping, and designated crosswalks.

**Table 17
General Planning Level Mitigation Strategies Summary**

Strategy	Source Type ¹	Agency/Organization ²	Description/Comments
<p>MS G-21: Create distinctive places throughout the area.</p>	<p>GP/ Mobile</p>	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> -Look for opportunities for connections along easements & other areas where vehicles not permitted. -Provide benches, streetlights, public art, and other amenities in public areas to attract pedestrian activities. -Encourage new developments to incorporate drought tolerant and native landscaping that is pedestrian friendly, attractive, and consistent with the landscaped character of area. -Encourage all new development to preserve existing mature trees. -Encourage streetscape design programs for commercial frontages that create vibrant places which support walking, bicycling, transit, and sustainable economic development. -Encourage the design and placement of buildings on lots to provide opportunities for natural systems such as solar heating and passive cooling. - Ensure that all new industrial development projects are positive additions to the community setting, provide amenities for the comfort of the employees such as outdoor seating area for breaks or lunch, and have adequate landscape buffers.
<p>MS G-22: Reinvest in existing neighborhoods and promote infill development as a preference over new, greenfield development</p>	<p>GP/ Mobile, Stationary, & Area</p>	<p>Cities/Counties (e.g., Aliso Viejo, Claremont)</p>	<ul style="list-style-type: none"> - Identify all underused properties in the plan area and focus development in these opportunity sites prior to designating new growth areas for development. - Implement programs to retro-fit existing structures to make them more energy-efficient. -Encourage compact development, by placing the desired activity areas in smaller spaces.

Table 17
General Planning Level Mitigation Strategies Summary

Strategy	Source Type ¹	Agency/Organization ²	Description/Comments
Public Safety			
MS G-23: Promote a safe community in which residents can live, work, shop, and play.	GP/ Mobile	Cities/Counties (e.g., Aliso Viejo, Claremont)	<ul style="list-style-type: none"> - Foster an environment of trust by ensuring non-biased policing, and by adopting policies and encouraging collaboration that creates transparency. - Facilitate traffic safety for motorists and pedestrians through proper street design and traffic monitoring.
<p>Note: ¹Where GP=General Plan. ²List is not meant to be all inclusive. Source: Data compiled by EDAW in 2007</p>			

Appendix C

Rule and Regulation Summary

**Table 18
Rule and Regulation Summary**

Rule/Regulation	Reduction	Implementation Date	Agency	Description	Comments
Low Carbon Fuel Standard	10-20MMT CO ₂ e by 2020	January 1, 2010	ARB	This rule/regulation will require fuel providers (e.g., producers, importers, refiners and blenders) to ensure that the mix of fuels they sell in CA meets the statewide goal to reduce the carbon intensity of CA's transportation fuels by at least 10% by the 2020 target.	ARB Early Action Measure
Reduction of HFC-134a Emissions from Nonprofessional Servicing of Motor Vehicle Air Conditioning Systems	1-2 MMT CO ₂ e by 2020	January 1, 2010	ARB	This rule/regulation will restrict the use of high GWP refrigerants for nonprofessional recharging of leaky automotive air conditioning systems.	ARB Early Action Measure
Landfill Gas Recovery	2-4 MMT CO ₂ e by 2020	January 1, 2010	IWMB, ARB	This rule/regulation will require landfill gas recovery systems on small to medium landfills that do not have them and upgrade the requirements at landfills with existing systems to represent best capture and destruction efficiencies.	ARB Early Action Measure
Vehicle Climate Change Standards (AB 1493 Pavley, Chapter 200, Statutes of 2002)	30 MMT CO ₂ e by 2020	2009	ARB	This rule/regulation will require ARB to achieve the maximum feasible and cost effective reduction of GHG emissions from passenger vehicles and light-duty trucks.	ARB Early Action Measure
Reduction of PFCs from the Semiconductor Industry	0.5 MMT CO ₂ e by 2020	2007-2009	ARB	This rule/regulation will reduce GHG emissions by process improvements/source reduction, alternative chemicals capture and beneficial reuse, and destruction technologies	Underway or to be initiated by CAT members in 2007-2009 period

AB=Assembly Bill; ARB=California Air Resources Board; Calfire=California Fire; CA=California; Caltrans=California Department of Transportation; CAT=California Action Team; CEC=California Energy Commission; CDFA=California Department of Food and Agriculture; CH₄=Methane; CO₂=Carbon Dioxide; CPUC=California Public Utilities Commission; CUFR=California Urban Forestry; DGS=Department of General Services; DWR=Department of Water Resources; GHG=Greenhouse Gas; GWP=Global Warming Potential; IGCC= Integrated Gasification Combined Cycle; IOU= Investor-Owned Utility; IT=Information Technology; IWCB= Integrated Waste Management Board; LNG= Liquefied Natural Gas; MMT CO₂e=Million Metric Tons Carbon Dioxide Equivalent; MW=Megawatts; NA=Not Available; N₂O=Nitrous Oxide; PFC= Perfluorocompound; POU= Publicly Owned Utility; RPS= Renewable Portfolio Standards; RTP=Regional Transportation Plan SB=Senate Bill; SWP=State Water Project; TBD=To Be Determined; UC/CSU=University of California/California State University; ULEV=Ultra Low Emission Vehicle.

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Rule/Regulation	Reduction	Implementation Date	Agency	Description	Comments
Restrictions on High GWP Refrigerants	9 MMT CO ₂ e by 2020	2010	ARB	This rule/regulation will expand and enforce the national ban on release of high GWP refrigerants during appliance lifetime.	ARB Early Action Measure
Cement Manufacture	<1 MMT CO ₂ e per year (based on 2004 production levels)	2010	Caltrans	This rule/regulation will allow 2.5% interground limestone concrete mix in cement use.	CAT Early Action Measure
Hydrogen Fuel Standards (SB 76 of 2005)	TBD	By 2008	CDFA	This rule/regulation will develop hydrogen fuel standards for use in combustion systems and fuel cells.	CAT Early Action Measure
Regulation of GHG from Load Serving Entities (SB 1368)	15 MMT CO ₂ e by 2020	May 23,2007	CEC, CPUC	This rule/regulation will establish a GHG emission performance standard for baseload generation of local publicly owned electric utilities that is no higher than the rate of emissions of GHG for combined-cycle natural gas baseload generation.	CAT Early Action Measure
Energy Efficient Building Standards	TBD	In 2008	CEC	This rule/regulation will update of Title 24 standards.	CAT Early Action Measure
Energy Efficient Appliance Standards	TBD	January 1,2010	CEC	This rule/regulation will regulate light bulb efficiency	CAT Early Action Measure
Tire Efficiency (Chapter 8.7 Division 15 of the Public Resources Code)	<1 MMT CO ₂ e by 2020	January 1,2010	CEC & IWMB	This rule/regulation will ensure that replacement tires sold in CA are at least as energy efficient, on average, as tires sold in the state as original equipment on these vehicles.	CAT Early Action Measure
New Solar Homes Partnership	TBD	January 2007	CEC	Under this rule/regulation, approved solar systems will receive incentive funds based on system performance above building standards.	CAT Early Action Measure

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Rule and Regulation Summary**

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Water Use Efficiency	1 MMT CO ₂ e by 2020	2010	DWR	This rule/regulation will adopt standards for projects and programs funded through water bonds that would require consideration of water use efficiency in construction and operation.	CAT Early Action Measure
State Water Project	TBD	2010	DWR	This rule/regulation will include feasible and cost effective renewable energy in the SWP's portfolio.	CAT Early Action Measure
Cleaner Energy for Water Supply	TBD	2010	DWR	Under this rule/regulation, energy supply contracts with conventional coal power plants will not be renewed.	CAT Early Action Measure
IOU Energy Efficiency Programs	4 MMT CO ₂ e by 2020	2010	CPUC	This rule/regulation will provide a risk/reward incentive mechanism for utilities to encourage additional investment in energy efficiency; evaluate new technologies and new measures like encouraging compact fluorescent lighting in residential and commercial buildings	CAT Early Action Measure
Solar Generation	TBD	2007–2009	DGS	3 MW of clean solar power generation implemented in CA last year, with another 1 MW coming up. The second round is anticipated to total additional 10MW and may include UC/CSU campuses and state fairgrounds.	Underway or to be initiated by CAT members in 2007-2009 period

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Rule/Regulation	Reduction	Implementation Date	Agency	Description	Comments
Transportation Efficiency	9 MMT CO ₂ e by 2020	2007–2009	Caltrans	This rule/regulation will reduce congestion, improve travel time in congested corridors, and promote coordinated, integrated land use.	Underway or to be initiated by CAT members in 2007-2009 period
Smart Land Use and intelligent Transportation	10 MMT CO ₂ e by 2020	2007–2009	Caltrans	This rule/regulation will integrate consideration of GHG reduction measures and energy efficiency factors into RTPs, project development etc.	Underway or to be initiated by CAT members in 2007-2009 period
Cool Automobile Paints	1.2 to 2.0 MMT CO ₂ e by 2020	2009	ARB	Cool paints would reduce the solar heat gain in a vehicle and reduce air conditioning needs.	ARB Early Action Measure
Tire Inflation Program	TBD	2009	ARB	This rule/regulation will require tires to be checked and inflated at regular intervals to improve fuel economy.	ARB Early Action Measure
Electrification of Stationary Agricultural Engines	0.1 MMT CO ₂ e by 2020	2010	ARB	This rule/regulation will provide incentive funding opportunities for replacing diesel engines with electric motors.	ARB Early Action Measure
Desktop Power Management	Reduce energy use by 50%	2007–2009	DGS, ARB	This rule/regulation will provide software to reduce electricity use by desktop computers by up to 40%.	Currently deployed in DGS
Reducing CH ₄ Venting/Leaking from Oil and Gas Systems (EJAC-3/ARB 2-12)	1 MMT CO ₂ e by 2020	2010	ARB	This rule/regulation will reduce fugitive CH ₄ emissions from production, processing, transmission, and distribution of natural gas and oil.	ARB Early Action Measure
Replacement of High GWP Gases Used in Fire Protection Systems with Alternate Chemical (ARB 2- 10)	0.1 MMT CO ₂ e by 2020	2011	ARB	This rule/regulation will require the use of lower GWP substances in fire protection systems.	ARB Early Action Measure
Contracting for Environmentally Preferable Products	NA	2007–2009	DGS	New state contracts have been or are being created for more energy and resource efficient IT goods. copiers, low mercury fluorescent lamps, the CA Gold Carpet Standard and office furniture.	Underway or to be initiated by CAT members in 2007-2009 period
Hydrogen Fuel Cells	NA	2007–2009	DGS	This rule/regulation will incorporate clean hydrogen fuel cells in stationary applications	Underway or to be initiated by CAT members in 2007-2009

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				at State facilities and as back-up generation period for emergency radio services.	
High Performance Schools	NA	2007–2009	DGS	New guidelines adopted for energy and resource efficient schools; up to \$100 million in bond money for construction of sustainable, high performance schools.	Underway or to be initiated by CAT members in 2007-2009 period
Urban Forestry	1 MMT CO ₂ e by 2020	2007–2009	Calfire, CUFR	This rule/regulation will provide five million additional trees in urban areas by 2020.	Underway or to be initiated by CAT members in 2007-2009 period
Fuels Management/Biomass	3 MMT CO ₂ e by 2020	2007–2009	Calfire	This rule/regulation will provide biomass from forest fuel treatments to existing biomass utilization facilities.	Underway or to be initiated by CAT members in 2007-2009 period
Forest Conservation and Forest Management	10 MMT CO ₂ e by 2020	2007–2009	Calfire, WCB	This rule/regulation will provide opportunities for carbon sequestration in Proposition 84 forest land conservation program to conserve an additional 75,000 acres of forest landscape by 2010.	Underway or to be initiated by CAT members in 2007-2009 period
Afforestation/Reforestation	2 MMT CO ₂ e by 2020	2007–2009	Calfire	This rule/regulation will subsidize tree planting.	Underway or to be initiated by CAT members in 2007-2009 period
Dairy Digesters	TBD	January 1, 2010	CDFA	This rule/regulation will develop a dairy digester protocol to document GHG emission reductions from these facilities.	ARB Early Action Measure

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Zonservation Tillage and Enteric Fermentation	1 MMT CO ₂ e by 2020	2007–2009	CDFA	This rule/regulation will develop and implement actions to quantify and reduce enteric fermentation emissions from livestock and sequester soil carbon using cover crops and conservation tillage.	Underway or to be initiated by CAT members in 2007-2009 period
ULEV	TBD	2007–2009	DGS	A new long term commercial rental contract was released in March 2007 requiring a minimum ULEV standard for gasoline vehicles and requires alternative fuel and hybrid-electric vehicles.	Underway or to be initiated by CAT members in 2007-2009 period
Flex Fuel Vehicles	370 metric tons CO ₂ , 0.85 metric tons of CH ₄ , and 1.14 metric tons of N ₂ O	2007–2009	DGS	Under this rule/regulation, DGS is replacing 800 vehicles with new, more efficient vehicles.	Underway or to be initiated by CAT members in 2007-2009 period
Climate Registry	TBD	2007–2009	DGS	Benchmarking and reduction of GHG emissions for state owned buildings, leased buildings and light duty vehicles.	Underway or to be initiated by CAT members in 2007-2009 period
Municipal Utilities Electricity Sector Carbon Policy	Included in SB 1368 reductions	2007–2009	CEC, CPUC, ARB	Under this rule/regulation, GHG emissions cap policy guidelines for CA's electricity sector (IOUs and POU's).	Underway or to be initiated by CAT members in 2007-2009 period
Alternative Fuels: Nonpetroleum Fuels	TBD	2007–2009	CEC	State plan to increase the use of alternative fuels for transportation; full fuel cycle assessment.	Underway or to be initiated by CAT members in 2007-2009 period
Zero Waste/High Recycling Strategy	5 MMT CO ₂ e by 2020	2007–2009	IWMB	This rule/regulation will identify materials to focus on to achieve GHG reduction at the lowest possible cost; Builds on the success of 50% Statewide Recycling Goal.	Underway or to be initiated by CAT members in 2007-2009 period
Organic Materials Management	TBD	2007–2009	IWMB	This rule/regulation will develop a market incentive program to increase organics diversion to the agricultural industry.	Underway or to be initiated by CAT members in 2007-2009 period
Landfill Gas Energy	TBD	2007–2009	IWMB	Landfill Gas to Energy & LNG/biofuels	Underway or to be initiated by CAT members in 2007-2009 period

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Target Recycling	TBD	2007–2009	IWMB	This rule/regulation will focus on industry/public sectors with high GHG components to implement targeted commodity recycling programs.	Underway or to be initiated by CAT members in 2007-2009 period
Accelerated Renewable Portfolio Standard	Included in SB 1368 reductions	2007–2009	CPUC	This rule/regulation will examine RPS long term planning and address the use of tradable renewable energy credits for RPS compliance.	Underway or to be initiated by CAT members in 2007-2009 period
CA Solar Initiative	1 MMT CO ₂ e by 2020	2007–2009	CPUC	Initiative to deliver 2000 MWs of clean, emissions free energy to the CA grid by 2016.	Underway or to be initiated by CAT members in 2007-2009 period
Carbon Capture and Sequestration	TBD	2007–2009	CPUC	Proposals for power plants with IGCC and/or carbon capture in the next 18 months.	Underway or to be initiated by CAT members in 2007-2009

Source: Data compiled by EDAW in 2007

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**LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: October 8, 2008

APPLICATION NO: Final Revised Environmental Impact Report (EIR-03-01)
Use Permit U-02-12,
Vesting Tentative Map 03-P-001
Site Plan and Architectural Review 08-SP-08

REQUEST: The request of Browman Development Company to certify the Final Revised Environmental Impact Report (EIR-03-01) to allow construction of the Lodi Shopping Center and allow all subsequent development approvals for the center. Additionally, to approve Use Permit U-02-12 to allow the construction of a commercial center in a C-S, Commercial Shopping District, and allow the sale of alcoholic beverages at the Wal-Mart Supercenter and Vesting Tentative Map 03-P-001 to create 12 parcels for the project. Finally, to approve the SPARC application concerning the Wal-Mart building.

LOCATION: 2640 West Kettleman Lane. Approximately 40 acres located at the southwest corner of west Kettleman Lane/State Route 12 and Lower Sacramento Road in west Lodi.

APPLICANT: Browman Development Company
100 Swan Way, Suite 206
Oakland, CA 94621

PROPERTY OWNER: Browman Development Company & Wal-Mart Real Estate
100 Swan Way, Suite 206 Business Trust
Oakland, CA 94621 Mail Stop 0555
Bentonville, AR 72716-0555

RECOMMENDATION: Staff recommends that the Planning Commission certify the Final Revised Environmental Impact Report (FREIR) for the Lodi Shopping Center project and that the Planning Commission approve the Use Permit, Vesting Tentative Map, and SPARC requests subject to the conditions listed in the Draft Resolutions as attached.

PROJECT/AREA DESCRIPTION

General Plan Designation: NCC, Neighborhood / Community Commercial.

Zoning Designation: C-S, Commercial Shopping District.

Property Size: Approximately 40 acres, 36 acres for the shopping center development and 4 acres adjacent and southwest of the shopping center site for construction of a stormwater detention drain.

Adjacent General Plan, Zoning and Land Use:

North (across W. Kettleman Ln): General Plan; NCC, Neighborhood Community Commercial

Zoning; C-S, Commercial Shopping Center
Land Use; The Vintner's Square Shopping Center anchored by the
Lowe's Home Improvement store

South: General Plan; LDR, Low Density Residential
Zoning; PD, Planned Development
Land Use; Currently Agricultural planted as a vineyard, but
planned as the Southwest Gateway planned residential
community

West: General Plan; PQP, Public/Quasi Public & HDR, High Density
Residential
Zoning; PUB, Public & PD, Planned Development
Land Use; Currently agricultural, but planned for a utility substation
and higher density residential as part of the Southwest
Gateway planned residential community

East (across Lower Sacramento Rd.): General Plan; NCC, Neighborhood Community Commercial
Zoning; C-S, Commercial Shopping Center
Land Use; The Sunwest Plaza Shopping Center currently anchored
by the existing Wal-Mart, J.C. Penny and the Food 4
Less Grocery Store.

BACKGROUND:

The original Final Environmental Impact Report and the associated Lodi Shopping Center project came to the Planning Commission on December 8, 2004. At the conclusion of that meeting the Planning Commission certified the Final Environmental Impact Report (FEIR) and approved a Use Permit to allow the construction of the Lodi Shopping Center, the sale of alcoholic beverages at the Wal-Mart Supercenter and a Tentative Map to create 12 parcels.

Two appeals were filed concerning the Planning Commission's certification of the FEIR and approval of the project. The first appeal was filed by the law firm of Herum, Crabtree and Brown on behalf of Lodi First, an unincorporated association of Lodi residents, voters, property owners, and taxpayers. This appeal found fault with the FEIR. Lodi First claimed that the project was not consistent with the City's General Plan or Zoning Code and challenged the FEIR as inadequate. The second appeal was filed by the law firm of Steefel Levitt and Weiss on behalf of Wal-Mart. Wal-Mart's appeal was limited to two conditions imposed by the Planning Commission: 1) a condition requiring signed leases for at least 50% of the existing Wal-Mart building before a building permit could be issued for the Supercenter; and 2) a condition requiring the project developer to pay for a linkage study based upon the Housing Element and pay any fees based on the conclusion of the study.

The City Council considered the appeals. On February 3, 2005 the City Council certified the FEIR for the Lodi Shopping Center project. On February 16, 2005 the City Council approved the Use Permit for the construction of the Lodi Shopping Center, allowed the sale of alcoholic beverages at the Wal-Mart Supercenter, and approved the Tentative Map to create 12 parcels. The Council added to the Planning Commission's condition regarding the existing Wal-Mart building by allowing various options and expansions. The Council expanded the requirement that prior to the issuance of a building permit for the Supercenter at least 50% of the existing Wal-Mart building square footage be leased, with said leases including a minimum two-thirds of the building frontage. Two additional options were added to allow issuance of a building permit for the Supercenter if the existing building had a fully executed purchase agreement with a bona-fide retailer, or if the applicant presented a cash escrow for the purpose of demolishing the existing Wal-Mart building not later than 90 days after the opening of the Supercenter. A

new alternate condition was also added to allow Wal-Mart to be issued a building permit for the Supercenter if prior to the issuance of the Use Permit, Wal-Mart sold the existing building to a non Wal-Mart entity. The appealed condition regarding a Housing Element linkage study was retained but the developer is to receive credit for the amount paid against the final fee as adopted by the Council.

The City Council approval of the Lodi Shopping Center was challenged in court on environmental grounds. On December 19, 2005, the Superior Court of California, San Joaquin County, Stockton Branch found the EIR to be deficient with respect to cumulative urban impacts and energy impacts. The Court directed the City to void all City approvals for this project pending correction of the differences in the FEIR. On February 10, 2006 the Court ordered the City to vacate approval of the following Planning Commission and City Council resolutions approving the project:

- a) Planning Commission Resolution PC 04-64 certifying the EIR 03-01 adopted on December 8, 2004;
- b) Planning Commission Resolution PC 04-65 approving Use Permit U-02-12 and Tentative Parcel Map 03-P-001 adopted on December 8, 2004;
- c) City Council Resolution 2005-26 certifying the EIR 03-01 adopted on February 3, 2005; and
- d) City Council Resolution 2005-38 approving Use Permit U-02-12 and Tentative Parcel Map 03-P-001 adopted on February 16, 2005.

On May 3, 2006, the City Council adopted Resolution 2006-81 rescinding the above listed Planning Commission and City Council Resolutions relating to the Lodi Shopping Center. The City Council also adopted Resolution 2006-82 authorizing agreements with two consulting firms to prepare revisions to the Lodi Shopping Center EIR that was found deficient by the Superior Court.

PROJECT DESCRIPTION:

Revisions to the Lodi Shopping Center:

In the case of Lodi First v. City of Lodi, San Joaquin Superior Court Case No. CV025999 ("Lodi First"), the Court ordered revisions to the discussions of cumulative urban decay impacts and energy impacts. In all other respects, the Court found the EIR to be legally sufficient under CEQA. The City of Lodi decided to make revisions to three additional areas of the EIR. These are: the statement of project objectives, the discussion of agricultural resources, and the discussion of project alternatives. These areas of additional analysis were the subject of a lawsuit entitled Citizens for Open Government v. City of Lodi, San Joaquin Superior Court Case No. CV026002 ("C.O.G."). The C.O.G. case was resolved after the court's decision in Lodi First by a stipulated order of dismissal, preserving to the C.O.G. plaintiffs the right to continue to assert certain previously made claims as to the adequacy of the environmental analysis. The Revised EIR document includes only the above five (5) sections which were subject to revision or augmentation. Since the remainder of the original EIR is not subject to further review, it is staff's recommendation that the Planning Commission recertify the original EIR, as amended by the Revisions to the EIR document to cure the deficiencies identified by the Court.

The Revisions to the EIR are subject to the full administrative and public review. A Notice of Preparation (NOP) was prepared describing the legal context, a project description and a brief overview of the topics to be covered in the Revisions document. The NOP was made available to the State Clearinghouse in the office of Planning and Research for State agencies and was sent to non-state agencies and was posted and made available to the public to solicit input on the five (5) issues of concern that would be addressed in the FREIR. After a period of analysis and formulation, the DREIR was prepared. The City filed a Notice of Completion (NOC) with the State Clearinghouse and posted, published, and distributed the Notice of Availability of the DREIR. This began the public and agency review period for the

document. The length of the public review period was 52 days. During the review period, the Planning Commission held a public hearing on November 14, 2007, to receive oral and written comments on the DREIR. The City prepared formal written responses to all the comments received as well as an addendum section indicating further revisions made to the document. The revisions, comments received, and responses constitute the FREIR for the Lodi Shopping Center Project and are presented for certification.

Summary of Specific Impacts and Their Mitigations:

The revisions to the EIR re-analyzed the potential for urban decay due to cumulative economic effects of competing retail projects. The REIR looked at region-wide effects of Wal-Mart Supercenters in other cities and the effects of the Reynolds Ranch commercial area. The analysis found that existing retail centers in Lodi would be subject to a reduction in sales and it is possible that one or more business closures could result and the affected properties could be subject to long-term vacancies under cumulative conditions. However, such closures and vacancies though possible were not reasonably foreseeable and if closures and long-term vacancies were to occur, they would not result in total neglect or abandonment which could lead to urban decay or physical deterioration. No urban decay or physical deterioration is foreseen to occur and that is the test for an EIR impact, therefore no impacts were identified and no mitigation measures are proposed. Nonetheless, the City has committed to aggressive code enforcement measures to ensure the abatement of any nuisance within the City and to prevent the physical deterioration of communities. In this vein, in August of 2008, the City added another member to its Community Improvement Division by hiring a new Supervising Community Improvement Officer.

The REIR analyzed the Reynolds Ranch project at approximately 640,000 square feet. As a result of the City Council's most recent approval of the Reynolds Ranch project at 750,000 square feet, the City has had the economic consultant review the potential impacts of the additional area. The memorandum from BAE is included as an attachment to this staff report. In summary, the conclusion is that "This review process has shown that even if BAE had assumed that Reynolds Ranch was to be developed with 750,000 square feet of retail space when preparing the October 2007 analysis, the conclusions and findings would not have been significantly different than they are at present". Thus, the additional space does not change the impact conclusions of the REIR. Additionally, the recent Reynolds Ranch EIR Addendum, which analyzed the impacts of the larger project, did not find any additional economic or urban decay impacts as a result of the increased project size.

The revisions to the EIR also addressed energy impacts. The analysis found no significant energy consumption impacts or impacts on energy supplies and infrastructure; therefore, no mitigation measures are proposed. The original EIR found an impact from the conversions of approximately 40 acres of prime agricultural use to urban uses, a significant and unavoidable impact. The FREIR confirms the significant and unavoidable impact on agricultural resources but adds a partial mitigation of requiring the project to obtain permanent agricultural conservation easements over 40 acres of prime farmland within 15 miles of the site. The remaining revisions to the EIR modified the project objectives and changed the alternative project location that was analyzed. The original alternative location was the Reynolds Ranch project site. As this site is subject to an active development application, a new site at the northeast quadrant of Highway 12 and Thornton Road was evaluated.

The above sections were the focus of the revisions to the EIR for the Lodi Shopping Center and modified impacts, mitigations, findings and statements of overriding considerations have been prepared as is included in the proposed resolution of certification.

Use Permit and Tentative Map Analysis:

Approximately 17 years ago, the City's General Plan designated the southwest corner of West Kettleman Lane/State Route 12 and Sacramento Road for the construction of large-scale retail development. Since

that time, the centers on the other three corners have built out as envisioned. Major national retailers such as Wal-Mart, J. C. Penney, Target, and Lowe's have occupied these corners. The Lodi Shopping Center is proposed on the remaining fourth corner to be anchored by a Wal-Mart Supercenter. This type and scale of development is consistent with the activity that has occurred at the other corners.

The City's Zoning Code requires that all plot plans for projects within the C-S, Commercial Shopping District receive Planning Commission approval. Over time, this review has been done through the Use Permit process. The Zoning Code also requires use permit approval for the sale of alcoholic beverages. The applicant is requesting a Use Permit and a Vesting Tentative Map in order to divide the property into 12 lots that will correspond to the number of buildings anticipated for the project.

The proposed project includes the construction of approximately 339,966 square feet of commercial retail uses, representing a variety of retail sales and services, to be contained in 12 buildings of varying sizes. The primary uses will be a Wal-Mart Supercenter which will occupy approximately 216,710 square feet of floor area, including approximately 70,000 square feet for grocery sales, 19,889 square feet for a garden center (including outdoor fenced area), and 6,437 square feet for an auto service shop. The Wal-Mart Supercenter will not include the use of outdoor metal storage containers, and will not include a seasonal sales area in the parking lot.

A moderate sized retailer will occupy approximately 35,000 square feet on pad 12 in the southeast corner of the site. The remaining 11 buildings will range in size from 3,200 square feet to 14,788 square feet. Three of the 11 buildings will be occupied by fast food franchises, with another two buildings consisting of sit-down restaurants, and the remaining buildings occupied by such retail uses such as financial services/bank, professional/business services, and other retail sales and services.

As noted previously, additional environmental and related economic analysis has been undertaken. However, the uses and layout and design of the shopping center has remained the same as that presented to and approved by the Planning Commission in December, 2004. The Wal-Mart building is located at the southwestern corner of the site, with 11 freestanding buildings located along Kettleman Lane and Lower Sacramento Road to the north and east. In the center of the shopping center is the main parking lot. The proposed vesting tentative map includes the Wal-Mart store and all corresponding parking in the largest lot (lot 12, 18.3 acres), with each of the remaining 11 buildings on their own lot with associated parking. These other lots are generally 1± acre in size, with the smallest (lot 8) being 0.53 AC and the largest (lot 11) being 2.6 AC. Internal travel lanes, parking medians and planters are located through-out the interior. Access to the Center is mainly from Westgate Drive and Lower Sacramento Road, with right turn in and out only from Kettleman Lane. As shown on the site plan, significant public improvements are required in order to build this project, as detailed in the draft conditions in the accompanying resolution of approval. The applicant will be responsible for the construction of Westgate Drive from Kettleman Lane to the southerly project boundary as well as the frontage improvements on Kettleman Lane and Lower Sacramento Road. The applicant is also responsible for the approximately 4 acre site across Westgate Drive to be used for storm water detention, all associated project right-of-way dedications, utility easements, engineering reports and studies, and fees. An encroachment permit from CalTrans for Kettleman Lane / State Route 12 will be needed.

Additional conditions in the draft Resolution cover fire safety, outdoor storage or display of merchandise, shopping cart storage and security, exterior lighting, and a city information/welcome sign. Consistent with the prior approval by the City Council, conditions relative to re-use of the existing Wal-Mart building are proposed. Prior to the issuance of a building permit for the Supercenter, one of the following with respect to the existing Wal-Mart building shall occur: signed leases with a retailer(s) for at least 50% of the building square footage covering two-thirds of the building frontage; or a fully executed purchase agreement for the building with a retailer; or a cash escrow account in the amount to demolish the

building plus \$100,000. This escrow account shall be used by the City to demolish the existing building if the first two options have not been satisfied within 90 days after the opening date of the Supercenter. A condition is also proposed that the developer pay for a linkage study required under program 11 of the Housing Element "...a nexus study to determine whether a direct connection exists between non-residential development in Lodi that creates jobs and the need for housing affordable to lower-income workers who will fill some of those jobs." Also as in the prior City Council approval, a condition is included to incorporate all mitigation measures as specified in the FREIR.

As documented in the FREIR,  EQA environmental impact as to urban decay or physical deterioration from the Lodi Shopping Center cannot be made. The Planning Commission can, however, make a policy decision that the economic effects of the Center on the Downtown can be addressed. To this end, staff is proposing a condition to require the Lodi Shopping Center to invest money in Downtown or in the alternative, to pay a fee of \$2.00 per square foot of the gross floor area of the Supercenter to the City for Downtown investment.

The Use Permit will allow the sale of alcoholic beverages at the Supercenter. No Use Permit for alcohol for any of the freestanding buildings has been applied for or is under consideration. The tenants of these freestanding buildings are not known to staff and have not been included in this request. Any such request in the future would require a Planning Commission Hearing at that time when the specific details of the requesting business are known. The Planning Commission has previously found that the sale of alcoholic beverages is incidental to a grocery store operation and that is what is being requested by the Wal-Mart Supercenter. Staff recommends approval of this Use Permit and has included appropriate conditions in the draft resolution.

As previously discussed in the analysis, a vesting tentative map approval is requested to divide the site into 12 lots. Staff recommends approval of this action and has included vesting tentative map conditions in the draft resolution.

SPARC Review:

Along with the plot plan and tentative map for the Lodi Shopping Center, preliminary elevations and colors for the Wal-Mart Supercenter have been submitted. No elevations or colors, landscaping plan, signage plan, materials, or other final plans for the rest of the Center or buildings have been submitted. This shopping center is subject to the City's Design Standards for Large Retail Establishments. The overall site layout, building footprints, parking areas, and access driveways provide the overall direction of the Center and were used by staff and the Planning Commission in the December 8, 2004 review to determine that this project complies with the Design Standards for Large Retail Establishments. As such, no further designs, layout, or changes have been proposed.

The proposed project includes the construction of a new Wal-Mart Supercenter store with a building size of approximately 216,710 square feet. The Wal-Mart building would be located on the southwestern portion of the project site, and the building entrance would face east toward Lower Sacramento Road. The Wal-Mart Supercenter building is a single story structure. The architectural theme of the building is a contemporary style and uses construction materials commonly used in commercial shopping center construction. Architectural materials such as concrete masonry block, metal awnings, and exterior plaster finish will be utilized on the exterior of the building. The major materials used for architectural treatment include fawn (brown) colored stucco, fawn (brown) cultured stone veneer, split face (light brown) block, sea-green colored smooth finish metal panels, charcoal roofing material, hallow (gunmetal gray) metal doors and cornices, and black fencing. The body of the building will be in shades of brown. The ground level will have fawn (brown) colored stucco walls with fawn colored stone veneer accent walls near key entrances and along the lower eight feet of the exterior wall. The architectural treatment features are mostly used on the north and east elevation. Also on the main entrance, a canopy type

architectural feature is proposed. The proposed main entry canopy will be clad with a brown cultured stone finish.

The west and south elevations do not feature the same detailed architectural treatment. The west (rear) elevation is a continuous wall with little architectural treatment to breakup the elevation of the building. The entire west elevation will have fawn (brown) colored stucco walls with metal doors painted to match the stucco. Cornices and accent trims are provided to break up the wall elevation. The ground level will also have cultured veneer stone elements. The midsection of the western elevation should receive further architectural treatment to add architectural interest to the wall. It is important to note that this elevation will be visible from across Westgate Drive. A condition of approval is included in the SPARC Resolution regarding additional architectural treatment for the west elevation.

The southern elevation will feature nearly identical architectural treatment as the west elevation. However, the proposed southern elevation is less of an issue. First, there will be an 8-foot tall masonry wall on the southern property line to block any view of this elevation from the project to the south. Second, unlike the western elevation, the southern elevation is not a continuous large mass elevation. Because the main axis of the building faces west (the longest elevation), the south elevation is the side of the building and is relatively small in size in comparison.

Circulation and Parking

The site plan indicates six access points to three public streets. There will be three entrances/exits from Lower Sacramento Road, one from Kettleman Lane (HWY 12), and two from Westgate Drive. All three streets will have a raised center median that will restrict turning movements in some degree. The main entrance to the project parking lot is from Lower Sacramento Road and will be located near the middle of the project site. This entrance will have a traffic signal to control traffic flow and will allow both entering and exiting traffic to turn in both directions. The other access points from Lower Sacramento Road will be restricted to right turn in and right turn out movements. The direct driveway entrance from Kettleman Lane (HWY 12) will only permit a right-turn in and right-turn out traffic movement. Traffic can also access the shopping center from Kettleman Lane by way of Westgate Drive. This intersection is controlled by an existing traffic signal that will allow both right and left turning movements. The main (northern) access point from Westgate Drive will allow both right and left hand tuning movements. The southern access point will only allow right in, right out movements. Circulation to and from the site is very similar to the Vintners Square Center (Lowe's) to the north.

The main parking lot is located on the east side of the Wal-Mart building. There will be smaller parking areas to serve the free-standing commercial pads. For the Wal-Mart building, a total of 965 parking spaces are proposed (4.45/1000). A total of 434 parking spaces are required, per City code (General Retail 1/500). The proposed number of parking stalls exceeds the minimum parking requirements.

There are 12 cart corrals proposed to be distributed throughout the parking lot. These cart corrals will be screened in brown CMU wall with wooden frames to provide additional ornamentation.

Landscaping and Signage

The proposed landscape plan calls for various large shade trees, smaller trees, shrubs and ground covers. A total of 478 larger shade trees will be provided within the parking lot interior, along the southern and western edges the property line, and throughout the site. This total number of trees exceeds what the City code requires.

The approval of project signage is not a part of the current review and would be subject to City of Lodi codes and requirements to ensure they complement the building architecture and landscaping of the building. Signage applications and approvals would be done separately, should the project be approved.

PUBLIC HEARING NOTICE:

Notice for the FREIR was published on September 27, 2008 in the Lodi New Sentinel. The item was posted at City Hall, on the City's website, and at the City of Lodi Library on September 26, 2008. 175 public hearing notices were sent out through the combination of the U.S. Postal Service and electronic mail which included all property owners of record within a 300-foot radius of the subject property as required by Government Code section 65091(a)3. Everyone who made a comment on the Draft Revisions to the EIR was sent a copy of the response to their comment, revisions to the EIR and notice of the public hearing at least 10 days before the hearing. Legal notice for the use permit and vesting tentative map consideration was given at the same time and manner as the notice for the FREIR.

CONCLUSION:

Staff recommends that unless significant new additional or contrary information is received during the public hearing and, based upon its review and consideration of the Draft REIR and comments received and responded to in the FREIR, and the evidence submitted to the Commission, including the evidence presented in this staff report, and oral and written evidence presented at the public hearing, the Planning Commission certify Final Revisions to Environmental Impact Report REIR-03-01, and adopt Resolution No P.C. 08-28, containing appropriate findings, mitigation, a mitigation monitoring plan, and statement of overriding considerations.

If the Planning Commission first certifies the FREIR, and based upon the evidence submitted to the Commission, including the evidence presented in this staff report, and oral and written evidence presented at the public hearing, staff recommends that the Planning Commission approve Use Permit U-02-12, Vesting Tentative Map 03-P-001 and adopt Resolution No P.C. 08-29. Additionally, staff recommends that the Planning Commission approve Site Plan and Architectural Review for the Wal-Mart building 08-SP-08, P.C. 08-30.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Certify with alternative impacts, mitigation measures and adopt findings or overriding considerations
- Deny the certification
- Approve with additional/different conditions
- Deny the Use Permit/Tentative Map
- Continue the requests

Respectfully Submitted,

Konrad Bartlam
Interim Community Development Director

ATTACHMENTS:

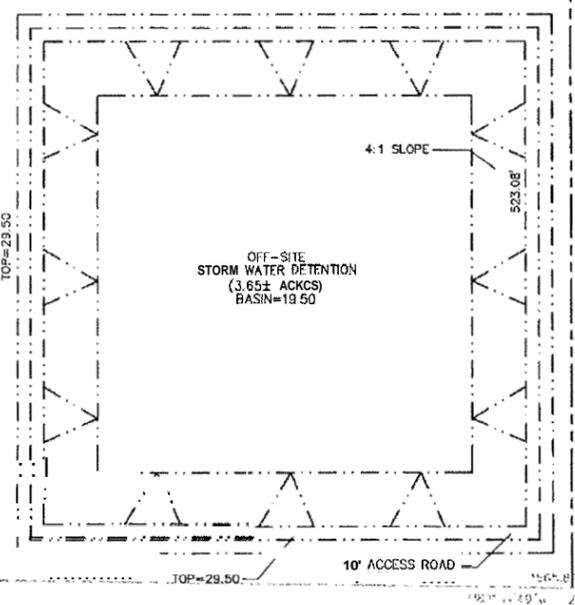
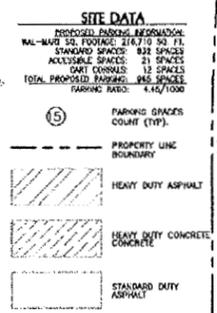
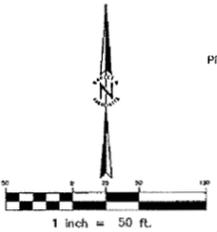
1. Vicinity Map
2. Site Plan
3. Vested Tentative Map
4. BAE Memorandum
5. Wal-Mart elevation and Hardscape Plan
6. Comment Letters
7. Draft P.C. Resolutions; PC 08-28, PC 08-29, & PC 08-30
8. FREIR – Hard Copies Previously Distributed (http://www.lodi.gov/com_dev/EIRs.html)

Vicinity Map



SITE NOTES

- AREA STRIPED WITH 4" SYS. AT 45° @ 2'-0" O.C.
- ACCESSIBLE RAMP. SEE DETAIL 9 ON SHEET C-8.3.
- PEDESTRIAN CROSSING SIGN W10-2 AND W10-7b TYPICAL. AT PEDESTRIAN CROSSINGS AS NOTED ON PLANS. SEE DETAIL 2 ON SHEET C-8.3.
- "YIELD" PAINTED YELLOW ON PAVEMENT TYPICAL. SEE DETAIL 5 ON SHEET C-8.1.
- ENHANCED PAVEMENT AREA. SEE ARCHITECTURAL PLANS FOR DETAILS.
- EXT. PORCH. SEE ARCHITECTURAL PLANS FOR EXACT SIZE, LOCATION FOR STAIRS, STAIRS AND/OR RAMP THAT MAY BE REQUIRED. RAMP PAVEMENT PLUSH WITH THE TOP OF STAIR.
- 4" PIPE BOLLARD TYPICAL UNLESS NOTED OTHERWISE. SEE DETAIL 2 ON SHEET C-8.7.
- CARL CROSSING SIGN. SEE DETAIL 1 ON SHEET C-8.7 AND DETAIL 10 ON SHEET C-8.2.
- 4" WIDE x 112" LONG YELLOW PAINTED TRUCK ALIGNMENT STRIPES.
- CONCRETE COMPACTOR PAD. REFER TO ARCHITECTURAL PLAN FOR EXACT LOCATION AND SLOPE.
- ACCESSIBLE PARKING SPACE TYPICAL. SEE DETAIL SHEET FOR ACCESSIBLE PARKING SPACE SIZE, SIGN AND SYMBOL ("VAN" INDICATES VAN ACCESSIBLE SPACE). SEE DETAIL 3 ON SHEET C-8.1 & DETAIL 9 ON SHEET C-8.2.
- CONCRETE TRANSFORMER PAD. CONTRACTOR TO COORDINATE WITH LOCAL POWER COMPANY FOR DETAILS.
- PLACE STOP SIGN & PAINT STOP BAR & "STOP" PER DETAIL 6 ON SHEET C-8.1 AND DETAIL 1 ON SHEET C-8.2.
- PEDESTRIAN CROSSWALK. EDGE LINES PAINTED SW/S, 8" WITH INSIDE STRIPING PAINTED SW/S AT 2'-0" O.C. PERPENDICULAR TO EDGE LINES. SEE DETAIL 7 ON SHEET C-8.1.
- CART CORRAL. SEE DETAIL 5 ON SHEET C-8.7.
- A.D.A. SITE ENTRANCE SIGN. SEE DETAIL 5 ON SHEET C-8.2.
- 4" PAINTED YELLOW STRIPES AT 2'-0" O.C. (TYP.) PERPENDICULAR TO PARKING SPACE. SEE DETAIL 8 ON SHEET C-8.2 (TYP.).
- 3/4" CONCRETE CURB AND GUTTER. SEE DETAIL 6 ON SHEET C-8.3.
- TRAFFIC FLOW ARROW. SEE DETAIL 1 SHEET C-8.1.
- CONCRETE (TYP.). SEE DETAIL 7 ON SHEET C-8.3.
- MONUMENT SIGN (SEE ARCHITECTURAL PLANS).
- ASIC INDICATOR SIGNS (TYP.). SEE DETAILS 9 & 11 ON SHEET C-8.2.
- CART CROSSING WITH WALK. SEE DETAIL 1 ON SHEET C-8.7.
- "NO TRUCKS" SIGN. SEE DETAIL 4 ON SHEET C-8.2.
- "TRUCK DRIVE" SIGN. SEE DETAIL 3 ON SHEET C-8.2.
- "RIGHT TURN ONLY" SIGN. SEE DETAIL 12 ON SHEET C-8.2.
- 10'x45' PALLET/BALE STORAGE AREA.
- IRRIGATED DONES. SEE DETAIL 4 ON SHEET C-8.7.
- SAWCUT EXISTING EDGE OF PAVEMENT TO FORM A SMOOTH UNIFORM LINE. PLACE PROPOSED PAVEMENT AGAINST SAWCUT LINE & MATCH EXISTING GRADE.
- AT GRADE OVERHEAD DOOR LOCATION. SEE ARCHITECTURAL PLANS FOR EXACT SIZE AND LOCATION FOR COORDINATION WITH CIVIL PLANS.
- PLACE GREASE/OIL INTERCEPTORS. SEE ARCHITECTURAL PLANS FOR EXACT SIZE AND LOCATION.
- SEE ALL NOTES ON SHEET C-8.1 FOR DETAILS ON ALL NOTES.
- 10'x10' TRAFFIC LIGHT. SEE DETAIL 1 ON SHEET C-8.7.
- MOUNT SECURITY CAMERA TO LIGHT POLE. SEE DETAIL 6, SHEET C-8.7.
- GRIND DOWN EXISTING STRIPING & REPLACE WITH NEW PROPOSED STRIPING.
- SEE DETAIL 5 ON SHEET C-8.1 FOR TYPICAL PARKING STALL STRIPING DETAIL.
- TRANSFORMER PAD. SEE ARCHITECTURAL PLANS FOR EXACT LOCATION.
- * ALL PARKING LANDSCAPE ISLANDS RADIUS ARE 10' & 3', UNLESS OTHERWISE STATED ON SITE PLAN.
- (V400) INSTALL PARKING LOT LIGHTS. SEE DETAIL 6, SHEET C-8.7.
- (V400) INSTALL PARKING LOT LIGHTS. SEE DETAIL 6, SHEET C-8.7.



WESTGATE DRIVE

C-195-SGR-OR
WAL-MART
 18.29 ACRES
 CRAB DOCKS - USE L SHAPE TLE
 216,710 SF

DA Doucet & Associates, Inc.
 3300 Chesapeake Boulevard, Suite 405, Roseville, CA 95678
 Phone: (916) 788-0088 Fax: (916) 788-0270
 www.doucet.com
 April, 19, 2004

WAL-MART

SUPERCENTER #1789-03
 KETTLEMAN LANE, HWY. 12
 LODI, CA
 SITE/HORIZONTAL PLAN

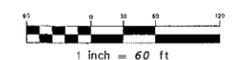
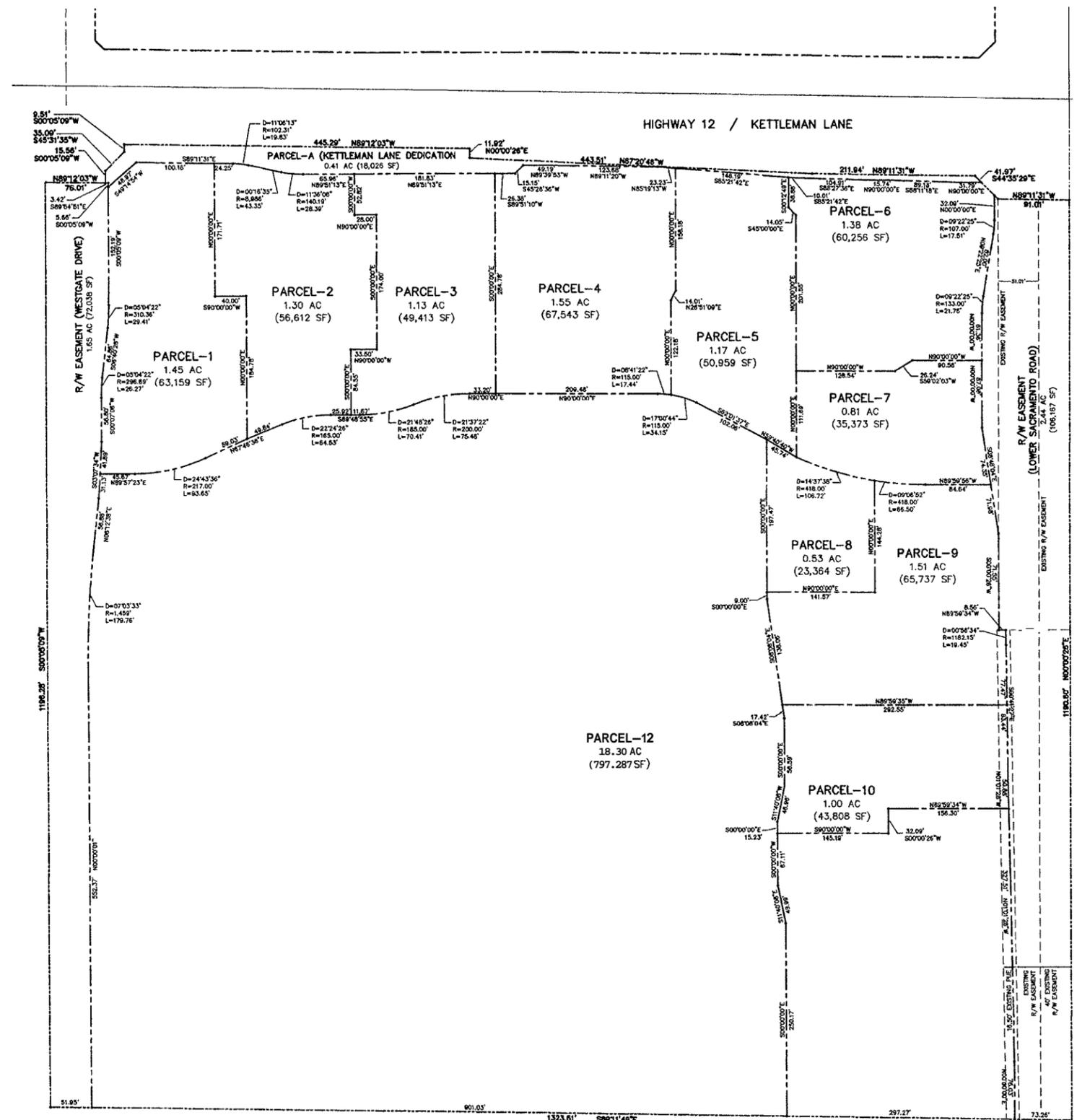
LOWER SACRAMENTO ROAD

NO.	REVISION	DATE	DRAWN	APPROVED

Scale: 1" = 50'
 Designed by: JF/CM
 Drawn by: JF/CM
 Reviewed by: RM
 Date: Dec. 13, 2004

SHEET
C-2.1
 OF 34

Project No: 001-272



Vesting Tentative Map
Lot Layout
 for
Lodi - III
 APNs: 058-030-01 & 058-030-02
 County of San Joaquin, California
 August 15, 2008
 Sheet 2 of 2



DA Doucet & Associates, Inc.
 1025 Creekside Ridge Drive, Suite 175
 Roseville, CA 95678-1936, Phone: (916) 780-2005 Fax: (916) 780-2015
 www.doucetandassociates.com



Date: October 1, 2008

To: Rad Bartlam, interim Director
City of Lodi, Community Development

From: Matt Kowta, Principal

Re: Review of Lodi Shopping Center Economic Impact/Urban Decay Analysis

The purpose of this memo is to provide you with my findings in regard to the validity of the conclusions from BAE's October 2007 Economic Impact/Urban Decay Analysis for Proposed Lodi Shopping Center in Lodi, CA, in light of the increase in the proposed Reynolds Ranch project size from 640,676 square feet of building area to approximately 750,000 square feet. The October 2007 Report had analyzed the potential cumulative impacts of the proposed Lodi Shopping Center along with the Reynolds Ranch project at 640,676 square feet and the City has requested that BAE review the conclusions from the 2007 report in light of the increase in the project size.

Potential Market Impacts of Proposed Project and Reynolds Ranch Project

Because the project description for the Lodi Shopping Center project has not changed since the preparation of the October 2007 report, there are no impacts on most parts of the report. The Reynolds Ranch project is first considered on page 62 of the report, where it was noted that the Reynolds Ranch project was anticipated to be competitive with the Lodi Shopping Center project and would potentially contribute to cumulative impacts on other existing shopping centers in the market area. Page 63 of the October 2007 report anticipated that the Reynolds Ranch project retail component would contain 640,676 square feet of retail building area. The analysis then went on to estimate how much of the existing trade area retail sales the combined Lodi Shopping Center project and Reynolds Ranch shopping centers would need to capture in order to perform at their expected sales levels. In the October 2007 report, this sales diversion was estimated at approximately 30 percent, meaning that the new stores would divert approximately 30 percent of existing stores' estimated 2008 sales (see Table 22, page 64).

BAE staff have re-calculated Table 22 of the October 2007 report based on the 750,000 square foot project size for Reynolds Ranch, holding all other inputs and assumptions constant, and the resulting sales diversion figure is 34 percent, meaning that the combined Lodi Shopping Center and Reynolds Ranch projects would be expected to divert approximately 34 percent of estimated 2008

Bay Area Economics

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Davis, CA 95616 bael@bael.com
bayareaeconomics.com

sales volumes from existing market area stores. Given the margin for error for this type of analysis, where there is an attempt to predict very complex shopping behaviors in the future while acknowledging the difficulty in controlling for all other variables that may come into play, this change from 30 percent to 34 percent is not significant. Also, it should be noted that the October 2007 report explained that while the 30 percent estimate reflected the loss of existing stores' 2008 sales levels, anticipated trade area population growth during the intervening time that would be necessary for the two shopping centers to be built and fully occupied will increase available trade area demand and therefore, actual sales diversions would likely be significantly lower than these figures at the time the new stores are opened. As noted on page 73 of the October 2007 report, the analysis had factored in the slowing housing market when considering the potential growth in retail demand within the Lodi area.

Page 65 of the October 2007 report indicated that the "construction of Reynolds Ranch, in combination with the Lodi Shopping Center or even alone, could lead to an oversupply of retail space in the Lodi area" and then continued with some discussion of the potential impacts on different sectors of the retail marketplace. Page 68 of the October 2007 report assumed that potential tenants for Reynolds Ranch would include a warehouse club, home improvement center, major apparel retailer, and perhaps a major electronics outlet. Based on information published by CB Richard Ellis in its 2008 Central Valley Market Outlook for retail, which can be found on the CBRE web site (<http://www.cbre.com/USA/US/CA/Stockton/Property/centralvalleymarketoutlook.htm?pageid=7>), a Costco and Home Depot are the anticipated anchors for the project. The major project anchors play a large role in dictating the trade area that the project will serve, and the types of competitive impacts that the project will have in the marketplace.

Page 68 of the October 2007 report continues:

"In summary, the cumulative impacts of Reynolds Ranch in addition to the proposed Lodi Shopping Center may lead to substantial cannibalization of retail sales from existing outlets in Lodi and the Trade Area, putting some existing businesses at increased risk of closure. While the tenant mix for Reynolds Ranch is unconfirmed, potential tenants for such a region-serving center include a warehouse club, a home improvement center, a major apparel retailer, and perhaps a major electronics outlet. Outlets competing in these categories would be at the most additional risk. One center with substantial additional risk is the Cherokee Shopping Center, with Orchard Supply Hardware, already impacted by Lowe's, facing possible additional competition, and Kmart, a poor-performing store at risk of closure from the Lodi Shopping Center alone. At Vineyard Shopping Center, Mervyn's and Ace Hardware confront the potential for strong new competition. Sunwest Plaza, where the existing Wal-Mart is slated to close when the Supercenter opens, would have increased risk

of closure for the JC Penney store if a large apparel retailer locates at Reynolds Ranch. Throughout Lodi, vacant spaces would face more difficulty in re-tenanting as nearly one million square feet of retail space is added to the area's real estate inventory. Outside the Trade Area, the analysis indicates that the impacts of the Lodi Shopping Center in combination with Reynolds Ranch would not be substantial."

These basic conclusions remain unchanged given the expanded size of the Reynolds Ranch project, given the finding that the capture rate of sales from existing retailers would increase from 30 percent to 34 percent of current market area sales with the assumption about the expanded Reynolds Ranch project, albeit the magnitude of the potential impacts would be slightly larger. Considering the margin for error in this type of complex analysis, BAE would not reach different conclusions based on these two different estimates of sales diversion, as they are of the same order of magnitude. In other words, in preparing the October 2007 report, BAE would have reached the same conclusions about the potential cumulative impacts of the proposed project and the Reynolds Ranch project, had the finding at the time been that the diversion of sales from existing stores would have been 34 percent of the 2008 sales levels instead of 30 percent.

Potential for Urban Decay from Cumulative Impacts

Given that the change in the size of the center has apparently not substantially altered the proposed tenant mix of the center, BAE's assessment of which other shopping centers and types of retailers would be most likely to be affected by the cumulative effects of the proposed project and the Reynolds Ranch project would not change significantly. Thus, the portion of the urban decay analysis on page 73 of the October 2007 report, which deals with the potential negative economic impacts of the cumulative impacts of the Lodi Shopping Center and the Reynolds Ranch project, would not change significantly. This portion of the report stated:

"There is one reasonably foreseeable project, Reynolds Ranch that cumulatively could result in additional impacts in Lodi and the Trade Area. The Proposed Project and Reynolds Ranch combined would add nearly one million square feet to Lodi's retail inventory. Potential store closures under a cumulative scenario include the supermarket (either Safeway or S-Mart) and Kmart as mentioned under Proposed Project-only impacts, as well as one of the two hardware stores (OSH and Ace) and JC Penney or Menyns. The particular impacts will depend in large part on the tenant mix of Reynolds Ranch. With any tenant mix at Reynolds Ranch, the addition of this large amount of retail space will make re-tenanting of any closed spaces more difficult. The existing Wal-Mart space would be particularly hard to re-tenant, especially if the JC Penney closed, leaving Food 4 Less as the only remaining major tenant of Sunwest Plaza; however, this center is relatively new, and will be in close proximity to the new Supercenter, and the existing Target, Lowe's and other regional retail draws, and may attract tenants from some of the other centers. The Cherokee

Retail Center could face the loss of both anchor tenants due to the increased competition, and the Vineyard Shopping Center could lose its largest tenant, Mervyn's, along with Ace Hardware. These centers would all face more limited prospects for re-tenanting with the additional competition from newer and higher-quality space available, especially in Reynolds Ranch."

Again, given that the likely anchor tenants of the Reynolds Ranch project have not changed from the assumptions used in the October 2007 report, due to the change in project size, our assessment of potentially affected stores and shopping centers would not change and, furthermore, the approximate magnitude of the impact on other retail facilities is not of a sufficient magnitude to compel BAE to make a different judgment about the potential severity of the impacts.

In evaluating the actual risk that cumulative impacts from the proposed Lodi Shopping Center project would lead to urban decay and physical deterioration, BAE considered the City of Lodi's intent to enforce local regulations that are intended to prevent neglected or derelict properties from creating blighting conditions within the community, observing that the City has adopted a number of regulatory policies that signal that the City will take aggressive action to abate conditions on private property that may lead to blighting conditions. Considering this, the October 2007 report stated on page 75:

"the cumulative impacts resulting from the Lodi Shopping Center in combination with the Reynolds Ranch retail center, a project approximately twice as large as the Lodi Shopping Center, could result in the closure of additional existing retail outlets in Lodi, and make it more difficult to re-lease vacated space due to the large addition to the inventory in the relatively slow-growing Lodi area. As a result, some existing shopping centers could be subject to long-term vacancies. In the case of the largest potential vacant space, the existing Wal-Mart at Sunwest Plaza, the proposed development agreement would require demolition of the space if it is not re-tenanting in a relatively short period of time. However, even with the potential closure of the JC Penney in this center, Sunwest Plaza is unlikely to be subject to long-term vacancies since it is relatively new, and will be in close proximity to the new Supercenter, and the existing Target, Lowe's and other regional retail draws, and thus may attract tenants from some of the other centers in Lodi. For other centers, an oversupply of retail space could result in difficulties re-tenanting vacant retail space in a reasonable period of time, and the vacant space could then be at risk of entering a cycle of long-term vacancies, secondary business closures, the inability to re-tenant existing stores, and the eventual possibility of physical deterioration or urban decay.

The actual potential for physical deterioration to occur at a specific property will be largely dependent on the commitment from the property owner to maintain the property, which

would be more challenging in the case of multiple ownership or control. However, in the event of an owner's failure to maintain vacated properties in a condition suitable for releasing, it will be incumbent on the City of Lodi to prevent such conditions from occurring through active and aggressive enforcement of its Code provisions relating to the abatement of public nuisances due to lack of property maintenance and management. The City of Lodi has demonstrated its commitment to preventing physical deterioration of commercial properties within the City through its successful revitalization efforts in Downtown, which involved a multi-faceted long-term program including large expenditures of City funds. Per Resolution No. 2006-39, passed in March 2006, as noted above, the City Council was emphatic in its direction to staff to proactively enforce compliance with its building codes. If conditions warrant, staff is prepared to apply the receivership provisions of the California Health and Safety Code to ensure that the corrective action is taken. As such, it is fully expected that the City will continue to be aggressive in the enforcement of its nuisance ordinances relating to building maintenance. Based on its past performance and policy commitments, it is reasonable to expect that the City will not allow any commercial properties which may become vacant under cumulative conditions to deteriorate physically. **Therefore**, while there is a remote possibility that certain properties such as the Vineyard Shopping Center and Cherokee Retail Center could be subject to a causal chain ultimately resulting in urban decay under cumulative conditions, such outcomes are considered highly unlikely given that the City can be counted on to take aggressive action to prevent such conditions from occurring.

In conclusion, the limited project definition available for the revised Reynolds Ranch project precludes the preparation of a definitive analysis of potential urban decay impacts under cumulative conditions at this time. However, given the City's commitment to preventing the physical deterioration of commercial properties, even under assumptions of reasonable worst-case conditions, as discussed above, it is expected that the cumulative economic effects of the Lodi Shopping Center, when combined with the economic effects of an expanded Reynolds Ranch project, would result in a less-than-significant cumulative urban decay impact."

The change in the project description does not provide any additional information that would cause BAE to change these conclusions. This presumes that the City of Lodi remains confident in its ability and commitment to effectively use its powers to enforce its regulations to prevent blighting conditions from developing, even if the result of the increased size of the Reynolds Ranch project is a greater need for enforcement and possibly action to abate buildings that may become vacant and in disrepair due to the cumulative impacts of the Lodi Shopping Center as proposed and the Reynolds Ranch retail facility at its larger size.

Conclusion

Based on the preceding assessment of the October 2007 report and the impact of the change in the Reynolds Ranch project size on that analysis, there would be no benefit to conducting further analysis of the potential cumulative impacts of the proposed Lodi Shopping Center and the Reynolds Ranch shopping center, because the conclusions are unlikely to change. This review process has shown that even if BAE had assumed that Reynolds Ranch was to be developed with 750,000 square feet of retail space when preparing the October 2007 analysis, the conclusions and findings would not have been significantly different than what is reflected in the October 2007 report. Only if the City of Lodi is not confident that it can effectively enforce its “anti-blight” regulations in the face of a somewhat greater quantity of space at risk of becoming vacant as compared to what was determined in the October 2007 report would a revision of that report be in order.

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

LODI SHOPPING CENTER

CITY OF LODI

OCTOBER 2008

IMPACTS	MITIGATION MEASURES	RESPONSIBLE PARTY	TIMING	IMPLEMENTATION (To be completed by responsible party)	
				DATE	INITIALS
	B. AGRICULTURAL RESOURCES				
B1. <u>Agricultural Land Conversion</u>	B1. The applicant shall obtain a permanent Agricultural Conservation Easement over 40 acres of prime farmland. The agricultural conservation easement shall consist of a single parcel of land of at least 40 acres. This easement shall be located in San Joaquin County (excluding the Delta Primary Zone as currently defined by State law). The easement shall be in current agricultural use; if it is not in current agricultural use, the easement shall be required to be put into agricultural production as a result of the conservation easement transaction. The lands subject to the easement shall be placed under permanent restrictions on land use to ensure its continued agricultural production capacity by limiting non-farm development and other uses that are inconsistent with commercial agriculture. The easement shall be held by the City or a qualified entity (i.e., land trust) approved by the City. The applicant shall pay a fee (in an amount to be determined by the City) for purposes of establishing an endowment to provide for adequate administration, monitoring, and maintenance of the easement in perpetuity.	Project Applicant with approval of City of Lodi Community Development Director.	Prior to issuance of occupancy permits.		

IMPACTS	MITIGATION MEASURES	RESPONSIBLE PARTY	TIMING	IMPLEMENTATION (To be completed by responsible party)	
				DATE	INITIALS
	C. GEOLOGY AND SOILS				
C1. <u>Seismic Ground Shaking</u>	C1. Structural damage to buildings resulting from ground shaking shall be minimized by following the requirements of the Uniform Building Code, and implementing the recommendations of the project geotechnical engineer.	Project Applicant with approval by City of Lodi Building Official and Lodi Public Works Director.	Prior to issuance of grading permits.		
C2. <u>Seismic Settlement</u>	C2. If subsequent geotechnical studies indicate unacceptable levels of potential seismic settlement, available measures to reduce the effects of such settlements would include replacement of near-surface soils with engineered fill, or supporting structures on quasi-rigid foundations, as recommended by the project geotechnical engineer.	Project Applicant with approval by City of Lodi Building Official and Lodi Public Works Director.	Prior to issuance of grading permits.		
C3. <u>Stormwater Bank Stability</u>	C3. Design-level geotechnical studies shall investigate the potential of bank instability at the proposed basin and recommend appropriate setbacks, if warranted.	Project Applicant with approval of City of Lodi Public Works Director.	Prior to issuance of grading permits.		
C4. <u>Soil Consolidation and Collapse</u>	C4. The effects of soil consolidation and collapse can be mitigated by placing shallow spread foundations on a uniform thickness of engineered fill; specific measures shall be specified by an engineering geologist as appropriate in response to localized conditions.	Project Applicant with approval of City of Lodi Public Works Director and Building Official.	Prior to issuance of grading permits.		
C5. <u>Expansive Soils</u>	C5. The potential damage from soils expansion would be reduced by placement of non-expansive engineered fill below foundation slabs, or other measures as recommended by the geotechnical engineer.	Project Applicant with approval of Lodi Public Works Director and Building Official.	Prior to issuance of grading permits.		

IMPACTS	MITIGATION MEASURES	RESPONSIBLE PARTY	TIMING	IMPLEMENTATION (To be completed by responsible party)	
				DATE	INITIALS
	C. GEOLOGY AND SOILS (Cont'd)				
C6. <u>Soil Corrosivity</u>	C6. The potential damage from soil corrosivity can be mitigated by using corrosion-resistant materials for buried utilities and systems; specific measures shall be specified by an engineering geologist as appropriate in response to localized conditions.	Project Applicant with approval of City of Lodi Public Works Director.	Prior to issuance of grading permits.		
	D. HYDROLOGY AND WATER QUALITY				
D3. <u>Erosion and Sedimentation</u>	D3. A comprehensive erosion control and water pollution prevention program shall be implemented during grading and construction. (See EIR text for details.)	Project Applicant with approval by City of Lodi Public Works Director.	Throughout grading and construction of the project.		
D4. <u>Urban Non-Point Pollution</u>	D4. The project shall include stormwater controls to reduce nonpoint pollutant loads. (See EIR text for details.)	Project Applicant with final approval by City of Lodi Public Works Director.	Throughout construction and operation of project.		
	E. BIOLOGICAL RESOURCES				
E3. <u>Loss of Habitat for Special Status Animals</u>	E3. In accordance with the SJMSCP and City of Lodi requirements, the project proponent will pay the applicable in-lieu mitigation fees to compensate for loss of open space and habitat resulting from development of the project site, and will ensure the completion of preconstruction surveys for Swainson's hawks, burrowing owls, and California horned larks, as well as the implementation of specified measures if any of these species are found on the site.	Project Applicant, in accordance with SJMSCP, and with approval of City of Lodi Community Development Director.	Prior to issuance of grading permits.		

IMPACTS	MITIGATION MEASURES	RESPONSIBLE PARTY	TIMING	IMPLEMENTATION (To be completed by responsible party)	
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	E. BIOLOGICAL RESOURCES (Cont'd)				
E4. <u>Disturbance to Burrowing Owls and Raptors</u>	<p>E4. The following measures shall be implemented to ensure that raptors (hawks and owls) are not disturbed during the breeding season:</p> <ul style="list-style-type: none"> • If ground disturbance is to occur during the breeding season (Feb. 1 to Aug. 31), a qualified ornithologist shall conduct a pre-construction survey for nesting raptors (including both tree- and ground-nesting raptors) on site within 30 days of the onset of ground disturbance. These surveys will be based on the accepted protocols (e.g., as for the burrowing owl) for the target species. If a nesting raptor is detected, then the ornithologist will, in consultation with CDFG, determine an appropriate disturbance-free zone (usually a minimum of 250 feet) around the tree that contains the nest or the burrow in which the owl is nesting. The actual size of the buffer would depend on species, topography, and type of construction activity that would occur in the vicinity of the nest. The setback area must be temporarily fenced, and construction equipment and workers shall not enter the enclosed setback area until the conclusion of the breeding season. Once the raptor abandons its nest and all young have fledged, construction can begin within the boundaries of the buffer. • If ground disturbance is to occur during the non-breeding season (September 1 to January 31), a qualified ornithologist will conduct pre-construction surveys for burrowing owls only. (Pre-construction surveys during the non-breeding season are not necessary for tree nesting raptors since these species would be expected to abandon their nests voluntarily during construction.) • If burrowing owls are detected during the non-breeding season, they can be passively relocated by placing one-way doors in the burrows and leaving them in place for a minimum of three days. (Continued on next page.) 	Project Applicant, in consultation with CDFG, and with approval of City of Lodi Community Development Director.	Prior to issuance of grading permits.		

IMPACTS	MITIGATION MEASURES	RESPONSIBLE PARTY	TIMING	IMPLEMENTATION (To be completed by responsible party)	
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	E. BIOLOGICAL RESOURCES (Cont'd)				
E4. (Cont'd)	Once it has been determined that owls have vacated the site, the burrows can be collapsed and ground disturbance can proceed.				
	F. CULTURAL RESOURCES				
F1. <u>Disturbance to Buried Cultural Resources</u>	<p>F1. Implementation of the following measures will mitigate any potential impacts to cultural resources.</p> <ul style="list-style-type: none"> • In the event that prehistoric or historic archaeological materials are exposed or discovered during site clearing, grading or subsurface construction, work within a 25-foot radius of the find shall be halted and a qualified professional archaeologist contacted for further review and recommendations. Potential recommendations could include evaluation, collection, recordation, and analysis of any significant cultural materials followed by a professional report. • In the event that fossils are exposed during site clearing, grading or subsurface construction, work within a 25-foot radius of the find shall be halted and a qualified professional paleontologist contacted for further review and recommendations. Potential recommendations could include evaluation, collection, recordation, and analysis of any significant paleontological materials followed by a professional report. (Cont'd next page.) 	Project Applicant in consultation with a qualified archaeologist and/or qualified paleontologist, as applicable, with verification of mitigation by City of Lodi Community Development Director.	Throughout grading and construction of project.		

IMPACTS	MITIGATION MEASURES	RESPONSIBLE PARTY	TIMING	IMPLEMENTATION (To be completed by responsible party)	
				DATE	INITIALS
	F. CULTURAL RESOURCES (Cont'd)				
F1. (Cont'd)	<ul style="list-style-type: none"> If human remains are discovered, the San Joaquin County Coroner shall be notified. The Coroner would determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he will notify the Native American Heritage Commission, who would identify a most likely descendant to make recommendations to the land owner for dealing with the human remains and any associated grave goods, as provided in Public Resources Code Section 5097.98. 				
	H. TRAFFIC AND CIRCULATION				
<u>H2. Future Plus Project Unsignalized Intersection Operations</u>	H2. The project shall contribute its fair share cost to the installation of a traffic signal at Lower Sacramento Road and Harney Lane.	Project Applicant with approval by City of Lodi Public Works Director	Prior to issuance of occupancy permits.		
<u>H4. Cumulative Plus Project Access Conditions at the Signalized Access Drive Proposed Along the Lower Sacramento Road frontage</u>	H4. Modify the project site plan to provide dual eastbound left-turn movements out of the project site onto northbound Lower Sacramento Road, consisting of a 150-foot left-turn pocket and a full travel lane back to the internal project site intersection. In the eastbound direction, a left-turn pocket and a full travel lane back to the signalized intersection will provide adequate capacity for inbound traffic. In addition, STOP signs shall be installed on all approaches except the westbound to provide continuous traffic flow into the project site and eliminate the potential for backups onto Lower Sacramento Road. On the Food 4 Less approach, a 100-foot left-turn pocket will be provided at the signalized intersection.	Project Applicant with approval by City of Lodi Public Works Director.	Prior to issuance of occupancy permits.		

IMPACTS	MITIGATION MEASURES	RESPONSIBLE PARTY	TIMING	IMPLEMENTATION (To be completed by responsible party)	
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	H. TRAFFIC AND CIRCULATION (Cont'd)				
<u>H5. Cumulative Plus Project Access Conditions at Northern Unsignalized Access Drive Along Lower Sacramento Road</u>	H5. The following mitigation measures shall be implemented: A) Extend a third southbound travel lane on Lower Sacramento Road from its current planned terminus at the signalized project driveway to the southern boundary of the project site; B) Construct a 100-foot southbound right-turn lane at the signalized project driveway; C) Extend the southbound left-turn pocket by 100 feet; D) Extend the taper from 60 feet to a City standard 120-foot taper; E) Eliminate the northbound left-turn lane into the northern project driveway (under Alternative B).	Project Applicant with final approval by City of Lodi Public Works Director.	Prior to issuance of occupancy permits.		
<u>H6. Inadequate Left-turn Lane Taper on Westgate Drive</u>	H6. The project site plan shall be modified to move the north project driveway on Westgate Drive south by 25 feet in order to accommodate the required 90-foot taper length.	Project Applicant with approval of City of Lodi Public Works Director.	Prior to issuance of occupancy permits.		
<u>H7. Inadequate Left-turn Lane Taper on Lower Sacramento Road</u>	H7. The project site plan shall be modified to extend the northbound left-turn pocket to 250 feet, and extend the taper from 70 to a City standard 120-foot taper.	Project Applicant with approval by City of Lodi Public Works Director.	Prior to issuance of occupancy permits.		
<u>H8. Public Transit Service</u>	H8. The project applicant shall work with and provide fair share funding to the City of Lodi Grapeline Service and the San Joaquin Regional Transit District to expand transit service to the project.	Project Applicant with final approval by City of Lodi Public Works Director.	Prior to issuance of occupancy permits.		

IMPACTS	MITIGATION MEASURES	RESPONSIBLE PARTY	TIMING	IMPLEMENTATION (To be completed by responsible party)	
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	H. TRAFFIC AND CIRCULATION (Cont'd)				
H9. <u>Public Transit Stop</u>	H9. Modify the project site plan to: 1) provide a bus bay and passenger shelter at the proposed transit stop; and 2) include a second transit stop in the eastern portion of the project near Lower Sacramento Road.	Project Applicant, in consultation with City of Lodi Grapeline Service, and with approval of City of Lodi Public Works Director.	Prior to issuance of grading permits.		
H11. <u>Pedestrian Facilities</u>	H11. Pedestrian walkways and crosswalks shall be provided to serve Pads 8, 9, and 12 in order to complete the internal pedestrian circulation system.	Project Applicant with approval of City of Lodi Community Development Director.	Prior to issuance of grading permits.		
	I. NOISE				
I3. <u>Noise from Project Activity</u>	<p>I3. The following noise mitigation measures are identified as appropriate for the various types of project activities, to reduce project noise at both existing and planned future adjacent development:</p> <p><u>Rooftop Mechanical Equipment.</u> To ensure that the potential noise impact of mechanical equipment is reduced to less-than-significant levels, the applicant shall submit engineering and acoustical specifications for project mechanical equipment, for review prior to issuance of building permits for each retail building, demonstrating that the equipment design (types, location, enclosure specifications), combined with any parapets and/or screen walls, will not result in noise levels exceeding 45 dBA (Leq-hour) for any residential yards.</p> <p><u>Parking Lot Cleaning.</u> To assure compliance with the City of Lodi Noise Regulations regarding occasional excessive noise, leaf blowing in the southeast corner of the project site shall be limited to operating during the hours of 7:00 a.m. to 10:00 p.m.</p>	Project Applicant with approval of City of Lodi Community Development Director.	Prior to issuance of building permits.		

IMPACTS	MITIGATION MEASURES	RESPONSIBLE PARTY	TIMING	IMPLEMENTATION (To be completed by responsible party)	
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	I. NOISE (Cont'd)				
<u>I4. Noise from Stormwater Basin Pump</u>	<p>I4. The following measures shall be implemented to mitigate potential noise generated by the stormwater basin pump:</p> <p>1) The pump shall be located as far as is feasible from the nearest future planned residential development. In addition, the noise levels generated by pump shall be specified to produce noise levels no greater than 45 dBA L_{eq} at the nearest residential property lines. The pump facility shall be designed so that noise levels do not exceed 45 dBA at the nearest residential property lines. The pump may need to be enclosed to meet this noise level. Plans and specifications for the pump facility shall be included in the Improvement Plans for the project and reviewed for compliance with this noise criterion.</p> <p>2) In order to avoid creating a noise nuisance during nighttime hours, pump operations shall be restricted to the hours of 7 a.m. to 10 p.m., except under emergency conditions (e.g., when the basin needs to be emptied immediately to accommodate flows from another imminent storm).</p>	Project Applicant with approval of City of Lodi Community Development Director.	Prior to issuance of grading permits.		
<u>I5. Construction Noise</u>	H5. Short-term noise impacts shall be reduced through implementation of the following measures: limiting the hours of construction; proper muffling and maintenance of equipment; prohibition of unnecessary idling; noise shielding of stationary equipment and location of such equipment away from sensitive receptors; selection of quiet equipment; notification to neighbors of construction schedule, and designation of a 'noise disturbance coordinator' to respond to noise complaints. (See EIR text for details.)	Project Applicant, to be verified by the City of Lodi Building Official and City of Lodi Community Development Director.	Throughout grading and construction.		

IMPACTS	MITIGATION MEASURES	RESPONSIBLE PARTY	TIMING	IMPLEMENTATION (To be completed by responsible party)	
				DATE	INITIALS
	J. AIR QUALITY				
J1. <u>Construction Emissions</u>	J1. Dust control measures shall be implemented to reduce PM ₁₀ emissions during grading and construction, as required by the City of Lodi and the San Joaquin Valley Unified Air Pollution Control District. (See EIR text for details.)	Project Applicant, to be verified by the City of Lodi Public Works Director and City of Lodi Community Development Director.	Throughout grading and construction.		
J3. <u>Regional Air Quality</u>	J3 Project design measures shall be implemented to reduce project area source emissions, and a Transportation Demand Management (TDM) plan should be implemented to reduce project traffic and resulting air emissions; however, these measures would not reduce the impact to a less-than-significant level.	Project Applicant, to be verified by the City of Lodi Building Official and City of Lodi Community Development Director.	Prior to issuance of building permits.		
J6. <u>Restaurant Odors</u>	J5. All restaurant uses within the project shall locate kitchen exhaust vents in accordance with accepted engineering practice and shall install exhaust filtration systems or other accepted methods of odor reduction.	Project Applicant with approval of City of Lodi Building Official and City of Lodi Community Development Director.	Prior to issuance of building permits.		

RESOLUTION NO. P.C. 08-28

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI
DENYING CERTIFICATION OF THE FINAL REVISED ENVIRONMENTAL IMPACT
REPORT (EIR-03-01) RELATING TO THE LODI SHOPPING CENTER;
STATE CLEARINGHOUSE NO. 2003042113**

WHEREAS, an application was filed by Browman Development Company for a commercial shopping center at 2640 W. Kettleman Lane more particularly described as Assessor's Parcel numbers 058-030-08 and 058-030-02, and a portion of 058-030-09; and

WHEREAS, the Community Development Director made a determination that the project may have a potentially significant impact on the environment and ordered the preparation of an Environmental Impact Report (EIR); and

WHEREAS, the Notice of Preparation (NOP) of the Draft EIR was prepared and distributed to reviewing agencies on April 14, 2003; and

WHEREAS, the Draft Environmental Impact Report (DEIR) was released on August 5, 2004, for circulation; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice held a study session and public hearing on September 9, 2004. Public comments on the DEIR were taken at this hearing; and

WHEREAS, a Final EIR (FEIR) responding to all public comments on the DEIR submitted prior to the expiration of the comment period was prepared and released to the public and commenting agencies on November 22, 2004; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice held a public hearing before said Commission on December 8, 2004; and

WHEREAS, the Planning Commission of the City of Lodi reviewed and certified the Final Environmental Impact Report prepared for the project; and

WHEREAS, that certification and approval was appealed to the Lodi City Council; and

WHEREAS, the Lodi City Council, on appeal, reviewed and certified the FEIR prepared for the project (Resolution No. 2005-26, February 3, 2005); and

WHEREAS, the Lodi City Council rescinded the certification of the FEIR on May 3, 2006, pursuant to Superior Court Order of December 19, 2005, which order directed revisions to be made to the EIR; and

WHEREAS, in response to the Court Order, the City prepared a Notice of Preparation (NOP) of the Revisions to the Environmental Impact Report (REIR) and distributed it to reviewing agencies on September 25, 2006; and

WHEREAS, the Draft Revisions to the Environmental Impact Report (DREIR) was released and circulated on October 17, 2007, for public comment and review; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice held a study session and public hearing on November 14, 2007. Public comments on the DREIR were received at this hearing; and

WHEREAS, a Final Revisions to the EIR (FREIR) including responses to all public comments on the DREIR submitted prior to the expiration of the comment period was prepared and released to the public and commenting agencies on August 26, 2008; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice held a public hearing before said Commission on October 8, 2008 to consider certification of the FREIR; and

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED, as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. For the reasons stated on the record at the October 8, 2008 Planning Commission hearing, the Planning Commission denies certification of the FREIR.

Dated: October 8, 2008

I hereby certify that Resolution No. P.C. 08-28 was passed and adopted by the Planning Commission of the City of Lodi at their meeting held on October 8, 2008, by the following vote:

AYES: Commissioners: Kiser, Kirsten, Olson, Heinitz, Hennecke

NOES: Commissioners: Cummins

ABSTAIN: Commissioners: Mattheis

ATTEST: 

Secretary, Planning Commission

Comment Letters

Kari Chadwick

From: Caroline Byerly [carolinebyerly@mac.com]
Sent: Thursday, August 28, 2008 3:01 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Caroline Byerly

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. Do we really need another Wal-Mart in Lodi?

Another supercenter will further endanger Lodi's own local businesses -- which, unlike Wal-Mart, treat their employees with respect and reinvest their profits in our community. The company has an infamous record of dodging its state and local taxes, as well as bringing excessive noise and traffic and lowering the property values for nearby residents.

Finally, Lodi residents don't want the environmental damage that a new supercenter brings. If the city of Lodi is sitting on a draft version of the final Wal-Mart environmental report, I strongly urge you to make it public. This is not a private document, and the public should be given full access to such reports.

Communities across the country have been standing up to Wal-Mart and winning -- now it's our turn to settle this debate once and for all.

Thank you.

Kari Chadwick

From: kathy small [kathymotown@webtv.net]
Sent: Thursday, August 28, 2008 2:46 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
kathy small

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Thank you.

Kari Chadwick

From: Laura-Marie Taylor [veralinnysweet@yahoo.com]
Sent: Thursday, August 28, 2008 2:44 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Laura-Marie Taylor

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Thank you

Kari Chadwick

From: nina muenzenberg [karlheinz@frontiernet.net]
Sent: Thursday, August 28, 2008 2:38 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
nina muenzenberg

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Thank you.

Kari Chadwick

From: John Sheckles [thebossjohn@clearwire.net]
Sent: Thursday, August 28, 2008 2:24 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
John Sheckles

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Kari Chadwick

From: Sara Schiappa [italiana_bella_una@sbcglobal.net]
Sent: Thursday, August 28, 2008 1:56 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Sara Schiappa

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Thank you.

Kari Chadwick

Subject: Say No to Wal-Mart

_ _ _ _ Original Message-----

From: Niaree Hopelian [mailto:nhopelian@seiul000.org]

Sent: Thursday, August 28, 2008 12:49 PM

To: Peter Pirnejad

Subject: Say No to Wal-Mart

From:

Niaree Hopelian

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles **of** downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: Robert Neil [bobbyneill@yahoo.com]
Sent: Thursday, August 28, 2008 1:54 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Robert Neil

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: Kathy Cridge [cridgema@gmail.com]
Sent: Thursday, August 28, 2008 1:53 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Kathy Cridge

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Thank you.

Kari Chadwick

From: Maria Crandall [fcrandall@csus.edu]
Sent: Thursday, August 28, 2008 1:41 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Maria Crandall

Just for the record, my sister and her neighbors were able to dissuade Wal-Mart from building a store on Sheldon Road in Elk Grove. Why Wal-Mart wants a store in Lodi when they already have 20 Wal-Mart's within 40 miles of downtown Stockton is puzzling. If the store on West Kettleman is doing fine. do we really need another Wal-Mart in Lodi?

The economy is in a slump and it's not getting any better. It is a well-known fact that Wal-Mart endangers Lodi's own local businesses -- which, unlike Wal-Mart, treat their employees with respect and reinvest their profits in our community. The company has an infamous record of dodging its state and local taxes, as well as bringing excessive noise and traffic and lowering the property values for nearby residents. What will a closed and abandoned supercenter do to Lodi's physical environment?

Do Lodi residents really want the environmental damage that a new supercenter brings? If the city of Lodi is sitting on a draft version of the final Wal-Mart environmental report, I strongly urge you to make it public. This is not a private document, and the public should be given full access to such reports.

The Sheldon area community beat back Wal-Mart as have other communities across the country. Now it's Lodi's turn to settle this debate once and for all.

Thank you.

Kari Chadwick

From: Karl Costenbader [jkerry@competent.com]
Sent: Thursday, August 28, 2008 1:23 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Karl Costenbader

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

Another supercenter will further endanger Lodi's own local businesses -- which, unlike Wal-Mart, treat their employees with respect and reinvest their profits in our community. The company has an infamous record **of** dodging its state and local taxes, as well as bringing excessive noise and traffic and lowering the property values for nearby residents.

Finally, Lodi residents don't want the environmental damage that a new supercenter brings. If the city of Lodi is sitting on a draft version of the final Wal-Mart environmental report, I strongly urge you to make it public. This is not a private document, and the public should be given full access to such reports.

Communities across the country have been standing up to Wal-Mart and winning -- now it's our turn to settle this debate once and for all.

Thank you.

Kari Chadwick

From: Sarah Hafer [charityh@comcast.net]
Sent: Thursday, August 28, 2008 1:15 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Sarah Hafer

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: dorena goding [dorenah@yahoo.com]
Sent: Thursday, August 28, 2008 3:23 PM
To: Peter Pirnejad
Subject: STOP WAL MART! SUPPORT THE LOCAL BUSINESSES!

From:
dorena goding

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: Kathryn Starring-Rogers [kaystarring@hotmail.com]
Sent: Thursday, August 28, 2008 6:44 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Kathryn Starring-Rogers

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

Another supercenter will further endanger Lodi's own local businesses -- which, unlike Wal-Mart, treat their employees with respect and reinvest their profits in our community. The company has an infamous record of dodging its state and local taxes, as well as bringing excessive noise and traffic and lowering the property values for nearby residents.

Finally, Lodi residents don't want the environmental damage that a new supercenter brings. If the city of Lodi is sitting on a draft version of the final Wal-Mart environmental report, I strongly urge you to make it public. This is not a private document, and the public should be given full access to such reports.

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Thank you.

Kari Chadwick

From: Elizabeth Burk [dzymzlzy@hotmail.com]
Sent: Thursday, August 28, 2008 4:37 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Elizabeth Burk

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

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Communities across the country have been standing up to Wal-Mart and winning -- now it's our turn to settle this debate once and for all.

Thank you.

Kari Chadwick

From: Sharon Parks [sharonparks@msn.com]
Sent: Thursday, August 28, 2008 4:20 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Sharon Parks

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: Gary Lo [cheesypuff357@hotmail.com]
Sent: Thursday, August 28, 2008 3:34 PM
To: Peter Pirnejad
Subject: Please listen to me

From:
Gary Lo

As being a former Lodi Resident, I already heard complaints of the current walmart on kettleman raping the community apart. Lodi prides itself with being pro small business and the local economy will be sucked dry if a new walmart is built. please consider the GDP of lodi and how that money will filter out of the pockets of local residents and be put in the pockets of big corporate business. be graceful. don't let it happen

Previous Lodi Resident,
Gary Lo

Kari Chadwick

From: Danny DeTora [mizuno53@hotmail.com]
Sent: Thursday, August 28, 2008 3:14 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Danny DeTora

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. Do we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: Gary Watkins [wasterix@aol.com]
Sent: Thursday, August 28, 2008 10:09 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Gary Watkins

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Thank you.

Kari Chadwick

From: Debbie Egan [cactusflowers@sbcglobal.net]
Sent: Thursday, August 28, 2008 9:15 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Debbie Egan

Cities always think that if WalMart comes in, the city will get thousands of dollars in tax revenue. but this is not true. WalMart uses loopholes to send the money out of the area! Check out the movie: WalMart - the high cost of low price (2005). its a documentary

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Thank you.

Kari Chadwick

From: Lema Perkins [QuietStorm_3@msn.com]
Sent: Friday, August 29, 2008 5:17 AM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Lema Perkins

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. Do we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: Dennis Ledden [lcs5779@sbcglobal.net]
Sent: Friday, August 29, 2008 5:18 AM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Dennis Ledden

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. Do we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: Kirk Walser [scannerbuddy@comcast.net]
Sent: Friday, August 29, 2008 7:00 AM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Kirk Walser

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: Ronald Peterson [rcp95240@yahoo.com]
Sent: Friday, August 29, 2008 9:20 AM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Ronald Peterson

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

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Thank you.

STATE OF CALIFORNIA
FACSIMILE COVER
 10-2A-0049 (NEW 10/92)

ATTENTION: Immanuel Bereket		FROM: Kathy Selsor Department of Transportation 1976 East Charter Way Stockton, CA 95205	
UNIT/COMPANY: Planning Division		DATE: 8/28/08	TOTAL PAGES (Including Cover Page)
		FAX # (Include Area Code) (209) 948-7194	ATSS FAX 8-423-7194
DISTRICT/CITY City of Lodi 221 West Pine Street Lodi, CA 95241-1910		PHONE # (& Area Code) (209) 948-7190	ATSS 8-423-7190
PHONE # (& Area Code) (209) 333-6711	FAX # (& Area Code) (209) 333-6842	ORIGINAL DISPOSITION: Destroy <input type="checkbox"/> Return <input type="checkbox"/> Call for Pickup <input type="checkbox"/>	

COMMENTS:

SJ-12-PM15.1
RFEIR
SCH# 2003042113
Lodi Shopping Center

DEPARTMENT OF TRANSPORTATION

P.O. BOX 2048 STOCKTON, CA 95201
(1976 E. CHARTER WAY/1976 E. DR., MARTIN
LUTHER KING JR. BLVD. 95205)
TTY: California Relay Service (800) 735-2929
PHONE (209) 941-1921
FAX (209) 948.7 194



*Flex your power!
Re energy efficient!*

August 28,2008

**10-SJ-12-PM 15.1
SCH#2003042113
Lodi Shopping
Center**

Immanuel Bereket
City of Lodi
Planning Division
221 West Pine Street
Lodi, CA 95241-1910

Dear Mr. Bereket:

The California Department of Transportation (Department) appreciates the opportunity to have reviewed the Final Revised Environmental Impact Report (FREIR) for the proposed Lodi Shopping Center located at the south west corner of Lower Sacramento and Kettleman/State Route 12 (SR 12) in the City of Lodi. The comments made for the Site Plan in a letter dated August 26,2008 have not been addressed and still remain valid. In order to ensure the Site Plan has adequate right of way dedication for future improvements on SR 12 and Westgate Drive please address the following comments.

Provide **the** striping plan for SR 12 west of the intersection of Westgate Drive and SR 12/Lower Sacramento Road,

Provide typical cross sections to show future dual left-turn lane at Westbound SR 12 to Southbound Westgate Drive.

Provide the ultimate plan for SR 12/Westgate Drive

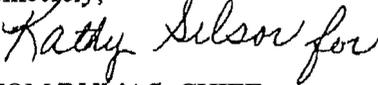
Provide truck off tracking analysis for the following movements at the intersection of SR 12/Westgate Drive:

- o Eastbound SR 12 right turn
- Westbound SR 12 left turn to Westgate Drive
- Westgate Drive northbound to eastbound and westbound SR 12
- Site Plan needs to show Caltrans Right of Way (WW) and ultimate R/W .
- All signals should be coordinated
- **All** work within the State Right of Way will require an Encroachment permit.

Mr. Bereket
August 28, 2008
Page 2

If you have any questions or would like to discuss our comments in more detail, please contact Kathy Selsor at 948-7190 (e-mail Kathy_selsor@dot.ca.gov) or me at 941-1921.

Sincerely,



TOM DUMAS, CHIEF
OFFICE OF METROPOLITAN PLANNING

RECEIVED

AUG 29 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI



S J C O G , Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 468-3913 • FAX (209) 468-1084

*San Joaquin County Multi-Species Habitat Conservation &
Open Space Plan (SJMSCP)*

**SJMSCP RESPONSE TO LEAD AGENCY
ADVISORY AGENCY NOTICE TO SJCOG, Inc.**

To: Immanuel Bereket, City of Lodi Community Development Department
From: Anne-Marie Poggio-Castillou, SJCOG, Inc.
Date: August 26, 2008
Re: **Lead Agency Project Title:** Lodi Shopping Center (Super Wal-Mart) Tentative Map
Lead Agency Project Number: 08-SP-08, 08-U-11
Assessor Parcel Number(s): 058-030-01 and 058-030-02 (058-030-09 Basin)

Total Acres to be converted from Open Space Use: approximately 40 acres

Habitat Types to be Disturbed: Agriculture

Species Impact Findings: Findings to be determined by SJMSCP biologist.

Dear Mr. Bereket:

SJCOG, Inc. has reviewed application for the Tentative Map for the Lodi Shopping Center (Super Wal-Mart). This project involves the construction of approximately 339,966 square feet of commercial retail uses, representing a variety of retail sales and services, to be contained in 13 buildings of varying sizes. The primary user will be Wal-Mart which will occupy which will approximately 226,868 square feet. The project is located at the southwest corner of West Kettleman Lane and South Sacramento Road. The project site is located entirely within the incorporated boundary of the City of Lodi.

The SJMSCP is requesting a revision on section E3 of the Draft EIR (Biological Resources). This section states that no mitigation is required. This project is subject to a site visit by a SJMSCP Biologist to perform a pre-construction survey prior to any ground disturbance. The project will also have to sign and return Incidental Take Minimization Measures to SJMSCP staff. This project will also have to pay current fees 30 prior to pulling permits.

The Tentative Map also shows approximately 4 acres adjacent and southwest of the shopping center site for construction of a storm water detention basin. The four acres will need to be addressed as to its part in the project or if it is a part of the Southwest Gateway Project.

The City of Lodi is a signatory to San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Participation in the SJMSCP satisfies requirements of both the state and federal endangered species acts, and ensures that the impacts are mitigated below a level of significance in compliance with the California Environmental Quality Act (CEQA). Although participation in the SJMSCP is voluntary, lead agents should be aware that if project applicants choose against participating in the SJMSCP, they will be required to provide alternative mitigation in an amount and kind equal to that provided in the SJMSCP.

This Project is subject to the SJMSCP. This can be up to a 30 day process and it is recommended that the project applicant contact SJMSCP staff as early as possible.

Please contact SJMSCP staff regarding completing the following steps to satisfy SJMSCP requirements:

- Schedule a SJMSCP Biologist to perform a pre-construction survey ***prior to any ground disturbance***
- Sign and Return Incidental Take Minimization Measures to SJMSCP staff (given to project applicant after pre-construction survey is completed)
- Pay appropriate fee based on SJMSCP findings
- Receive your Certificate of Payment and release the required permit

If you have any questions, please call (209) 468-3913.

Kari Chadwick

From: Jeff Hood
Sent: Friday, August 29, 2008 10:20 AM
To: Randi Johl; Kari Chadwick
Subject: FW: Say No to Wal-Mart

-----Original Message-----

From: Mary Hamlett [mailto:MaryHamlett@hotmail.com]
Sent: Friday, August 29, 2008 10:19 AM
To: Jeff Hood
Subject: Say **No** to Wal-Mart

From:
Mary Hamlett

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

Another supercenter will further endanger Lodi's own local businesses -- which, unlike Wal-Mart, treat their employees with respect and reinvest their profits in our community. The company has an infamous record of dodging its state and local taxes, as well as bringing excessive noise and traffic and lowering the property values for nearby residents.

Finally, Lodi residents don't want the environmental damage that a new supercenter brings. If the city of Lodi is sitting on a draft version of the final Wal-Mart environmental report, I strongly urge you to make it public. This is not a private document, and the public should be given full access to such reports.

Communities across the country have been standing up to Wal-Mart and winning -- now it's our turn to settle this debate once and for all.

I am most concerned that the report and talks are not open and public. People should be informed **of** the process as it is happening and have a chance to comment on anything happening that is of concern to them.

Thank you.

Kari Chadwick

From: Mike McLaughlin [mmclaughlin@iaff4577.org]
Sent: Saturday, August 30, 2008 9:34 PM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From :
Mike McLaughlin

Please don't let Wal Mart build another Supercenter.

Kari Chadwick

From: Christina Graybill [tbill@infostations.com]
Sent: Saturday, August 30, 2008 4:46 AM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Christina Graybill

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. Do we really need another Wal-Mart in Lodi? Wal-Mart ISN'T the kind of SUSTAINABLE development Lodi needs.

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Thank you.

Kari Chadwick

From: Candy Bowman [canbowring@yahoo.com]
Sent: Sunday, August 31, 2008 8:41 AM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Candy Bowman

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. Do we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: Michelle Johnston [mishj@zapcom.net]
Sent: Sunday, August 31, 2008 10:47 AM
To: Peter Pirnejad
Subject: Say No to Wal-Mart

From:
Michelle Johnston

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. Do we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

From: Jeff Hood
Sent: Monday, September 08, 2008 8:36 AM
To: Randi Johl; Kari Chadwick
Subject: FW: Say No to Wal-Mart

__-__Original Message-----

From: Jean Wilbourn [mailto:c1lctr55@sbcglobal.net]
Sent: Sunday, September 07, 2008 7:48 PM
To: Jeff Hood
Subject: Say No to Wal-Mart

From:
Jean Wilbourn

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

Another supercenter will further endanger Lodi's own local businesses -- which, unlike Wal-Mart, treat their employees with respect and reinvest their profits in our community. The company has an infamous record of dodging its state and local taxes, as well as bringing excessive noise and traffic and lowering the property values for nearby residents.

Finally, Lodi residents don't want the environmental damage that a new supercenter brings. If the city of Lodi is sitting on a draft version of the final Wal-Mart environmental report, I strongly urge you to make it public. This is not a private document, and the public should be given full access to such reports.

Communities across the country have been standing up to Wal-Mart and winning -- now it's our turn to settle this debate once and for all.

Thank you.

Kari Chadwick

Subject: Say No to Wal-Mart

-----Original Message-----

From: Bob Sipe [mailto:bobsipe@netzero.com]
Sent: Thursday, August 28, 2008 1:01 PM
To: Peter Pirnejad
Subject: Say **No** to Wal-Mart

From:
Bob Sipe

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. **Do** we really need another Wal-Mart in Lodi?

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Thank you.

Kari Chadwick

Subject: Say No to Wal-Mart

-----Original Message-----

From: David Smith [mailto:davidsmith2007@gmail.com]

Sent: Thursday, August 28, 2008 12:58 PM

To: Peter Pirnejad

Subject: Say No to Wal-Mart

From:

David Smith

No Walmart in LODI!!

Another supercenter will further endanger Lodi's own local businesses -- which, unlike Wal-Mart, treat their employees with respect and reinvest their profits in our community. The company has an infamous record of dodging its state and local taxes, as well as bringing excessive noise and traffic and lowering the property values for nearby residents.

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Thank you

Kari Chadwick

Subject: Poison Toys & Lead Paint in downtown Lodi

-----Original Message-----

From: Stephanie Conrad [mailto:stephfran2fish@sbcglobal.net]

Sent: Thursday, August 28, 2008 1:13 PM

To: Peter Pirnejad

Subject: Poison Toys & Lead Paint in downtown Lodi

From:

Stephanie Conrad

Brought to you by the City Council and Walmart Corporation.

Just say no to poison toys.

S. Conrad

Sacramento, CA.

Kari Chadwick

Subject: Say No to Wal-Mart

-----Original Message-----

From: Jessica Garcia [mailto:jgarcia@seiu1000.org]

Sent: Thursday, August 28, 2008 1:13 PM

To: Peter Pirnejad

Subject: Say No to Wal-Mart

From:
Jessica Garcia

It seems that after years of debate, Wal-Mart has again decided it wants a new store in Lodi. The Stockton Record tells us that there are 20 Wal-Mart's within 40 miles of downtown Stockton. And Wal-Mart admits that its current store on West Kettleman is doing fine. Do we really need another Wal-Mart in Lodi?

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Finally, Lodi residents don't want the environmental damage that a new supercenter brings. If the city of Lodi is sitting on a draft version of the final Wal-Mart environmental report, I strongly urge you to make it public. This is not a private document, and the public should be given full access to such reports.

Communities across the country have been standing up to Wal-Mart and winning -- now it's our turn to settle this debate once and for all.

Thank you.

Kari Chadwick

From: Mark Anaforian [mjanaforian@sbcglobal.net]
Sent: Wednesday, August 27, 2008 2:51 PM
To: Kari Chadwick
Subject: Re: Lodi Shopping Center Final Revised Environmental Impact Report

Kari

With respect to your findings your reasoning is completely wrong. On my first point addressed by the committee you state that while other stores would initially experience slower sales, an increase in population would resolve the problem. Has the board noticed the real estate market lately? People cannot pay their existing mortgages, as evidenced by all the foreclosures in this part of California, let alone afford a new house. You are putting your hopes on the market turning around a lot quicker than most experts expect. What qualifications does the board have in predicting future home sales? On top of the above stated comment, how big does Lodi want to be? I for one do not want this community to turn into our neighbors to the south.

The second point you addressed was about the vacancy of the existing Wal-Mart. You first said that finding a tenant should not be a problem. Who? A store that size with it's enormous square footage can only accommodate a certain type of store. You also say that if the store is not rented out in 90 days it will be demolished. I'm sure the existing tenants would be thrilled with trucks, bulldozers and loud noises while trying to conduct business.

As evidenced by this report it seems the board 'bending over backwards' to accommodate this project. Where is the loyalty to the existing businesses in Lodi? They represent your tax base and should be treated as a valuable asset to the city.

So build your supercenter and watch as everything I warned you about come true. I deal with retail chains throughout California and have seen this in numerous cities. I would say it will give me great pleasure to say 'I told you so' ,but it won't because people will have lost their jobs as a result of your decision.

Thank You,
 Mark Anaforian

--- On Tue, 8/26/08, Kari Chadwick <kchadwick@lodi.gov> wrote:

From: Kari Chadwick <kchadwick@lodi.gov>
 Subject: Lodi Shopping Center Final Revised Environmental Impact Report
 To:
 Date: Tuesday, August 26, 2008, 3:06 PM

Please let this message serve as notification that the Final Revised Environmental Impact Report has been posted to the City of Lodi Web page and is ready for viewing. Should you encounter any difficulties, please do not hesitate to contact our office.

http://www.lodi.gov/com_dev/EIRs.html

Thank you,

Kari Chadwick
 Administrative Secretary
 Community Development Department
 (209) 333-6711



SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Ave. Stockton, CA 95202

(209)468-3913

www.sjcog.org

RECEIVED

SEP 15 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

DATE: September 12,2008

TO: Mr. Immanuel Bereket or Responsible Planning Staff

RE: **Super Wal-Mart Proposal: File No. 08-SP-08, 08-U-11, 08-P-04**

Dear Mr. Bereket:

On August 20, 2008 SJCOC received notification from the City of Lodi of a project that is proposing to construct approx. 227,000 sq. ft. retail center on the southwest corner of Lower Sacramento Rd. and SR 12. As the County's designated Congestion Management Agency, SJCOC is required to analyze and comment on future land uses that may impact roadways located within the RCMP network. The *Land Use Analysis Process* was adopted as part of the 2007 Regional Congestion Management Plan and is also mandated by state CMP Legislation (Section 65089). The relevant portions from the RCMP, State Legislation, along with an exhibit of the RCMP Roadway Network are attached to this correspondence.

Trip generation rates were estimated using ITE methodology. This methodology showed that the project would generate over 800 p.m. peak-hour trips. These trips were distributed (modeled) to evaluate the effect on the CMP roadway network. Results of the distribution show that the project will create degradation in the level of service that exceeds the LOS standards within the RCMP on the following two roadways:

1. Lower Sacramento Rd. – Turner Rd. to Harney Ln.
2. State Rte. 12 – Davis Rd. to South Hutchins St.

As the project proceeds with the review process, SJCOC recommends that these potential impacts be analyzed within the project's Traffic Impact Analysis and accompanying environmental document. The analysis should contain a section that specifically addresses requirements and standards of the RCMP and State CMP Legislation and measures that will be appropriate for mitigating any impacts considered significant. SJCOC is currently in the process of developing measures that will be considered as acceptable mitigation.

Thank you for forwarding the project information to this office for review. Please feel free to call me with any questions or comments you may have at (209) 468-3913.

Sincerely,

A handwritten signature in cursive script that reads "Laura Brunn". The signature is written in black ink and is positioned below the word "Sincerely,".

Laura Brunn
SJCOG Associate Regional Planner

cc: Dana Cowell, Deputy Director
Mike Swearingen, Senior Regional Planner

Attachments:

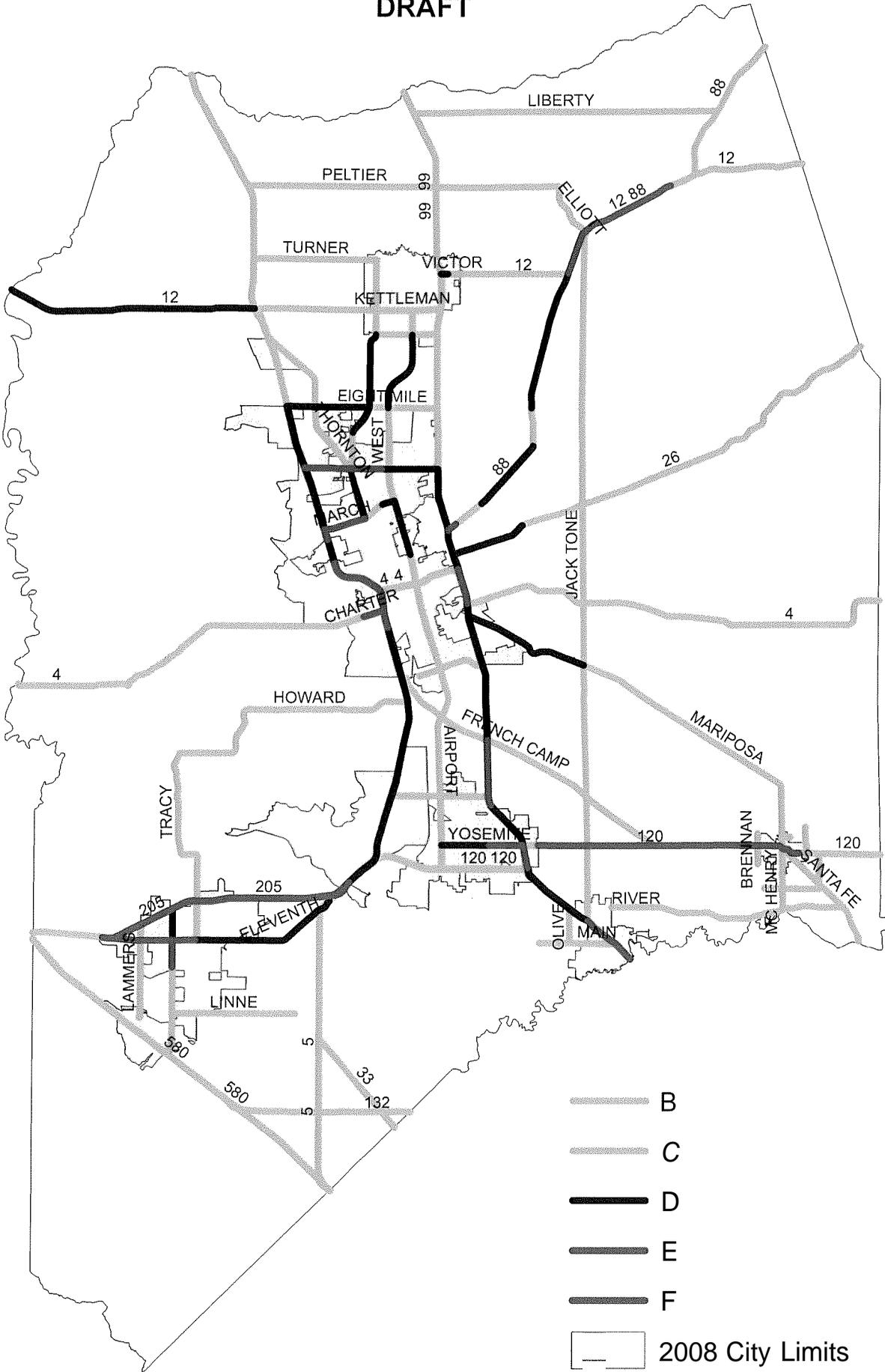
Map Exhibit - 1 page

RCMP Excerpt - 6 pages

California Code, Section 65089 - 3 pages

CMP ROADWAY NETWORK - 2007 LEVEL OF SERVICE

DRAFT



CHAPTER 5 Land Use Impact Analysis Program

5.1 Introduction

The Land Use Analysis Program focuses on the relationship between transportation and land use with a focus on the regional transportation impacts of local land use decisions. While most cities consider the effect that a new development will have on local roads and streets, the impact that new development may have on state highways or principal arterials in other jurisdictions is largely ignored. Ideally, the California Environmental Quality Act (CEQA) review takes into account the regional impacts of a given project; however, this is not always the case. As such, state statute¹ requires that CMP's evaluate the impacts of land use decisions made by local jurisdictions on the regional transportation system.

The RCMP's Land Use Analysis Program considers how local land use decisions affect travel on the RCMP transportation network. This program also provides a framework for addressing these impacts, either through the local planning process or ultimately through the RCMP Deficiency Plan Program.

5.2 Factors in the Design of the Land Use Analysis Program

When designing the most appropriate Land Use Analysis Program for San Joaquin a number of factors were given consideration, namely existing legislation, the goals of the program and the challenges facing the RCMP.

Legislation. CMP legislation states that the performance measures defined in the RCMP should be used, to the extent possible, to determine the impact of local land use decisions on the transportation system. The program must also include an estimate of the costs associated with mitigating the impacts, excluding the costs of mitigating the impacts of interregional travel. Finally, the program shall provide credit for local public and private contributions to improvements to the regional transportation system.

Goals. Drawing upon CMP legislation, Federal SAFETEA-LU legislation, and Measure K, the following goals for the Land Use Analysis Program were identified:

- To provide information that is useful to local jurisdictions.
- To facilitate inter-jurisdictional cooperation in analyzing and mitigating the impact of land use decisions, when necessary.
- To adopt programs that strive to keep the increase in VMT to an annual rate that is equal or less than the population increase.

¹ California Government Code 65089(b)(4)

- To adopt programs that promotes travel by alternate modes.
- To support and plan for improved heavy passenger rail and regional bus connections with the Bay Area and Sacramento.
- To identify local land use decisions that have a significant impact on the RCMP system and to establish a process for mitigating these impacts.
- To ensure that new development contributes a fair share and provides transportation improvements at the time of new construction.

Local governments are required to be aware of any significant traffic impacts that a proposed project may create before the approval decision. Knowing what the transportation impacts are at this early stage gives the jurisdiction the opportunity to develop appropriate mitigation and fee measures with the applicant.

5.3 Regional Traffic Model

The regional traffic model is an integral component of the Land Use Analysis Program, and its maintenance is a requirement of both the State CMP legislation and the Measure K Ordinance. One of the major functions of the model is to project the traffic impacts of potential and actual land use decisions on the regional transportation system. The regional traffic model is also used to project the future levels of traffic on the RCMP system, to predict where performance standards may not be met. These traffic volume projections are designed to give SJCOG and local governments a vision of the regional traffic congestion that will occur if no additional action is taken.

Regional Traffic Model Details

One of the functions of SJCOG is to develop and update projections of future traffic conditions for all major roadways in San Joaquin County. SJCOG staff accomplishes this through the use of this computerized traffic model. The model uses a three-tiered forecasting process: trip generation, trip distribution, and trip assignment. First, the model projects the numbers of trips that will be produced and attracted for each land use, based on the assumed future land use conditions. Per California Code Section 65089.4, this figure cannot include interregional trips. Second, the model uses a standard gravity equation to assign an origin and destination traffic zone for each trip. Finally, the model assigns each trip to a specific route between its origin and destination.

The model is run in-house on SJCOG's personal computers, using the TP+ Traffic Forecasting Program. The model is calibrated on 2005 base conditions. This calibration means that the model replicates actual 2005 traffic patterns within specific tolerance levels.

SJCOG’s model evaluates interregional trips involving San Joaquin County, Stanislaus County, the Sacramento region, the entire Bay Area, Calaveras County, and Amador County. Average daily traffic (present and future) for all major roadways is dynamically represented between and within San Joaquin County and all of these regions. The model relies on the following five land use variables to forecast traffic:

- Number of Single Family Households
- Number of Multi-Family Households
- Number of Retail Employees
- Number of Service Employees
- Number of Other Employees

5.4 Review of Proposed Land Use Projects

The 2007 renewal of the Measure K Ordinance stipulates that SJCOG will “review all environmental documents and/or development applications for residential, commercial, retail, and industrial development in San Joaquin County generating 125 or more peak hour trips, based on ITE factors. Specific projects excluded as part of the cause of a deficiency include those cited in Government Code Section 65089.4 such as high-density residential and mixed use projects within ¼ mile of a fixed rail passenger station and low-income and very low income housing.

SJCOG will comment on each of these developments as to their impact on the region’s congestion management system and recommend the appropriate measures to address the impacts new development will have on the existing transportation system. It should be noted that SJCOG’s ability to comment should not be interpreted as an authority to reject development applications.

For the purpose of the RCMP, the review of development applications will include all new projects that are subject to California Environmental Quality Act (CEQA) review. These projects require the judgment or deliberation by a jurisdiction’s policy decision-making body prior to approving or disapproving the land use activity. This is distinguished from other types of projects where the lead public agency or body is only responsible for determining whether there has been conformity with applicable statutes, ordinances, or regulations. The traffic impacts of these types of projects will be captured through updates traffic counts and analysis of the effects on the CMS per section 1.3 of this document.

In order to capture developments subject to review by the CMA, SJCOG has developed a simple single-page development questionnaire that is intended to be completed by the permitting jurisdiction at the time of application submittal. This form found in **Appendix D** solicits simple descriptive information for any project above a minimum size that wouldn’t generate the required threshold of trips. The forms are transmitted to SJCOG where a simple trip generation

computation is performed to determine if the threshold has been met.

For projects meeting the trip generation threshold, SJOOG prepares a comment letter addressing the impact these trips may have on regional transportation systems. As required within Measure K, if the subject project is located on or near a State highway, SJOOG will seek further comment from Caltrans.

The following items are considered during the preparation of the comment letter:

- ✓ Potential impact on the RCMP transportation network;
- ✓ Possible alternative modal infrastructure improvements that should be supported; and,
- ✓ Possible TDM programs that the project may participate in.

Regarding SJOOG's review of General Plan updates and revisions; since revised general plans set the stage for development over a 20 year period, it is important to consider their impact on the regional transportation system. Currently, SJOOG as the CMA receives proposed general plan updates and amendments. Under this Land Use Analysis Program, SJOOG will review these documents and provide comments regarding the impact that the proposed land use designations will have on the regional system, if approved.

5.5 Use of Development Impact Information

State law places responsibility for the Land Use Analysis Program on local jurisdictions, since they retain the power to approve or deny project applications. SJOOG can assist cities and the County in determining regional traffic impacts, but the Lead Agency is responsible for determining how to mitigate these impacts and what the cost will be to do so. SJOOG encourages local agencies to require development projects to cover the costs of mitigating transportation impacts, but the decision to do so rests with the city or County.

Mitigation

Local jurisdictions are responsible for determining the types of mitigations that will be used to address regional traffic impacts. These mitigations are left to the local jurisdiction's discretion, but SJOOG will provide support and coordination to determine the best strategy(s) as needed. A toolbox of possible mitigation measures is identified in Section 7.

Inter-Jurisdictional Impacts

A regional analysis based on local land use decisions will often involve more than one jurisdiction. For example, a large project approved by City A (Lead Agency) may affect traffic on a nearby

principal arterial in City B (affected city). The RCMP places the responsibility for addressing the significant traffic impacts with the approving jurisdiction. However, SJCOG also recognizes that City A will need to work with City B in order to properly mitigate the traffic impacts on the affected segment. It is the preference of SJCOG that the Lead Agency work with any affected jurisdiction to arrive at a mutually agreeable plan for addressing the inter-jurisdictional impacts of a given project. If a dispute arises, or at the request of either party, SJCOG will assist both localities in preparing a mitigation plan that meets the requirements of this land use program.

5.6 Local and Regional Traffic Impact Fees

Per Measure K, this Land Use Impact Program is intended to ensure that “new development contributes a fair share and provides transportation improvements at the time of new construction.” Meanwhile, State CMP legislation also expects that the Land Use Program will provide “credit for local public and private contributions to improvements to regional transportation systems,” in order to prevent developers from paying twice for the same improvements to the regional transportation system. All jurisdictions developed and adopted a Local Traffic Fee program soon after the Measure K Transportation Sales Tax program began implementation.

In addition, Measure K’s Ordinance and Local Transportation Improvement Program stated the following:

“It is an objective of the Local Transportation Authority that a program of Regional Traffic Mitigation fees, assessments, or other mitigations, as appropriate, to fund regional and sub-regional transportation projects, be developed and implemented in San Joaquin County by January 1, 1993.”

The rationale for a regional fee is that it would capture the impact of each development that local governments approve rather than just capturing the impact of large general plan amendments. While the impact of certain projects will be small, their cumulative effect could be significant. Also, large projects developed under existing General Plans will also have an effect on the regional transportation system.

Another advantage of the regional fee approach to impact mitigations is that the requirement for equity in the project approval process would be met. All projects must be treated equally with respect to project approval conditions. Because a regional fee would apply to all projects, regardless of size, each project would pay its proportionate share of the costs.

In addition, State law requires that there be a direct relationship (nexus) between a project’s impact and the required fees or mitigations. Another advantage of a regional fee over the analysis

Congestion Management Plan

San Joaquin Council of Governments

of General Plan Amendments is that the fee can be linked directly to a project proposal. As such, the analysis would be more specific, the mitigation would be clearly defined (the fee), and the time lag between the project approval and the adoption of a mitigation would be reduced. The legal nexus between the project and the condition would be clearly established.

Finally, mitigating impacts outside of one's jurisdiction can be a difficult process. A regional fee whose revenues are used to fund a set of regional projects would obviate the need to work out mitigation agreements for each project with an inter-jurisdictional impact. Each project's proportionate share of the costs of mitigations would be determined by the fee, based on the projected trip ends.

All jurisdictions adopted and began implementation of the RTIF program by July 1, 2006. To ensure that the RTIF is being assessed and applied toward regional traffic mitigation projects that were identified in the development of the fee, SJCOG monitors the local jurisdictions' collection and disbursement of the fee. This monitoring will be accomplished through SJCOG's annual audit process of local agency transportation funds.

65088.5. **Congestion management** programs, if prepared by county transportation commissions and transportation authorities created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code, shall be used by the regional transportation planning agency to meet federal requirements for a **congestion management** system, and shall be incorporated into the **congestion management** system.

65089. (a) A **congestion management** program shall be developed, adopted, and updated biennially, consistent with the schedule for adopting and updating the regional transportation improvement program, for every county that includes an urbanized area, and shall include every city and the county. The program shall be adopted at a noticed public hearing of the agency. The program shall be developed in consultation with, and with the cooperation of, the transportation planning agency, regional transportation providers, local governments, the department, and the air pollution control district or the air quality **management** district, either by the county transportation commission, or by another public agency, as designated by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county.

(b) The program shall contain all of the following elements:

(1) (A) Traffic level of service standards established for a system of highways and roadways designated by the agency. The highway and roadway system shall include at a minimum all state highways and principal arterials. No highway or roadway designated as a part of the system shall be removed from the system. All new state highways and principal arterials shall be designated as part of the system, except when it is within an infill opportunity zone. Level of service (LOS) shall be measured by Circular 212, by the most recent version of the Highway Capacity Manual, or by a uniform methodology adopted by the agency that is consistent with the Highway Capacity Manual. The determination as to whether an alternative method is consistent with the Highway Capacity Manual shall be made by the regional agency, except that the department instead shall make this determination if either (i) the regional agency is also the agency, as those terms are defined in Section 65088.1, or (ii) the department is responsible for preparing the regional transportation improvement plan for the county.

(B) In no case shall the LOS standards established be below the level of service E or the current level, whichever is farthest from level of service A except when the area is in an infill opportunity zone. When the level of service on a segment or at an intersection fails to attain the established level of service standard outside an infill opportunity zone, a deficiency plan shall be adopted pursuant to Section 65089.4.

(2) A performance element that includes performance measures to evaluate current and future multimodal system performance for the movement of people and goods. At a minimum, these performance measures shall incorporate highway and roadway system performance, and measures established for the frequency and routing of public transit, and for the coordination of transit service provided by separate operators. These performance measures shall support mobility, air quality, land use, and economic objectives, and shall be used in the development of the capital improvement program

required pursuant to paragraph (5), deficiency plans required pursuant to Section 65089.4, and the land use analysis program required pursuant to paragraph (4).

(3) A travel demand element that promotes alternative transportation methods, including, but not limited to, carpools, vanpools, transit, bicycles, and park-and-ride lots; improvements in the balance between jobs and housing; and other strategies, including, but not limited to, flexible work hours, telecommuting, and parking **management** programs. The agency shall consider parking cash-out programs during the development and update of the travel demand element.

(4) A program to analyze the impacts of land use decisions made by local jurisdictions on regional transportation systems, including an estimate of the costs associated with mitigating those impacts. This program shall measure, to the extent possible, the impact to the transportation system using the performance measures described in paragraph (2). In no case shall the program include an estimate of the costs of mitigating the impacts of interregional travel. The program shall provide credit for local public and private contributions to improvements to regional transportation systems. However, in the case of toll road facilities, credit shall only be allowed for local public and private contributions which are unreimbursed from toll revenues or other state or federal sources. The agency shall calculate the amount of the credit to be provided. The program defined under this section may require implementation through the requirements and analysis of the California Environmental Quality Act, in order to avoid duplication.

(5) A seven-year capital improvement program, developed using the performance measures described in paragraph (2) to determine effective projects that maintain or improve the performance of the multimodal system for the movement of people and goods, to mitigate regional transportation impacts identified pursuant to paragraph (4).

The program shall conform to transportation-related vehicle emission air quality mitigation measures, and include any project that will increase the capacity of the multimodal system. It is the intent of the Legislature that, when roadway projects are identified in the program, consideration be given for maintaining bicycle access and safety at a level comparable to that which existed prior to the improvement or alteration. The capital improvement program may also include safety, maintenance, and rehabilitation projects that do not enhance the capacity of the system but are necessary to preserve the investment in existing facilities.

(c) The agency, in consultation with the regional agency, cities, and the county, shall develop a uniform data base on traffic impacts for use in a countywide transportation computer model and shall approve transportation computer models of specific areas within the county that will be used by local jurisdictions to determine the quantitative impacts of development on the circulation system that are based on the countywide model and standardized modeling assumptions and conventions. The computer models shall be consistent with the modeling methodology adopted by the regional planning agency. The data bases used in the models shall be consistent with the data bases used by the regional planning agency. Where the regional agency has jurisdiction over two or more counties, the data bases used by the agency shall be consistent with the data bases used by the regional agency.

(d) (1) The city or county in which a commercial development will implement a parking cash-out program that is included in a **congestion management** program pursuant to subdivision (b), or in a deficiency plan pursuant to Section 65089.4, shall grant to that development an

appropriate reduction in the parking requirements otherwise in effect for new commercial development.

(2) At the request of an existing commercial development that has implemented a parking cash-out program, the city or county shall grant an appropriate reduction in the parking requirements otherwise applicable based on the demonstrated reduced need for parking, and the space no longer needed for parking purposes may be used for other appropriate purposes.

(e) Pursuant to the federal Intermodal Surface Transportation Efficiency Act of 1991 and regulations adopted pursuant to the act, the department shall submit a request to the Federal Highway Administration Division Administrator to accept the **congestion management** program in lieu of development of a new **congestion management** system otherwise required by the act.

65089.1. (a) For purposes of this section, "plan" means a trip reduction plan or a related or similar proposal submitted by an employer to a local public agency for adoption or approval that is designed to facilitate employee ridesharing, the use of public transit, and other means of travel that do not employ a single-occupant vehicle.

(b) An agency may require an employer to provide rideshare data bases; an emergency ride program; a preferential parking program; a transportation information program; a parking cash-out program, as defined in subdivision (f) of Section 65088.1; a public transit subsidy in an amount to be determined by the employer; bicycle parking areas; and other noncash value programs which encourage or facilitate the use of alternatives to driving alone. **An** employer may offer, but no agency shall require an employer to offer, cash, prizes, or items with cash value to employees to encourage participation in a trip reduction program as a condition of approving a plan.

(c) Employers shall provide employees reasonable notice of the content of a proposed plan and shall provide the employees an opportunity to comment prior to submittal of the plan to the agency for adoption.

(d) Each agency shall modify existing programs to conform to this section not later than June 30, 1995. Any plan adopted by an agency prior to January 1, 1994, shall remain in effect until adoption by the agency of a modified plan pursuant to this section.

(e) Employers may include disincentives in their plans that do not create a widespread and substantial disproportionate impact on ethnic or racial minorities, women, or low-income or disabled employees.

(f) This section shall not be interpreted to relieve any employer of the responsibility to prepare a plan that conforms with trip reduction goals specified in Division 26 (commencing with Section 39000) of the Health and Safety Code, or the Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(g) This section only applies to agencies and employers within the South Coast Air Quality **Management** District.

65089.2. (a) **Congestion management** programs shall be submitted to the regional agency. The regional agency shall evaluate the consistency between the program and the regional transportation plans

RECEIVED

SEP 25 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

Lodi Counsel &
Planning Commission.

I Vote No to a Lodi
Super Center for Wal-Mart.

I'm happy with what we
have and don't like the
Super Center in Stockton.

We have ample grocery and
auto facilities and we
don't need the traffic
congestion that a Super Center
would bring.

Thank you for leaving my
No Supercenter Vote!

James D. Libert
324 Dianne Dr. Lodi

Sept 23, 2008

To: Planning Commission
Folsom, Calif.

Please note "me" for me at
meeting about getting a new trail-
rest. She can see how to get
great + just the right size.

Sincerely,
Mrs. Betty Albert
831 Warner Dr.
Folsom, Calif 95340

RECEIVED

SEP 25 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

Mr. & Mrs. Jack Fiori

Lodi Planning Comm

We both vote

No to Walmart

supercenter.

(Unable to attend
meeting)

Jack V. Fiori

Jack V. Fiori

Delores G. Fiori

Delores G. Fiori

RECEIVED

SEP 26 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

HELPING KIDS DEFY THE ODDS



Y084434

September 26, 2008

Community Development Director
P.O. Box 3006
Lodi, Ca 95241-1910

RECEIVED
SEP 29 2008
COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

Ladies and Gentlemen of the Planning Commission,

Unfortunately this Wal-mart Project "dialogue" seems to have to go on and on.

The document circulating in local mail from "Lodi Residents for Community Preservation" is quite frustrating to me and keeps rehashing old ground whose points were clearly rejected by the voters in Lodi and also have been diligently reviewed in the Revised EIR by paid 3rd party professionals. Yet the locals keep getting badgered by this constant mantra of resisting change, with a lot of self serving rhetoric.

I have lived in Lodi since 1967 and find the downtown area a better place to dine, recreate, and shop than it ever has been in the past.

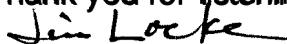
Please keep in mind the fact that those who don't like Wal-mart can take their business elsewhere, and stop whining. I would prefer to avoid rehashing old issues such as the waste of traveling to Holman and Hammer Lane in Stockton, turning our backs on improved tax revenues for the City of Lodi, and not providing additional opportunities for Lodi residents to have better access to competitively priced every days commodity needs "here at home".

I have confidence that you will again make the right decisions and provide an affirmative go ahead for the Wal-mart Supercenter complex. I embrace useful change and in the 41 years that I have been a resident of Lodi I have witnessed a lot of very positive change. People that reject "constructive change" are deluding themselves and living in fantasy land.

The Lodi-News-Sentinel had an item in last Saturday's edition, about the rescheduling of the expected Planning commission meeting on the 24th, which is now rescheduled for the 8th of October. I was expecting to attend the meeting on the 24th, to try to get my \$.25 worth in but now that it is re-scheduled to a time when I will be out of town participating in some "Senior Games" in St. George, Utah, from 10/5 to 10/18/08, I will not be able to be present at the scheduled meeting on October 8th.

I would greatly appreciate your entering this message into the records of your meeting and deliberations.

Thank you for listening, sincerely,



Jim Locke
511 Willow Glen Drive
Lodi, Ca 95240-0511
368-9009

Kari Chadwick

From: myra mortenson [myralodi@sbcglobal.net]
Sent: Monday, September 29, 2008 4:43 PM
To: Kari Chadwick
Subject: comment for planning commission

Lodi does not need a Walmart Supercenter. Please vote NO.

Fred Mortenson

Growth has hurt Lodi's small community feel for several decades

Stockton's Walmart Super Center is only 15 minutes away, let the traffic stay down there!

Kari Chadwick

From: Nancy Watts [nawatts@sbcglobal.net]
Sent: Wednesday, October 01, 2008 8:14 AM
To: Randi Johl
Subject: NO to Wal-Mart Supercenter

TO: City Clerk, Mayor and City Council of Lodi,

I urge a NO vote by our city council on approval of the Wal-Mart Supercenter! Their one page ad in today's paper cites \$ statistics that in no way reflect the economic impact on locally owned and operated businesses. Is your decision based on \$'s or sense? IT isn't always about \$'s, but quality of life.

We do have a Wal-Mart presently that offer's local households their services. WE DO NOT NEED MORE. The article states, "In every community where Wal-Mart opens its doors, local shoppers benefit" Perhaps, but take a look across the country at small town America where the entry of Wal-Mart into the retail mkt. has dried up downtowns and closed local businesses.

Your decision reaches far into the heart of our community where we should be supporting local businesses, giving them opportunities to grow and thrive, not take away those opportunities.

My second major objection concerns their businesses practices and intimidation of manufacturers and suppliers. Seeing large plants standing vacant in middle America, because Wal-Mart made demands that economically could only be met in China ... they are not for America and the American worker. Wal-Mart is for Wal-Mart! Wal-Mart is not for Lodi. It is Wal-Mart greed. Other cities have stood their ground against Wal-Mart .. it is time Lodi did the same!

(Just an additional note ... what would happen to the existing building? They would be required to lease it? Another box store? What happens if the tenant fails? How long would Wal-Mart be responsible for it.)

I urge a NO VOTE on the Lodi Wal-Mart Supercenter!

Sincerely, Nancy Watts

Kari Chadwick

From: Mike Boggus [mboggus@sunmaid.com]
Sent: Wednesday, October 01, 2008 10:01 AM
To: Randi Johl
Subject: Wal-Mart

Just a note to state that I am for allowing Wal-Mart to proceed with their proposed new location at Lower Sac & Kettleman. I don't understand why Lodi would risk losing this new source of taxes? It is a no brainer – if the new location goes in then everyone (including) my wife that leaves Lodi to shop in Stockton for cheaper prices will return to shopping in Lodi.

I am a resident in Lodi and live at 1142 Bridgetowne Drive, 95242.

Mike Boggus
Director of Sales & Marketing - Licensing
Sun-Maid Growers of California
7273 Murray Drive, Suite 18
Stockton, CA 95210-3386
Direct Telephone: 1-209-472-8445
Cell Phone: 1-209-482-3484
Facsimile: 1-209-472-8448
Email: mboggus@sunmaid.com
Web: www.sunmaid.com

Kari Chadwick

From: Doris Osburn [doris612@att.net]
Sent: Wednesday, October 01, 2008 10:02 AM
To: Randi Johl
Subject: Wal-Mart

1011108

To whom it may concern.

My Husband and I wish to put in our thoughts on the new Wal-Mart .we wish for it to be built. it would be a much needed service to the low income and senior citizens of Lodi and surrounding areas. We do most of our shopping at Wal-Mart and we got to Lodi or Elk Grove to do this On some occasions we have gone to Stockton which has a very nice store and has every thing one could want with out going to far from home in this age of high gas prices. Since Galt does not have any stores in which to purchase most of our needs .we have to go out of town which means Lodi Elk Grove Sacramento or Stockton. And as for it closing stores in down town that wont happen as stores up town don't sell what Wal-Mart does and Wal-Mart has already been there for several years and the uptown stores are still there. Thank you for you letting me send in our input in this matter.

Doris & Leoland Osburn 21 Ramon Drive Galt,Ca 95632

10/01/2008

Kari Chadwick

From: evelyn_gannon@att.net

Sent: Wednesday, October 01, 2008 12:38 PM

To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen

Subject: Re: Walmart

Why is there a HOLD UP on this project when the voters of Lodi have voted and passed the building of WalMart here in Lodi?

Evelyn Gannon
dammad

10/01/2008

Kari Chadwick

From: Dorothy Washburn [dotwash@sbcglobal.net]
Sent: Wednesday, October 01, 2008 10:43 AM
To: Randi Johl
Subject: walmart super center

Cityclerk and city leaders:

My husband and I fully support a Wal Mart Supercenter in Lodi. We shop at Wal Mart and frequently shop at the Stockton Wal Mart on Hammer Lane.

We have other friends and neighbors in Lockeford who shop at Wal Mart and are in favor of the supercenter.

Dorothy and Richard Washburn
18573 Milford Drive
Lockeford, CA 95237

10/01/2008

Kari Chadwick

From: Carol Linde [clinde@sbcglobal.net]
Sent: Wednesday, October 01, 2008 2:42 PM
To: Randi Johl
Subject: Please!

Planning Commission:

I'm writing to tell you please let us have the Wal-Mart we approved by vote along time ago.

Wal-Mart needs this store and so doe we. The current store is grossly inadequate. The isles are so narrow that one can barely pass another with a cart. I understand the need for them to make them narrow because they desperately need the room . This should be one stipulation in the new store. Please tell them to give us wider isles.

All the arguments about this store hurting downtown are ridiculous. The people who shop downtown do not shop at Wal-Mart. Those of us who can't afford to shop downtown need a store like Wal-Mart and these days there are probably more of us then previously.

Thank you,
Carol A. Linde

Kari Chadwick

From: Ginny Perry [ginnylue@comcast.net]
Sent: Wednesday, October 01, 2008 3:21 PM
To: Randi Johl
Subject: Wal-Mart Supercenter

In response to the ad in today's Lodi News-Sentinel, Wednesday, October 1st, I want my voice heard:

**OUR CITY NEEDS THE TAX REVENUE FROM A WAL-MART
SUPERCENTER ASAP!**

Thank you,

Virginia Perry
303 Tioga Dr.
Lodi, CA 95242

10/01/2008

Kari Chadwick

From: wilona perry [wilonaf@att.net]
Sent: Wednesday, October 01, 2008 4:29 PM
To: Randi Johl
Subject: RE: Walmart

I saw an ad in today paper to e-mail you if we were in favor of the new Super Walmart. I am e-mailing you to let you and anyone else who might care, that we are **not in favor** of a new Super Walmart. Thank you, Robert & Wilona Perry, 2401 Woodlake Ct. Lodi, CA 95243.

10/01/2008

Kari Chadwick

From: Sue McCombs [osmccombs@sbcglobal.net]
Sent: Wednesday, October 01, 2008 7:52 PM
To: Kari Chadwick
Subject: PLANNING COMMISSION

Lodi Planning Commission:

We overwhelmingly support the plans for a new Wal Mart in Lodi. The current Wal Mart obviously is too small and congested for the increased population in Lodi now. It's a shame that this has dragged on for years and we really hope that this will be approved now and not delayed again.

After seeing the Reynolds Ranch project approval of double the commercial area that was approved in the original plan, we do not see how there could be a problem with this approval and it would take a major amount of rationalizing to the public if not approved.

Olen and Suzanne McCombs
363 S. Sunset Dr.
Lodi

Kari Chadwick

From: ANTHONY AND SHANNA MEDEIROS [anthnshanna@verizon.net]

Sent: Wednesday, October 01, 2008 6:05 PM

To: Randi Johl

Subject: Walmart

NO ON WALMART! THEY ARE RUINING THE ECONOMY JUST LIKE WALL STREET!

10/02/2008

Kari Chadwick

From: Ted McBrayer [tedmcbrayer@yahoo.com]

Sent: Thursday, October 02, 2008 5:23 AM

To: Randi Johl

Subject: Walmart Supercenter

Please approve the Wal-Mart Supercenter!!!!!! PLEASE APPROVE THE WALMART SUPERCENTER!!!!!!!!!!

Sincerely,
Ted and Lynda McBrayer
6 Robin Court
Lodi

10/02/2008

Kari Chadwick

From: LARRY NITSCHKE [lazylc@sbcglobal.net]
Sent: Thursday, October 02, 2008 2:05 AM
To: Randi Johl
Subject: Wall Mart



Planning commissioners:

This e-mail is about the meeting on Oct 8th on the new Wall Mart store. I am very much in favor of it being built. My reasons being that it will provide more jobs even for those who are disabled or senior citizens, as you well know our city could surely use some of the tax money they could bring in.

Now to the planning committee it has been discussed about a possibility of building up to 7000 houses in that area, there would more than likely be an average of two cars per household, I doubt Wall Mart will generate that much traffic a day probably less than half. There will be senior citizens riding the buses out to Wall Mart where they will be able to make most of if not all their purchases in one stop. My other remark I would like to make is having read a number of letters against Wall-Mart and that it will hurt downtown HOW? I don't think they are planning on putting in restaurant's, bars, wine tasting rooms or a theater. Lodi First and others need to get a life and let those who voted FOR and passed Wall Mart to be built here enjoy what Wall-Mart can do for the city of Lodi. Maybe some people will get their groceries there but I feel people will still purchase most at their regular grocery store and buy forgotten or quick purchases while shopping there.

Thank you;
Cheryl Nitschke

Kari Chadwick

From: Virginia Denner [jnnym1@sbcglobal.net]
Sent: Wednesday, October 01, 2008 11:17 PM
To: Randi Johl
Subject: Wal-Mart Super Center

Of all the things that the city of Lodi has done to this community, building a super center Wal-Mart probably puts the icing on the cake. Have you taken a look at the Wal-Mart that is already here? The store and parking lot are never clean. The bathrooms are dirty and never seem to be working properly. Security forget it. The guy that drives around in his little car with the yellow light on top wouldn't scare anyone away. So if the Wal-Mart Super Center is built does this mean that the mess will go away? Will Wal-Mart guarantee that their store will be clean and the parking lot kept clear of trash and people doing drugs? Will Wal-Mart guarantee that their store will be maintained in the proper manner? I use to like shopping at Wal-Mart because their prices are lower, but not at the expense of shopping in a dirty store. I want to shop in a clean well kept store like Target.

Kari Chadwick

From: reformedgranny@att.net
Sent: Wednesday, October 01, 2008 9:00 PM
To: Randi Johl
Subject: WalMart

Dear Commissioners;

I am unable to attend the meeting on Wednesday, October 8th, but want you to know that I am all for the Supercenter. I believe that it would be very good for the community. As far as the small businesses being hurt--most of the people that shop at those businesses probably never step foot in a WalMart.

Thank you.

Darlene Ward
1390 W. Lockeford St. #3
Lodi, CA 95242

10/02/2008

Kari Chadwick

From: Tom Roehrich [tomroehrich@hotmail.com]
Sent: Wednesday, October 01, 2008 8:47 PM
To: Randi Johl
Subject: Please Let Us Have the Supercenter

It was unanimous six years ago and still is now. The people of Lodi want a Wal-Mart Supercenter. I for one am tired of having to drive to Stockton's Supercenter for my groceries. Although it is cheaper to go there, it is inconvenient. Let's keep the money in Lodi. Please vote yes on the Supercenter!!

Thank you
Tom Roehrich

Get more out of the Web. Learn 10 hidden secrets of Windows Live. Learn Now

Kari Chadwick

From: Wanda Van Santen [jwvans5@softcom.net]
Sent: Wednesday, October 01, 2008 7:46 PM
To: Randi Johl
Subject: For WalMart Supercenter!

Dear Joann Mounce,

The is in about the WalMart Supercenter and I hope that it gets approved by the city council. I hope that you support this as well! Thanks, Wanda Van Santen

10/02/2008

Kari Chadwick

From: John Costa [johnlcosta@yahoo.com]
Sent: Wednesday, October 01, 2008 7:24 PM
To: Randi Johl
Subject: Walmart

Im against a super walmart in lodi. 'When i drive by the one in Stocton ,Im struck by the moonscape like apperance . I cant help but think that this kind of entity in our small town may would crater our emerging economy as a turist destination. walmart is a predator and inconsistant with livable lovable lodi. REGARDS J.Costa.

Kari Chadwick

From: Alan Goldberg [agoldberg45@comcast.net]
Sent: Wednesday, October 01, 2008 7:21 PM
To: Randi Johl
Subject: Wal-Mart Planning Commission on 10/8

Planning Commissioners:

Please approve the Wal-Mart Super Center! I can think of no viable reason against not doing so.

The SW corner of Kettleman and Lower Sac is slated for retail, the center should create more jobs, and we'll get more sales revenue in Lodi.

Furthermore, our poorer citizens, as well as all others, will have access to lower priced merchandise thereby improving their standard of living. Traffic might increase some, but then we have an extremely large existing intersection which is currently under-utilized.

Don't let all citizens of Lodi be held hostage by a small number of special interest groups.

Thank you.

Alan M. Goldberg
912 Evert Court
Lodi
333-1045

Kari Chadwick

From: Wally Emery [wally@wallyemery.com]
Sent: Wednesday, October 01, 2008 6:43 PM
To: Randi Johl
Subject: wal mart

I want a lodi Wal mart supercenter.
Wally Emery

Kari Chadwick

From: Pegi [pegi-poo@comcast.net]
Sent: Wednesday, October 01, 2008 6:43 PM
To: Randi Johl
Subject: walmart

- I cannot get to the meeting tonight, however I do hope we get a supercenter in Lodi.
- Pegi Morgan
- 2001 carmel cir
- Lodi,ca95242

Kari Chadwick

From: Dale Hughes [ddh1968@softcom.net]
Sent: Thursday, October 02, 2008 7:36 AM
To: Randi Johl
Subject: Approve Wal-Mart

We would enjoy having a Wal-Mart Supercenter in Lodi. It was voted on and approved several years ago by 2/3 majority of Lodi residents. Let the store be built!

10/02/2008

Kari Chadwick

From: demars [demarsl@comcast.net]
Sent: Thursday, October 02, 2008 1:15 PM
To: Kari Chadwick
Subject: Vote FOR Walmart Supercenter

I WANT a Wal-Mart Supercenter in Lodi.

Please count my YES vote.

Jennie G. DeMars

2663 Alder Glen Dr.

Lodi, CA 95242

Phone # 334-5434



SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Avenue • Stockton, California 95202

209.468.3913 • 209.468.1084 (fax)

www.sjco.org

RECEIVED

OCT 03 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

Brent Ives
CHAIR

Larry Hansen
VICE CHAIR

Andrew T. Chesley
EXECUTIVE DIRECTOR

October 2, 2008

Mr. Immanuel Bereltet
City of Lodi – Planning Division
221 West Pine Street/P.O. Box 3006
Lodi, GA 95241-1910

RE: Super Wal-Mart Proposal: File No. 08-SP-08, 08-U-11, 08-P-04

Member Agencies

CITIES OF
ESCALON,
LATHROP,
LODI,
MANTECA,
RIPON,
STOCKTON,
TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

Dear Mr. Immanuel Beretket:

On August 20, 2008, SJCOG received notification from your office requesting review per the Congestion Management Plan's "Land Use Analysis Program". State CMP statute requires that all Congestion Management Agencies implement a "Land Use Analysis Program" as part of the adopted congestion management plan. During the initial review, SJCOG staff misinterpreted the letter as notification of a newly proposed project in the beginning stages of processing and subject to the CMP review. This project is not subject to the CMP review process because it was commenced prior to January 2, 2008.

Subsequent modeling was completed and the results of the potential impacts to Lower Sacramento Rd. and State Rte. 12 were forwarded to you in a letter dated September 12, 2008. We apologize for the error and request that your office please retract the letter.

Please feel free to call me with any questions or comments you may have at (209) 468-3913.

Sincerely,

'Mike Swearingen, Senior Regional Planner

cc: Blair King, Lodi City Manager
Andrew Chesley, SJCOG Director
Dana Cowell, SJCOG Deputy Director

Kari Chadwick

From: Stan Mall [stanleyj@lodinet.com]
Sent: Thursday, October 02, 2008 3:02 PM
To: Randi Johl
Subject: In favor of walmart supercenter

Dear Commissioners, My wife and I have lived and worked in Lodi all our lives. We would like to see Walmart build a supercenter in Lodi. Please consider our voice in your vote on the store this October 8th.

Respectfully,

Kathleen M. Mall and
Stanley J. Mall

10/02/2008

Kari Chadwick

From: John Hanneson [haneson2000@yahoo.com]
Sent: Friday, October 03, 2008 9:19 AM
To: Kari Chadwick
Subject: NO WAL-MART

WITH THE NEW APPROVALS FOR REYNOLDS RANCH RETAIL SPACE, THERE **IS** NO GOOD
REASON TO DEVELOP
ANOTHER SUPER WAL-MART IN LODI . PLEASE VOTE DOWN, THANKS ...JOHN H

Kari Chadwick

From: Pegi [pegi-poo@comcast.net]
Sent: Wednesday, October 01, 2008 6:43 PM
To: Randi Johl
Subject: walmart

- I cannot get to the meeting tonight, however I do hope we get a supercenter in Lodi.
- Pegi Morgan
- 2001 camel cir
- Lodi,ca95242

Kari Chadwick

From: Willis Marzolf [vikinghearts@sbcglobal.net]
Sent: Thursday, October 02, 2008 7:00 PM
To: Randi Johl
Subject: Walmart Supercenter

This has been voted on by the people. Build the Walmart Supercenter already. NO **MORE** DELAYS!!!!!!

WILLIS MARZOLF

Kari Chadwick

From: shirleynikeburns@comcast.net
Sent: Thursday, October 02, 2008 8:50 PM
To: Randi Johl
Subject: Walmart

I voted for Walmart and am looking forward to shopping at the supercenter. Please vote to let it be built.

Shirley Burns
111 Applewood Dr.
Lodi, Ca. 95242

209-369-4643

Kari Chadwick

From: Webmail winesong [winesong@myexcel.com]**Sent:** Friday, October 03, 2008 8:24 AM**To:** Randi Johl**Subject:** supercenter

Please listen to the majority of the people of Lodi concerning the Wal Mart Supercenter. As retirees, we appreciate the opportunity to shop in one store for all our needs, and also know that we will save money doing so. The prices at Safeway, Raleys and even S Mart are too high, and running from sale to sale is impossible with the price of fuel. the sales tax revenue to the city is certainly a plus also, as well as new jobs. Do not let the pressure of special interest groups (who I am sure is mainly S Mart) deny the public what they have already overwhelmingly said yes to. We have had enough of that in the State and especially Federal Government, enough is enough! Many Lodi residents travel to Stockton to the supercenter on Hammer Lane, let's keep business in our own city. Thank you for you service to the citizens of this fine city.

R. Verl and Maxine Tanner
13857 E Live Oak Rd
Lodi Ca 95240

10/07/2008

Kari Chadwick

From: randy@wahldeck.com
Sent: Friday, October 03, 2008 8:45 AM
To: Randi Johl

i want my wal-mart super store!

Erma wahl
400 s lee
Lodi, CA 95240

Kari Chadwick

From: Margaret Hillious [mhillious@sbcglobal.net]

Sent: Friday, October 03, 2008 5:44 PM

To: Randi Johl

Subject: Wal-Mart supercenter

The residents of the city of Lodi are being exorbitantly charged for electricity, water, trash pickup. Why not allow them what they want - a W-M Supercenter? Jobs will be made available and more money stays in Lodi therefore, Lodi will benefit as well as the residents at large. I understand the concern of the small downtown merchants but they are a small percentage of the total population of Lodi and city officials should not make decisions based on what a select group desires. I believe downtown Lodi will continue as it currently is: a peaceful, laidback, small town environment for tourists and residents alike to enjoy. Thank you for reading this.

Kari Chadwick

From: Beth Brampton [bbrampton@gmail.com]
Sent: Saturday, October 04, 2008 10:28 AM
To: Randi Johl
Subject: Walmart disaster

Dear City Clerk,
Please forward a copy of this note to the Planning Commission members listed below.
Thank you.

Dear Commissioners,

I am deeply opposed, as are the 3 other voting members of my household, to a Super Walmart in Lodi. Walmarts harm local businesses and are inappropriate to our small town. Let's invest in promoting the things, places and businesses that make Lodi special, rather than relying on a massive big box store for revenues.

Save our neighborhood grocery stores...we in Lodi have stores that we can walk to or travel only a short distance to get to, which conserves energy. Putting these at risk would be a hardship for many and short-sighted during this time of energy shortage.

Thanks for considering my opinion.

Beth Brampton
Lodi, CA

Kari Chadwick

From: Alma Stroup [almadons@sbcglobal.net]
Sent: Saturday, October 04, 2008 11:28 AM
To: Randi Johl
Subject: Walmart Supercenter in Lodi

We are in favor of a Walmart Supercenter in Lodi. We feel it would be a great benefit to our area. Before living in Lodi we lived in a community smaller than Lodi. There was all kind of opposition expressed there also when a Super Walmart was being planned. The biggest opposition was that it would run all the other smaller businesses out. We had two major supper markets in town. Walmart built right next door to an Albersons. There business dropped for the first month then picked up and now 8 years later everyone has survived and all are doing well.

We noted in the Lodi Sentinel a couple days ago it listed conditions that Walmart would need to meet. One was they would have to pay out over \$600,000 to be used to improve the Lodi down town area. We think this is absolutely ridiculous. Since when does free enterprize require some one to pay to upgrade or improve someone elses business.

I feel that a Walmart Supercenter would be a great asset to the community of Lodi.

Donald W and Alma Stroup

Kari Chadwick

From: Mavis Ballantine [rnmavis@att.net]
Sent: Saturday, October 04, 2008 1:23 PM
To: Randi Johl
Subject: Wal Mart Super center

I support a Wal Mart Super Center to be built in Lodi. The people have voted on the issue and have made their voices heard. . Somehow the city is always finding obstacles to make the plans not happen. Putting more money into down town area is not feasible . Poor parking and shops that are not affordable to the average working class. The people have spoken so lets go on with the plans.

Sincerely,

Mavis Ballantine.

10/07/2008

Kari Chadwick

From: James Funk [sandiaandjim@sbcglobal.net]
Sent: Saturday, October 04, 2008 5:05 PM
To: Randi Johl
Subject: Walmart Supercenter

I am writing to show my support of the new Walmart Supercenter.

First of all, all you have to do is try to shop at our existing Walmart to see how badly a larger store is needed. During busy seasons, the parking lot is not large enough, the aisles are too narrow, and crowded with shoppers, giving the store a crowded and messy look and feel. It is not a pleasant experience to shop at our existing store anymore. If Lodi is going to have a Walmart, why not have a beautiful new facility we can be proud of and enjoy shopping in (if we chose to).

Secondly, I disagree with those that use the argument that it would bring too many low-paying jobs with poor benefits. Having been a Human Resources Manager for many years, I am well aware of the need for jobs to be available in many different pay levels. Many people (even here in Lodi) do not have the skills or abilities to do higher level, higher-paying jobs. There needs to be jobs available for ALL skill levels. If you were an unskilled, inexperienced, unemployed worker, would you not rather have a steady job with SOME benefits, rather than NO JOB AT ALL? A Superwalmart would add to job opportunities in Lodi, and take more people OFF THE UNEMPLOYMENT LINES. If Lodi denies the store, what are they offering to those workers instead? They are certainly not going to find jobs in downtown Lodi shops! Think about it!

Also, I think it is entirely wrong to single out Walmart for all of those costly conditions. For instance, why did you not put those same conditions on Blue Shield, which now occupies the two huge buildings on Guild Avenue? Why are you authorizing all of the additional retail for Reynolds Ranch, with no similar conditions (which, incidentally, I feel will hurt downtown Lodi Businesses much more than a new Walmart).

If any of you have ever been in an income bracket where you would have a need to shop in a Walmart or a KMart, you would KNOW that the downtown Lodi shops and the Walmart-type shopping are NOT in competition with each other. The only ones that would be competing with a Super Walmart might be the existing Supermarkets and Drugstores such as Longs and Walgreens. But why should we be concerned about that?? THEY were not Concerned years ago, when THEY came to town and put all the "Mom and POP" stores out of business. What is the difference?

I don't feel our city leaders have listened to the majority of the people of Lodi when they voted NOT to limit the "big-box" stores (which was a "sneaky" way of being able to say no to Walmart).

I believe the people in Lodi have a right to a nice, new Walmart, and the right to CHOOSE FOR THEMSELVES whether or not to shop or work in that store.

Kari Chadwick

From: Marie Rizzolo [m_rizzolo@yahoo.com]
Sent: Saturday, October 04, 2008 10:01 PM
To: Randi Johl
Subject: WALMART SUPERCENTER IN LODI

CITYCLERK: My husband and I clearly want a Walmart Supercenter in this city. We need it very much and by and large most of the people in this city deserve this. During this time of crisis for so many people, help is a Walmart. Just think of the many people who will benefit by being employed by this good company. You do not see the people who do work for Walmart (some of them others would never employ) complaining about their employer. The media cannot be trusted with their complaints and downright lies.

VOTE FOR THIS SUPRCENTER!!!

Marie Rizzolo

Eugene Rizzolo

Kari Chadwick

From: liza hiltsher [lizahiltsher@yahoo.com]
Sent: Saturday, October 04, 2008 10:52 PM
To: Randi Johl
Subject: Wal-Mart

I support the expansion of Wal-Mart business. Go for it Wal-Mart. We need big or supercenter Wal-Mart here in Lodi.

 *Liza C. Hiltsher*
464 Almond Drive Apt. B
Lodi, CA 95240
USA
209-339-2325

10/07/2008

Kari Chadwick

From: Norrene McLaughlin [enorie24@yahoo.com]

Sent: Sunday, October 05, 2008 2:46 PM

To: Randi Johl; JoAnne Mounce; Phil Katzakian; Susan Hitchcock; Bob Johnson; Larry Hansen

Subject: Walmart Supercenter

Please, please, please for all of the reasons listed on page 12 of the Lodi News-Sentinel dated Saturday, October 4, 2008, **DO NOT** allow a Walmart Supercenter to infiltrate the beautiful, well-managed and family-oriented Lodi.

Thank you!

Norrene McLaughlin

Dedicated Lodi Resident

Kari Chadwick

From: keith [hopcom@peoplepc.com]
Sent: Monday, October 06, 2008 9:49 AM
To: Randi Johl
Subject: walmart supercenter

TO CITY COUNCIL

MY WIFE AND I STRONGLY URGE YOU TO SUPPORT THE WALMART SUPERCENTER.

THANK YOU

KEITH AND CYNTHIA HOPSON

PeoplePC Online
A better way to Internet
<http://www.peoplepc.com>

Kari Chadwick

Subject: FW: NO WALMART SUPERSTORE!!!!!!!!!!!!!!!!!!!!

From: Claire Pacheco [mailto:cnpacheco@live.com]

Sent: Monday, October 06, 2008 1:00 PM

To: Randi Johl

Subject: NO WALMART SUPERSTORE!!!!!!!!!!!!!!!!!!!!

■moved to LODI because it had smart growth and planning. You will lose many of with young families if the plan is to develop a suburb of Stockton. It is a fact that every city to build a Super Walmart saw an increase of crime!!!!!!!!

Please advise.... the citizens deserve better planning. VOTE NO TO WALMART superstores is a vote to maintain safety and quality of life for our citizens through limiting traffic and crime!! !!!!!!!!!!!!!

PLEASE CONSIDER A WHOLE FOODS STORE WHICH WILL KEEP GOOD PAYING JOBS FOR OUR CHILDREN AND ENCOURAGE PEOPLE TO LOCATE To LODI.

WE will vote our interests...

Claire Pacheco
840 Alder Place,
Lodi CA 95242

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Kari Chadwick

Subject: FW: Wal-Mart Supercenter

From: Ken and Naomi Magdanz [mailto:magdanz@cleanvire.net]

Sent: Monday, October 06, 2008 12:52 PM

To: Randi Johl

Subject: Wal-Mart Supercenter

I would like my voice to be heard in favor of building Wal-mart Supercenter. I live about 2 miles out of the city limits so I didn't have a vote all those years ago when the people of Lodi said they wanted the new Super-Center. I discovered the benefits of shopping at Wal-mart a few years after it was built in Lodi and I have been shopping there about every week since. I note the aisles are crowded most of the time so many others like it too.

The downtown stores are mainly specialty stores with either established clientele or grossly overpriced merchandise (two clothing stores for young women come to mind) Other times a sign is on the door saying they will be back at "2 PM". It is now 2:30 PM-are they serious about their business? Two weeks ago my daughter and I were asked to leave a downtown store because they were closing for lunch. We noted that there were three employees there. Couldn't they have staggered their lunch hours? Were they interested in customer service?

Wal-Mart doesn't always have the lowest prices but over-all, I think they give excellent customer service. They known for being extremely fair about returning items. There IS a reason the Wal-Mart store is so well utilized by the population of the area. I have seen Lodi people with high as well as low income shopping there.

Give Wal-mart Supercenter a break! They certainly are good to Lodi!

Naomi Magdanz

10/07/2008

Kari Chadwick

Subject: FW: Yes to the Super Walmart in Lodi

From: John A Barrett [mailto:barrett41@sbcglobal.net]

Sent: Monday, October 06, 2008 1:42 PM

To: Bob Johnson; Randi Johl; Susan Hitchcock; JoAnne Mounce; Larry Hansen; Phil Katzakian

Cc: Judy Gullicksen; lpgullicksen@aim.com; Robert L

Subject: Yes to the Super Walmart in Lodi

We are retired Seniors on a fixed income and don't want you to back down to the newspaper ads nor the mailings supporting opposition to the Supercenter because it will cause crime to increase, more pollution, and other Bull Crap ideas in these fliers.

Please support our local Wall Mart Super Center on the 8th of October.

Thanks in advance for your support

John and Joanne Barrett

Lodi, CA 95242

10/07/2008

Kari Chadwick

Subject: FW: SAY NO TO WALMART!

From: Jean Murray [mailto:jmmonopoly@yahoo.com]

Sent: Monday, October 06, 2008 3:22 PM

To: Randi Johl

Subject: SAY NO TO WALMART!

**PLEASE SAY "NO" TO
WAL\$MART!**

**SIGNED,
DOUGLAS & JEAN MURRAY
CONCERNED CITIZENS OF LODI**

Kari Chadwick

Subject: FW: Wal-Mart Super Center

_ - _ - Original Message-----

From: John Hanneson [mailto:hanneson2000@yahoo.com]

Sent: Monday, October 06, 2008 3:05 PM

To: Randi Johl

Subject: Wal-Mart Super Center

If you knew the total number of retail square feet vacant in the city of Lodi you might think twice if you're in support of the Super Wal-Mart Center. I conducted a survey and found that there are thousands of vacant spaces at different shopping centers, including Lakewood Mall, Lowe's Center, and others. Not to mention Reynold's Ranch. The traffic will increase at the corner of Lower Sacramento Road and Kettleman and considering that Highway 12 is a major thorough fare it does not make sense to place a Super Center at the site.

Carolyn Hannesson

Kari Chadwick

Subject: FW: Wal-mart

From: BEVERLY DUNAHOO [mailto:beverlydunahoo@sbcglobal.net]

Sent: Tuesday, October 07, 2008 7:21 AM

To: Randi Johl

Subject: Wal-mart

We support a Wal-mart Supercenter in Lodi. (Two Votes)

Beverly Dunahoo

At Dunahoo

Register Voters living in Galt and shopping in Lodi.

 Jesus said, " I tell you the truth, whoever hears my word and believes him who sent me has eternal life."--John
5:24

Kari Chadwick

Subject: FW: Wal-Mart upercenter

From: PAUL C LAWRIE [mailto:paulandholly@sbcglobal.net]

Sent: Monday, October 06, 2008 5:56 PM

To: Randi Johl

Subject: Wal-Mart upercenter

Attn: Planning Commission

We find it hard to believe that after five years construction of a Wal-Mart Supercenter still hasn't been started. We've shopped at Supercenters in Scottsdale, AZ, San Dimas, CA and frequently in Stockton, CA. We're in our mid 60's and certainly would find it more convenient to shop at a Wal-Mart Supercenter in Lodi, rather than Stockton!

Paul & Holly Lawrie

10/07/2008

Kari Chadwick

Subject: FW: Walmart

From: Shirley A Rutz [mailto:sarutz@sbcglobal.net]
Sent: Tuesday, October 07, 2008 9:21 AM
To: Randi Johl
Cc: JoAnne Mounce; Larry Hansen; Phil Katzakian; Susan Hitchcock; Bob Johnson
Subject: Walmart

Dear Planning commission and city council members

I just wanted to tell you that I support building the new Walmart supercenter. I can't walk very far and I really appreciate Walmart because it has carts I can ride so I can enjoy shopping there. I also appreciate the fact that I can buy almost anything I want there. It means I only have to park once and make it into the store. They also have lots of free parking where you won't get a ticket for staying there too long.

It is very well to talk about saving downtown but I have to tell you I don't shop down there now. It is hard to find a parking place and you have to keep moving your car to a new location when you can't walk very far. I think you need to keep trying to get restaurants down there as you only have to park once for them. I don't know what else you can put downtown but not building the new Walmart is only going to deny Lodi the tax revenues it would generate—it is only going to make people shop downtown.

I do agree that you need to make them do something with the old Walmart building rather than leaving it vacant.

Please don't deny those of us who want a new Walmart the bigger store. Those who think Walmart is terrible do not have to shop there.

Shirley Rutz
174 Hemlock Drive
Lodi, CA 95240
sarutz@sbcglobal.net

10/07/2008

Kari Chadwick

Subject: FW: Walmart Supercenter In Lodi

From: Donna Helwig [mailto:llodijewell@sbcglobal.net]

Sent: Tuesday, October 07, 2008 9:57 AM

To: Randi Johl

Subject: Walmart Supercenter In Lodi

Jeffrey Stoddard

315 1/2 S. Pleasant Ave

Lodi, Ca 95240

(209) 663 1896

reply to:

.Istoddard@.tmilitary.com

via: Donna Helwig (mother)

Im writing to you for my vote/support for Lodi's Walmart Supercenter. I will not be able to attend the meeting on oct 8 08. My shift is 4pm - 1 a.m. at Stockton Walmart Supercenter.

Im a 7 year veteran of Walmart: Lodi,Ca Woodstock va, Winchester va and now at stockton ca supercenter. We need a Supercenter in Lodi, Gas Prices, Unemployment, Needs dictate that need one here. please add my voice/opinion to the meeting oct 8.

thank you.

10/07/2008

RECEIVED

OCT 07 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

October 1, 2008

Kari Chadwick@ planning commission

Dear Kari

I am a concerned citizen of Lodi and I would like my voice heard but I am unable to attend the meeting about the Super Walmart Store.

I am totally against the superwalmart store to build in Lodi. Lodi has already been invaded with other business and this is taking away our small town. So please, please don't let this happen to our town.

Building this store will bring more traffic and violence, which we certainly do not need.

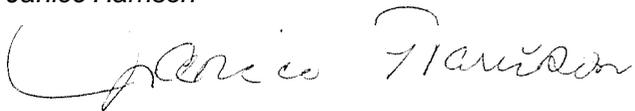
I feel letting this store build in our fair city will only hurt our local grocery stores that have already built here. The superwalmart in Stockton is close enough for anyone who would like to shop there.

Thankyou for letting me be at the meeting via a letter.

Please vote NO on this issue.

Thank You in advance

Janice Harrison



10-2-08

Sorry we will be out
of State for the morning
on Wed 8th.

We have vote for the
beautiful Walnut Square
Center to be built ~~at~~
in Lodi.
We would also like
to know of opportunity in
Stockton.

Ernie Wright
Cecilia Wright

Cyril & Cecilia Wright
2409 W. Elm Street
Lodi, CA 95242

RECEIVED

OCT 07 2008

COMMUNITY DEVELOPMENT DEPT I
CITY OF LODI

Cecil & Delores
Reese, 836
Greenwood Dr.
Lodi, CA 93240

RECEIVED

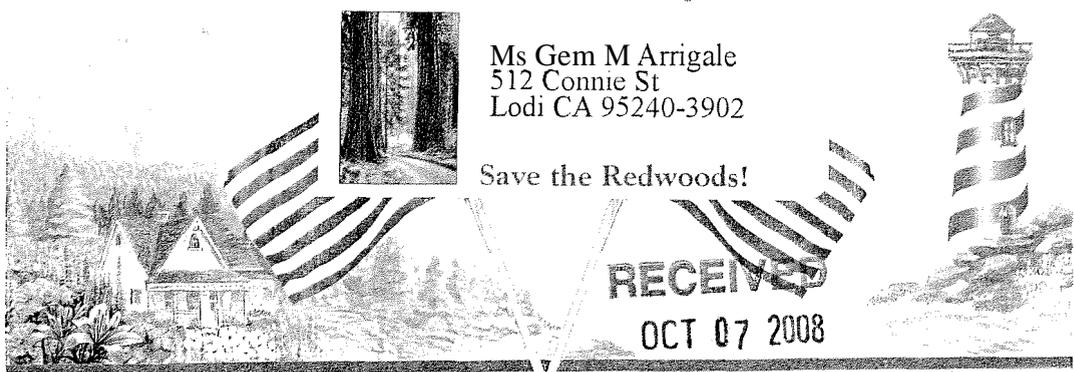
OCT, 03 2008

Two ~~100~~ notes
on a Super
Center for
Lodi

COMMUNITY DEVELOPMENT
CITY OF LODI

Thanks,

9-29-08



Ms Gem M Arrigale
512 Connie St
Lodi CA 95240-3902

Save the Redwoods!

RECEIVED
OCT 07 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI - 08

Community Dev. Director

Please vote "No" on
the Lodi Supercenter.
because of Environment
problems - traffic
and the recent small
business stores that will
be out of business. I have
lived in Lodi for 50 years -
please keep Lodi a clean
wonderful town to live in.

Gem Arrigale



Notes 9-29-08

Start people RECEIVED

Jane, Lodi, 02-2008

RESIDENT OF COMMUNITY DEVELOPMENT
OFFICE OF Lodi

1992 and live on what
have close to 100
The sign above window
he built. I have heard
What happened in 1980 -
cal. and get them and
I vote NO. I have
feels it has a lot of
a great deal in. It is
great report to the
with a picture of
we have had a lot of
it. I have a lot of

lets fight to keep Lodi clean.

Sincerely
Mary Jane Gill

Mary Jane Gill
2001 Corbin Ln.
Lodi, CA 95242

RK 2093696078

Kari Chadwick

Subject: FW: Wal Mart

From: RGH [mailto:hoop@softcom.net]
Sent: Tuesday, October 07, 2008 10:35 AM
To: Randi Johl
Subject: Wal Mart

Lodi City Clerk; **I** cannot attend the public hearing on the Mega Wal-Mart. **I** moved here from Southern California 50 years ago. One of Lodi's attractions is it's SMALL TOWN feel. We do not need a Mega Wal-Mart. The present one we have is adequate & really does not detract from our small town feel. **I** vote **NO** to a Mega Wal-Mart in Lodi. **R.G.**Hooper, 1725 W. Vine St. 368-3097

10/07/2008

October 6, 2008

TO: The Lodi Planning Commission

RE: **NO** on Lodi Shopping Center

RECEIVED

OCT 07 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

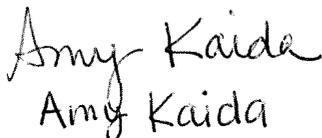
Please vote **NO** on the behalf of my parents who moved to Lodi in 1964 and stayed to raise their family. They watched Lodi's vineyards and farmlands disappear to become mostly homes and businesses. They appreciate and shop at locally-owned and operated businesses. It is what makes Lodi the friendly and safe place it is.

Please vote **NO** on my behalf and my children's behalf. Lodi does not need another shopping center. Super Wal-Mart will increase problems with added vehicle traffic, pollution, congestion and need for police surveillance. The area of Hwy 12-Lower Sacramento Rd already has all the stores that meet our wants and needs. These businesses and their employees will have their livelihoods threatened by the price-cutting, the wage-cutting, the benefits-poor actions of the Wal-Mart conglomerate. Do not let this happen to all of us. Because a Super-Walmart will in the long-run hurt our quality of life and what Lodi has to leave to its future generations.

One Wal-Mart is big enough for Lodi. Let's continue to provide a healthy life style for all Lodi citizens. Let's use the land for people of all ages to access for walking, resting, biking and playing (like Oak Grove Park). Let visitors who drive down Hwy 12 going east stop at the park before continuing their journeys. Let them spend their dollars at the businesses that are established and ready to serve. A cheap, ugly, dirty shopping center with empty buildings is an eye-sore and a real reason to keep on driving through our lovely town.

NO on the Lodi Shopping Center.

Respectfully submitted,


Amy Kaida

816 Tilden Dr.
Lodi, CA 95242

Kari Chadwick

From: Pat and Paul Underhill [patundpaul@comcast.net]
Sent: Tuesday, October 07, 2008 5:55 PM
To: Kari Chadwick
Subject: Proposed Lodi Supercenter

Dear Planning Commission members,

Last year I wrote to the commission explaining the concerns we have about the proposed Wal-Mart supercenter. It said, in part, "the air quality in the San Joaquin Valley is notoriously poor. The potential increase in traffic...would add to the health risks of Lodi citizens. More trucks would be traveling along Highway 12, which is already a hazardous route, and truck emissions would further pollute the air."

"The city of Lodi...has maintained a certain charm, which was further enhanced by the downtown improvements along School Street. One of the primary entrances to Lodi is Highway 12 at Lower Sacramento Road. It is a reasonably inviting first impression. Adding an enterprise of the size proposed will have a decided impact on that commercial neighborhood. Most certainly, current businesses would suffer under competition from such a big box store. If these stores are forced to close, what will come in to replace them? We worry that it will result in an unpleasant environment." We have seen such deleterious results in other communities. The concerns stated above have not been alleviated. Wal-Mart is firmly established already in Stockton. We don't need another in Lodi.

The current disastrous economic conditions adds to our concerns for struggling businesses in that area of Lodi.

I recognize that there are challenges involved in trying to encourage commerce without destroying the very quality of life that has kept Lodi's image one of a friendly small (but not too small) town. We are attracting interest in our reputation as a competitive Wine Country, drawing visitors and tourists. Big Box stores do nothing to enhance that new/old personality.

We urge you to please reject the Draft Revised Environmental Impact Report as we do not feel that the traffic and pollution problems have not been adequately studied, nor have all of our questions from last year been satisfied,

Sincerely,
Pat and Paul Underhill
1946 Millbrook Drive
Lodi, CA 95242

Kari Chadwick

From: Shirley Collins [sunshineshirley@sbcglobal.net]

Sent: Tuesday, October 07, 2008 4:27 PM

To: Randi Johl

Subject: Wal-Mart Supercenter

I would like to express myself about Lodi Wal Mart. This is how I feel. Would please let Wal-Mart come to Lodi. I am tired of driving to Stockton to get the things this Wal Mart does not have. The sad part is the tax money helps Stockton not Lodi. We need job here in Lodi, personally I will be applying for work. We have voted, been waiting and for me my vote to have Wal-Mart come to Lodi mean just that. Thank you for your time.

Shirley Collins

Kari Chadwick

From: Janice Baxter [Janiceb@pacbell.net]
Sent: Tuesday, October 07, 2008 4:11 PM
To: Randi Johl
Subject: walmart

Yes, I would vote for a super walmart in lodi. janiceb@pacbell.net

Kari Chadwick

From: cakey92671@mypacks.net
Sent: Tuesday, October 07, 2008 3:46 PM
To: Randi Johl
Subject: Walmart Super Center

My many friends and I totally agree that a Walmart Super Center , to replace their current location, would be a great thing for all of us living in Lodi . We do not understand, why it is so difficult for our elected officials to favor this wonderful opportunity . Some of the arguments we hear is that it will hurt downtown business, increase crime, traffic congestion, damage to our quality of life etc. These are excuses, not valid reasons to deny the opportunity for thousands of Lodi citizens to partake of all of the advantages offered by a Walmart Super Center ! This, in addition to all the benefits and revenue that the City of Lodi will reap .

You owe it to the "Citizen's of Lodi" not the "Business Owners" to vote in favor on this issue.

Kari Chadwick

From: allen vallerio [valfino@earthlink.net]
Sent: Tuesday, October 07, 2008 3:03 PM
To: Randi Johl
cc: QuoVadis
Subject: "WE DESERVE BETTER' "WE WANT A WALMART SUPERCENTER"

It's high time the City Leaders listen to the voice's of it's "Non-Business" citizens !

You keep making reference to the "Down Town Area" like it's some kind of "Sacred Cow" , well times change and progressive cities change with it !
Let's face it, A WalmartSuper Center will bring in thousands of dollars more revenue than all the down town business put together and will employ many more people who will additionally contribute to the community .

The citizens of Lodi "Deserve" competitive bargaining powers .The opportunity to be able to choose where they shop for groceries, gas, prescriptions, etc. etc. etc. to get the best value for their dollar !

AND IT IS ONLY JUST AND FAIR !

allen vallerio
valfino@earthlink.net
EarthLink Revolves Around You.

Kari Chadwick

From: Jon Leach [jil6398@gmail.com]
Sent: Tuesday, October 07, 2008 5:04 PM
To: Kari Chadwick
Subject: Planning Comissioners

Dear Ms. Chadwick,

Could you please forward this e-mail to the Planning Commissioners?

Dear Lodi Planning Commissioners,

My family has lived in Lodi for over 100 years and I would greatly encourage you to consider the effects each developniemt will have on the future of Lodi. Lodi has such a unique personality, and a true sense of community that is so rare in most cities. With each Reynolds Ranch and Wal-Mart we chip away at what makes Lodi special, and once we lose Lodi's uniqueness and its sense of community, it's gone forever. And I don't want to live in a large sprawling city like Elk Grove, I want to live in Lodi. Lodi survived two World Wars and the Depression, we do not need another Wal-Mart. Please do not use that old chestnut that a bigger tax base will provide better police and fire protection, and will provide better city services. If that were true, Sacramento, Stockton, San Jose, Fresno, Bakersfield, Los Angeles, and New York City would all be safer places to live with more city services available. We all know that isn't true. The East side of Lodi desperately needs its K-mart, and the report that was paid for by the City of Lodi stated that a new Wal-Mart will cause the K-Mart to close. So with K-Mart closed, and non-taxable groceries now available at a Super Wal-Mart, how much more tax revenue would the city collect? Each family has only so much monthly discretionary income to spend, are people really going to be buying more during these horrible economic times just because Lodi has a new Wal-Mart? Some will, but not enough to make any significant difference in Lodi's budget. More traffic and all the other negatives that a Super Wal-Mart will bring to Lodi is not a good trade off for the possibility of a few thousand dollars more of tax revenue in Lodi's multi million dollar budget.

NO on Wal-Mart!

Yours truly,

Jon Leach
1136 Tamarack Drive
Lodi

Kari Chadwick

From: George and Betty Sampson [gbsam@softcom.net]
Sent: Tuesday, October 07, 2008 2:38 PM
To: Randi Johl
cc: George and Betty
Subject: Favor of Wal-Mart

Dear PLANNING COMMISSIONERS: This is to urge you to approve and make this Wal-Mart Supercenter a reality. For the past 6 years, Wal-Mart has been my favorite and most frequented place to shop. Helpful clerks are readily available to assist in location and choice of any item I may be looking for. My returns have been cheerfully processed. They have always proven to have the lowest prices. Wal-Mart has generously supported any community oriented program with which I have been involved. Please approve the Wal-Mart Super center. With all things considered, I believe this will be good for Lodi. THANK YOU. George Sampson.

Kari Chadwick

From: Julie Cantrell [jccantrell@freemanfirm.com]
Sent: Tuesday, October 07, 2008 7:54 PM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen
Subject: Wednesday City Council Meeting Re Walmart Supercenter

Council Members:

As a citizen of Lodi, I am greatly concerned about the possible approval of the Walmart Supercenter. I truly believe that a Walmart Supercenter will only be detrimental to Lodi, increasing traffic, causing small businesses to close their doors and the consequent loss of employment for those who earn their living at such establishments, leave the current Walmart retail premises vacant, and ultimately destroy the viability of the stores located in the Kettleman Lane center which now contains the Walmart store.

I'd like to address only the issue of Walmart Superstore's effect on nearby retail establishments.

In the current economic climate, there is no guarantee that the large building that houses Walmart could be leased. There are many retail locations in downtown, at the Lakewood center, and other strip malls which lie vacant. Permitting Walmart to vacate the current location with the promise that it will be inhabited by a new tenant is unwise. What is a reasonable time within which this building could be leased? If we allow Walmart to use their "best efforts" to do so, that certainly is no guarantee that in reality, that property can be re-leased. Additionally, any retail business which decides to occupy that large building would probably compete with a Walmart Superstore since that the Superstore carries most items sold by other retailers. Eventually that new business would fail due to the near location of the Walmart Superstore.

The stores which occupy the retail areas near the proposed Walmart Supercenter location will suffer and ultimately may be forced to vacate. When stores such as Safeway, Food4 Less, and possibly JC Penny pull out, those retail areas will suffer greatly. The traffic those stores once brought in will cause the other, smaller stores to be adversely effected.

You must consider that at a time when large chains are closing individual stores, such as Starbucks, it is extremely foolish to permit a Walmart Supercenter to add to the economic woes suffered by all retail business.

There are numerous additional problems which will arise if the proposed Walmart Supercenter is approved, however, an email is hardly sufficient to address them. I plan to attend tomorrow's council meeting and believe that other opponents of this superstore will be able to bring these to your attention.

Let's keep our beautiful Lodi, which has the "small town" feel, safe from large corporate takeovers and the resulting detrimental effects.

Sincerely,
Julie K. Cantrell
726 Dorchester Circle
Lodi, CA 95240
Tel: 209.339.9501

Kari Chadwick

From: KimberAust@cs.com
Sent: Tuesday, October 07, 2008 10:56 PM
To: Randi Johl
Subject: Support of WalMart Supercenter

Dear Sir,

I'm writing to you in support of the proposed WalMart Supercenter in Lodi. Lodi residents drive to Stockton in droves to shop at the Supercenter there and it seems foolish for Lodi to miss out on all the sales tax money that would otherwise stay in town.

Thank you for your time and consideration,
Kimberly Austin

10/08/2008

Kari Chadwick

From: Kendra Sandeen [kbon97@yahoo.com]
Sent: Wednesday, October 08, 2008 7:10 AM
To: Randi Johl
Subject: Walmart supercenter

Good Morning,

I am in complete support of a Walmart Super center in our town. As it is now I travel to Stockton to the Walmart super center to do my shopping. In this day and age with things the way they are and the time restraints that we all have it's convenient and cost effective for my family. We own our own business in construction and since everything has nose dived in that industry it's good to know that I will at least get more for my dollar and right now and forever that means alot. Not to mention the jobs and revenue it will bring back to our city, because right now Stockton is receiving those benefits.

Sincerely,

Kendra Sandeen

10/08/2008

Kari Chadwick

From: eleanor roberts [ellie.roberts@att.net]
Sent: Wednesday, October 08, 2008 8:24 AM
To: Randi Johl
Subject: Commission hearing on Lodi Supercenter

Please vote NO on the Lodi Supercenter.

Eleanor Roberts
2909 White Oak Way
Lodi CA 95242-2032

10/08/2008

Kari Chadwick

From: JazboRenis@cs.com
Sent: Wednesday, October 08, 2008 8:35 AM
To: Randi Johl
Subject: Walmart Supercenter

Please go ahead with the Walmart Supercenter.

As a single mother of 4 (2 sons in college) I have to go to Stockton to shop- I have waited years now for a safer shopping area with affordable prices in Lodi. This store will not have a bad effect on the downtown area specialty shops because they sell different items. I have another meeting tonight or I would be at this hearing.

Thank you,

Claire Lima

1121 W Elm St.

Lodi Ca 95240

Kari Chadwick

From: acomfort928@att.net
Sent: Wednesday, October 08,2008 10:22 AM
To: Kari Chadwick
Subject: Supercenter vote

I would like to add **2** names to the 'no' list.

Joyce Boulet
2633 Bayberry Dr
Lodi, **95242**

Phil Arnberger
124 Harvest Ln
Lodi, CA **95242**

We are very much against the Super Center. The traffic will be a huge mess...jobs will be lost, downtown will be a blight and the lovely city of Lodi will no longer be Lovely. It is moving downhill fast.

Thank you.

Joyce Boulet

1020 Kirkwood Drive
Lodi, CA 95242

RECEIVED

OCT 08 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

October 8, 2008

Lodi Planning Commission
C/O Planning Department
221 W. Pine Street
Lodi, CA 95240

Dear Lodi Planning Commission:

Unfortunately, I am unable to attend tonight's planning commission meeting regarding the Wal-Mart Supercenter project. However, as a member of Lodi First I wish to take this opportunity to briefly express my opposition to the EIR and this project. I am also informed that other members of Lodi First and the group's attorneys from Herum Crabtree Brown will be present at the meeting to reiterate our objections.

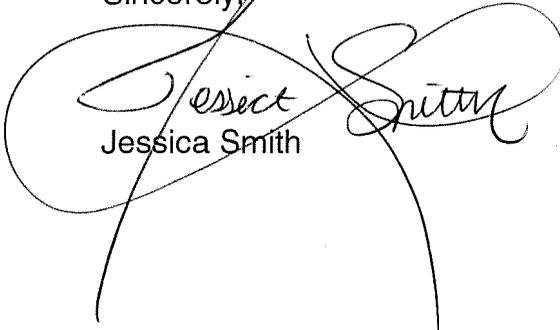
I object to both the EIR and the proposed project. I object to the EIR because it fails to tell us what the true impacts of the project will be. It blatantly refuses to address questions about global warming, public safety, and water supply simply because these issues were not challenged as part of the original lawsuit on this matter. But this corner-cutting ignores the fact that the Stockton court voided the original EIR and the new EIR shouldn't rely on that document as gospel. Ignoring impacts – particularly the topic of global warming which is Attorney General Jerry Brown's pet issue right now (just ask Stockton) – is careless at best and dishonest at worst. Also, the EIR tells us that the project may close up to 3 grocery stores and several general retail stores but says there is insufficient evidence to require Wal-Mart to mitigate these impacts. Well, if the evidence is insufficient, how can you certify the EIR? Wait until there is sufficient evidence to determine whether Wal-Mart must mitigate these impacts. Otherwise, the Lodi taxpayers – yes you and I – will be stuck footing the bill to mitigate these impacts.

I also wonder how the EIR can conclude that "urban decay" impacts will not be significant because the city has zoning laws and code enforcement staff that will prevent blight and decay. Didn't the City Council just determine that much of east Lodi is "blighted" and establish a redevelopment area? And didn't the City Manager just announce that Lodi is looking at a \$1.5 million tax revenue deficit that will result in cutting programs and lightening city staffing? If these zoning laws and code enforcement measures were insufficient to prevent blight in east Lodi when we didn't have these budget problems and a supercenter, why do we assume these *taxpayer-funded* measures will prevent decay and blight when this project sucks the remaining life from several of our local shopping centers? I just don't get it.

Finally, I object to the project, itself, because we simply don't need it. People say they need Wal-Mart for cheap goods. Fine. We already have a Wal-Mart. People say they want discount groceries. Fine. We already have a Food 4 Less next to the existing Wal-Mart. People say we need more sales tax revenue. Show me any hard evidence that says this project will increase tax revenue for the City. It won't. Instead, it will simply shift tax revenue from other places in the City to this location – while at the same time possibly putting existing businesses out of commission? The project's benefits simply do not outweigh its costs to our community.

For these reasons, I respectfully request that the planning commission refuse to certify this EIR and refuse to approve this project for Lodi.

Sincerely,



Jessica Smith

RECEIVED

OCT 08 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

824 Westwind Drive
Lodi, CA 95242

October 8, 2008

Lodi Planning Commission
C/O Planning Department
221 W. Pine Street
Lodi, CA 95240

Dear Planning Commission members:

I will be unable to attend tonight's hearing so as a part of Lodi First, I am asking you to reject and vote "no" on the Revised Environmental Impact Report on the Lodi Shopping Center. I'm very concerned about the impacts this very large project will have on our city. With the recent increase in the size of Reynolds Ranch, adding the additional commercial space of the Lodi Shopping Center is a dangerous move in these tough economic times. Just as homeowners have having difficulty getting credit from banks for loans, we're bound to see a slow down in commercial development as well as developers and builders will have trouble obtaining the funding for new stores.

We don't know what the impacts of both projects will be, because the REIR fails to consider what the combined additional commercial square footage will mean for Lodi and our downtown. Until this is studied, we shouldn't approve this project.

Thank you,

Elizabeth Galbreath



2227 West Vine
Lodi, CA 95242

RECEIVED

OCT 08 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

October 8, 2008

Lodi Planning Commission
C/O Planning Department
221 W. Pine Street
Lodi, CA 95240

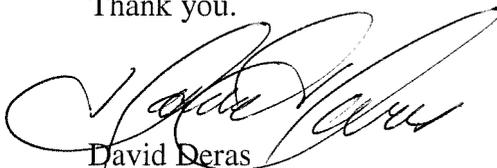
Dear Planning Commissioners:

I will be unable to attend the Planning Commission hearing tonight on the Lodi Shopping Center, so I ask you to vote NO on the environmental impact report. As part of Lodi First and a local business owner, I believe in putting Lodi's local businesses first. I was alarmed to read that the EIR says that urban decay caused by the Supercenter won't be significant because Lodi has code enforcement measures in place to prevent decay and blight. So, we're counting on the city to make sure empty buildings in the city don't become eye sores? I find this rather ironic especially since Lodi is facing a \$1.5 million budget deficit, as reported in yesterday's *Lodi News-Sentinel*.

The taxpayers shouldn't be on the hook to clean up Wal-Mart's mess. We should hold Wal-Mart and the developer accountable for paying for measures to prevent the blight and decay the Supercenter will bring.

Second, Lodi shouldn't rely on anti-nuisance ordinances and code enforcement to combat blight and decay. The City Council voted to create a redevelopment area on the east side of the city because they declared it blighted. Obviously, code enforcement and anti-blight ordinances failed to stop urban decay on the east side, so we can't count on it to prevent blight on the west side.

Thank you.



David Deras

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OCT 08 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

October 7, 2008

City Counsel of Lodi,

I am writing this note because I am unable to attend tonight's meeting. I request that you go ahead with the planned Wal-Mart Supers center in Lodi. I am a single mother of 4 (2 sons in college) and I need to make every penny count. At this time I drive to Stockton to do my shopping. I have been waiting for a safer shopping environment here in Lodi for several years now. Please give Lodi shoppers a choice. The downtown spaciality shops do not offer the same products as Wal-Mart so I feel there is not real competition.

Thank you,

Claire Lima

Claire Lima

RECEIVED

OCT 08 2008

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

Lodi City Counsel,

I say yes to the Lodi Wal-Mart Super center!

Thank You,

Kimberly Austin 10-7-08

Kimberly Austin

Kari Chadwick

From: Elizabeth Fiske [betfiske@comcast.net]
Sent: Wednesday, October 08, 2008 3:00 PM
To: Kari Chadwick
Subject: Wal-Mart EIR Comments

Attachments: WalMart Letter.doc



WalMart Letter.doc
(39 KB)

Ms. Chadwick,

Please accept the attached letter as my comment on the Wal-Mart Supercenter **EIR** as **I** will be unable to attend tonight's meeting.

Thank you.

Sincerely,

Betsy Fiske

Betsy Fiske
727 S. Lee Avenue
Lodi, CA 95240

October 8, 2008

Lodi Planning Commission
C/O Kari Chadwick via e-mail
Lodi City Hall,
221 W. Pine Street
Lodi, CA 95240
kchadwick@lodi.gov

Dear Planning Commission:

Unfortunately due to prior commitments I will likely be unable to attend tonight's planning commission hearing on the Lodi Shopping Center project. Although other members of Lodi First and attorney Brett Jolley will attend tonight's meeting, I would like to weigh in on the Wal-Mart Supercenter debate.

As some of you may recall, in addition to my involvement with the Small City Preservation Committee, I served as the unofficial leader and spokesperson of the Lodi First group during the initial lawsuit that forced the City to redo the EIR. I also submitted two comments on the revised EIR on behalf of Lodi First (comments 31 and 32). Although I have decided to take a less active leadership role in Lodi First for this round of Supercenter hearings I am still a member of Lodi First and strongly oppose this project and EIR in their current forms.

Regarding my comments on the EIR mentioned above, I do not believe the EIR answered my questions. In my first comment I asked how east Lodi redevelopment and Downtown Lodi would be impacted by this project? The response says it is premature to consider east Lodi redevelopment at this time. But if we have blight in east Lodi, won't that make it harder to prevent blight from this project in other parts of town and won't this project make it harder to rehabilitate blight in east Lodi? Why add another shopping center to west Lodi when the east side of town needs retail? This is especially true in these tough economic times that Lodi and the rest of the country are facing.

My second comment asked how Wal-Mart's recycling programs will impact our landfills. The EIR says this comment is outside the scope of the EIR because the court did not require the EIR to address solid waste issues. It also says neither the City nor the EIR preparer is familiar with this issue and more information is needed. Whether the Court ordered the new EIR to look at solid waste does not excuse the EIR from looking at this issue. Nothing in the court judgment prevents the EIR from looking at topics other than urban decay and energy. It only requires the EIR to consider these new areas at a minimum. After all, why does this new EIR reanalyze impacts to agricultural lands?

As for Wal-Mart's landfill problems, I urge the EIR preparer to review an August 2006 article in Smithsonian magazine called "Corn Plastic To the Rescue". The story says that Wal-Mart uses corn-based plastic for packaging on their products but the plastic is not biodegradable in normal environment and "Recyclers consider PLA a contaminant. They have to pay to sort it out and pay again to dispose of it." Going back to my original question, what will this project do to our

local landfills and who – Wal-Mart or the City of Lodi – will be responsible for dealing with Wal-Mart's increased production of corn plastic packaging from this project?

In addition to my prior comments on the EIR, I am truly amazed at the EIR's treatment of global warming. Specifically, at comment 5 Citizens for Open Government shows that this is a serious and issue that was not really known in 2004 when the original EIR was prepared. The Attorney General has written numerous letters to cities and counties about this issue and has even brought several lawsuits challenging development over this global warming. But rather than force Wal-Mart to mitigate this impact, the EIR says this topic is off limits. Isn't this part of energy anyway?

Finally, I ask the planning commission to remember that the EIR says this project will cause significant and unavoidable impacts to our air quality and our agricultural lands. Why then approve it? The cost to our community is simply too great to justify another generic shopping center in Lodi.

Sincerely,

Betsy Fiske

Kari Chadwick

From: Carole & Jack Pardella [cjpard@comcast.net]

Sent: Wednesday, October 08, 2008 3:17 PM

To: Kari Chadwick

Subject: Super Wal-Mart

This is to: The Lodi Planning Commission - We have been living in Lodi for 15 years and it is the best City! We would love to keep it this way for future generations. Lodi does NOT need a Super Wal-Mart, there is nothing wrong with the one we already have that a little upgrade would not fix. The list is a mile long why it should not be built in Lodi. It would not be a good Western Gate Way into our "small town feel" as well as all the traffic it is going to generate on Hwy. 12 & Lower Sac. What kind of stores is it going to attract? We need a Barnes & Noble, Trader Joes etc. As for the tax dollars, groceries do not generate tax. Please do not approve this Big Box! John & Carole Pardella

10-6-08

City Clerk - Planning Commission

With all the restrictions on building a Walmart Supercenter in Lodi it will never get built so I'll continue driving to Stockton.

How is Walmart going to hurt downtown Lodi?

Where in downtown can a person buy laundry soap, toilet paper, CD's, televisions, et

Let Walmart build on the east side.

How about out by all the big car

dealerships or out on Hwy 12-Victor Rd.

That would sure be a shorter drive

for

A. J. Mack

Clements, CA

RECEIVED	2008 OCT - 8 PM
CITY CLERK	
CITY OF LODI	

Community Development
City Hall

I wish to vote
against the Wal-Mart
Supercenter. We don't
need another huge
development in Lodi.

Sincerely,

Evelyn C. Hasbroun
2307 Woodlake Cir.
Lodi, Ca 95242

Tele: 339-8907



RECEIVED

OCT 08 2008

COMMUNITY DEVELOPMENT DEF
CITY OF LODI

Public Comments
Received by the City Clerk's
Office 12/4/08 to 12/10/08
(Originally Blue Sheeted)

FACSIMILE COVER LETTER FOR MULTIPLE DISTRIBUTION

Date: December **10,2008**
Time: **12:27 PM**

PLEASE DELIVER THE FOLLOWING PAGES TO:

City Clerk, City of **Lodi** **209-333-6807**

From: Donald **B.** Mooney

Message:

Number of Pages Sent: **8** Original/Copies **to be mailed No**

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, **you** are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If **you** have received this communication in error, please notify **US** immediately by telephone, and return the original message **to us at** the above address via the **US . Postal Service**. Thank **you**.

LAW OFFICES OF DONALD B. MOONEY

DONALD B. MOONEY

129 C Street, Suite 2
Davis, California 95616
Telephone (530) 758-2377
Facsimile (530) 758-7169
dbmooney@dcn.org

December 10, 2008

VIA ELECTRONIC MAIL
(cityclerk@lodi.gov) AND
PASCIMILE (209-333-6807)

City Council
City of Lodi
221 West Pine Street
Lodi, California 95241-1910

Re: Appeal of Lodi Planning Commission's Determination Not to Certify the
Final Environmental Impact Report for the Lodi Shopping Center

Dear Honorable Council Members:

On October 8, 2008, your Planning Commission held a four hour meeting to gather testimony, hear public comment and debate whether to certify the City of Lodi's ("City") Final Environmental Impact Report ("FEIR") for the Lodi Shopping Center project (or the "Project"). After considering input from all sides, the Planning Commission voted overwhelmingly (five to one) not to certify the **FEIR** because they found its analyses incomplete and unsatisfactory in a number of areas. Wal-Mart and the Browman Development Company **now** appeal to you **the** Planning Commission's decision. On behalf of the Citizens for Open Government ("Citizens"), we urge you to affirm the common sense decision of your Planning Commission for the reasons set forth below.

We also **urge you** to reject the concept **that** the Wal-Mart Supercenter should be considered at all given the documented adverse economic effects on the Downtown even in **the** best of economic times. The Lodi Shopping Center simply fails to meet the **key** development objective of the City – only approve development that does not negatively affect Downtown and **the** past **and** **ongoing** investment in Downtown.

A. Deference to the Planning Commission

The Planning Commission's careful, objective **analysis** of **the FEIR** as fundamentally inadequate should not be overturned absent strong and compelling showing of error. The Planning Commission reviews regularly the adequacy of California Environmental Quality Act ("CEQA") documents and their judgment is usually sound. **For the** Lodi Shopping Center FEIR, the Planning Commission stayed well within its legal discretion regarding the scope of the issues **under** review and

City Council Members
December 10, 2008
Page 2 of 7

rendered the only rational decision given the overwhelming weight of the evidence establishing the inadequacy of the CEQA documentation.

B. The Planning Commission Correctly Interpreted Its Scope of Review

The City decertified the entire previous FEIR – not just certain elements found to be inadequate in the *Lodi First* litigation. The City staff then produced a Revised **Draft** EIR that included not only the two remand issues (urban decay and energy) but also modifications to other areas staff decided needed additional work (agricultural resources, project objectives and alternatives). City **staff** then brought the entire EIR back to the Planning Commission for consideration, not just the revisions.

During the October 8 Planning Commission hearing, Wal-Mart, the Browman Development Company and City staff argued that the Planning Commission's scope of review was limited to the five issues exactly as presented in the Revised Draft EIR. In response to questions from the Planning Commission regarding this artificial restriction on its scope of review, City staff stated that they "could have opened [the EIR] up for more review but they did not." (October Planning Commission Minutes at 9 (packet page 147).)

The Planning Commission refused to take such a limited view of its discretion. It desired to examine whether the EIR as a whole met CEQA's standards for adequacy. For example, the Planning Commission declined to certify the FEIR based on the absence of critical studies of the impacts of the Project on, *inter alia*, global warming. Given that the EIR was decertified, expanded beyond the remand issues and then presented as a whole for certification, the Planning Commission certainly possessed the discretion to determine the adequacy of the **EIR** in its entirety.

In its November 24, 2008 letter in support of its appeal, Wal-Mart and Browman Development Company argue that the Planning Commission's action was improper because the doctrine of "*res judicata*" allegedly stops the prior litigants from subsequently challenging in court any issues other than those set forth in the Final Revised EIR. (See November 24 Letter at 4-5 (packet pages 15-16).) This highly technical legal argument, however, is not applicable to the Planning Commission or, in fact, operates to preclude subsequent litigation by the Citizens.

First, regardless of whether the doctrine applies to the prior litigants (i.e., the Citizens or Lodi First), the Planning Commission is not precluded **from** exercising its independent judgment on the adequacy of the EIR. The Revised FEIR presents a range of issues based upon City staff's recommended changes; nothing precludes the Planning Commission (and the City Council) **from** examining the EIR and exercising its discretion by finding that in order to be adequate under CEQA additional work was necessary.

City Council Members
December 10, 2008
Page 3 of 7

Second, the Citizens are not barred by the doctrine of *res judicata* and the holding in *Federation of Hillside and Canyon Associations v. City of Los Angeles* (2004) 126 Cal.App.4th 1180, from litigating the adequacy of the EIR should the City Council reverse the sound judgment of the Planning Commission. As set forth in the Citizens October 8, 2008 letter to the Planning Commission, under the Stipulation for Dismissal executed by the Citizens and the City, the City agreed that the Citizens “shall have the right to comment fully on the revised draft and final EIRs . . .” without limitation. The City then agreed that it would not assert any defense to any subsequent litigation “claims” that is not inconsistent with the terms of this Stipulation . . .” In other words, the City cannot agree on the one hand to allow Citizens to comment fully but on the other hand disregard those comments.’ In addition, the *Federation of Hillside* case is factually dissimilar. Here, the City of Lodi completely decertified the entire prior EIR and then recirculated a revised EIR for comment (something that did not happen in the case relied upon by the appellants) as well as the City stipulating that Citizens may raise any issue they deem appropriate.²

Finally, the scope issue is a bit of a tempest in a teapot. The Planning Commission’s concerns regarding an adequate global warming analysis appears to be sole issue that raised staffs hackles regarding the scope of the Planning Commission’s review. (See Minutes at 9 (packet page 147).) The City itself, however, raised the global warming/greenhouse gas emissions issue in the energy section of the Revised Draft EIR. (See e.g., Revised Draft EIR at 66, 73-74 (summarizing global warming/GHG concerns).) The Planning Commission can therefore find that the short discussion of this pressing environmental concern merited additional analysis.

In sum, the Planning Commission’s action fell well within its authority to review the EIR for CEQA adequacy.

¹ In their November 24 letter, Wal-Mart and Browman appear to argue that the Stipulation dismissing the Citizen’s litigation somehow operated to set the scope of the environmental document recirculated by the City. (See November 24 letter at 4 (packet page 15)(asserting that the original EIR was “revised to analyze five (5) impact sections that were subject to revisions by the San Joaquin County Superior Court or subject to augmentation based on the stipulation for dismissal and order.”).) Not only is this representation factually false (the stipulation merely recited the contents of the City’s Notice of Preparation) but also irrelevant as the Citizens preserved the right to fully comment and thereafter bring “any” claim against the adequacy of the document.

² We also note that the City has an independent obligation to not take action without assessing impacts to public trust values, which include impacts to natural habitats, wildlife and humans caused by global warming. (See *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.)

City Council Members
December 10, 2008
Page 4 of 7

C. Inadequate Energy Analysis Cannot Be Cured By Wal-Mart's Last-Minute Submission

Recognizing that the EIR's Energy section was flawed without an adequate analysis of global warming/GHG impacts, Wal-Mart and Browman submit a last-minute eighty-eight page "Climate Change Analysis Report" ("Report"). (See Attachment C to Wal-Mart's November 24 letter (packet pages 44-132).) Not surprisingly, the self-serving Report concludes that Wal-Mart is a wonderfully responsible company and that any attempt to measure the impacts of this project's green house gas emissions is speculative. Wal-Mart's submission, however, cannot cure the defect in the EIR for the following reasons.

First, the Report, **the** City Council cannot rely upon the **Report** as it was not subject to meaningful public critique or, apparently, governmental review. The Report represents at best an effort by a highly biased party **to** augment the record while avoiding effective public scrutiny.

Second, the Report confirms that the Lodi Shopping Center project may have **an** adverse environmental impact not analyzed in the EIR. **As** such, it reinforces rather than negates the Planning Commission and the Citizens' argument that the EIR's Energy section is deficient without **an** unbiased, publicly reviewed GHG analysis.

Third, even a cursory review of the Report reveals that it does not represent a good faith analysis. For example, the **Report** dismisses **as** speculative the GHG emissions related to **manufacture** and transportation of goods that will be sold at the Wal-Mart. It **is** simply not believable that Wal-Mart does **not** have some concept of where the goods it will sell come from and the number and distance of truck **trips** necessary to supply the Wal-Mart store in order to arrive **at** a good faith estimate of GHG emissions. Indeed, the Report **seems** to have just arrived at its **GHG** emissions from simply mining existing data reported in the EIR for air quality emissions rather **than** under **taking** a good faith effort at disclosing the emissions associated with the construction and operation of entire Lodi Shopping Center. Similarly, the Report **errs** by failing to render a determination of the significance of even the substantially under-estimated GHG emissions. After the Report **extols** the number of measures Wal-Mart implements to reduce its energy costs and how any and all measures to reduce GHG emissions are not feasible, the **Report** determines that it is simply too speculative **to** determine the significance of the Project's GHG emissions. (See Report at **44-46** (packet pages 89-91).) Such an attempt to short-circuit the City's CEQA obligation is undermined by the **many** CEQA documents that in fact arrive at a GHG significance determination – if similarly situated public agencies can make GHG significance determinations, **the** City of Lodi can **as** well. (See e.g., the guidance documents and EIRs cited in the Citizens' October 8, 2008 and December 7, 2007 comment letters.)

City Council Members
December 10, 2008
Page 5 of 7

Fourth, though flawed, the **Report** demonstrates the City may remedy the clear inadequacy of the EIR by preparing an independent GHG analysis and recirculating it for public review and comment.

The Planning Commission recognized that the EIR lacked a meaningful **GHG** analysis **part of** its Energy section, a determination well within its scope of review and supported by the record before. In light of this sound conclusion, the City Council should not accede to Wal-Mart and Browman's stratagem to accept as a substitute **a** self-serving report not subject to meaningful public review **and** comment.

D. Urban Decay/Adverse Impacts to Downtown

Approval **of** the Lodi Shopping Center with the Super Wal-Mart will have adverse economic consequences for Downtown Lodi. There **is** no dispute that the primary effect of both the Lodi Shopping Center and Reynolds Ranch project will be to "cannibalize" existing sales within Lodi, including Downtown. (See packet at page 35.) Indeed, the City's impacts analysis projects a **13%** percent drop in sales for drugstores in **Lodi** (including in downtown) **from** the Supercenter Wal-Mart alone, and a generalized **7%** decline for Downtown business from the Lodi Shopping Center. When the cumulative effects of the **330,000**square foot Lodi Shopping Center are added to the newly approved 750,000 square feet from the Reynolds Ranch project, **existing** Lodi retail sales are projected to drop **34%**.³ At the same time, a recent report establishes **the** "fragile" nature of business in the Downtown (packet at 35) and concludes that any gains recently made by business there "could be reversed by the loss of local shoppers using a community-serving commercial establishments [like the Lodi Shopping Center]."

In light of these facts, the Planning Commission dismissed **as** inadequate the conclusions of **the EIR that** notwithstanding the loss of **34%** of sales, no urban decay could possibly result because (1) it is speculative that closure of exiting businesses may occur, and (2) that in any event, the City claims it will enforce code measure requiring property upkeep.

We agree with the Planning Commission that the **EIR's** analysis **is faulty**. First, the conclusion that no business will close **as** a **result** of such a substantial **loss** of sales **is** simply irrational given (1) the "fragile" nature of Downtown business, (2) the cumulative impacts **from** over 1 **million** new square feet of commercial retail development, and (3) the already depressed levels of **retails** sales **as** a result of the recent economic downturn. In fact, this last **consideration**, **the** current lean economic times, renders inappropriate

³ **As** pointed **out** in our earlier comments, the **EIR** actually underestimates **the** "cannibalization" **of local** business because it unreasonably inflates capture **of** sales leakages. Therefore, the percentage of Supercenter sales diverted from local business **is** actually substantially higher than described in the EIR.

City Council Members
December 10, 2008
Page 6 of 7

reliance **on** the EJR urban decay analysis as it **was** prepared prior to and without consideration of the new baseline economic conditions.

Second, the EIR's reliance on the City's code enforcement is similarly suspect. As documented in the July 15, 2007 GRC Report on Economic Conditions in Downtown Lodi, the conditions generally represent a "depressed and abandoned urban landscape" (i.e., urban decay). Given that these conditions have arisen with **the** same code enforcement opportunities, **one** cannot expect a different result when **more** business close as a result of the approval of the new Wal-Mart Supercenter. Moreover, as we noted in our comments to the Planning Commission, the City's code enforcement policy places enforcement of "[v]iolations related to property maintenance issues" next to the bottom of its "Operational Priorities" (**9*** out of **10**). Finally, the City has not demonstrated how, when it is facing huge budget short falls as a result of declining sales tax and **the other** revenues (see above), it will actually increase property maintenance enforcement over what it has done in the past in order to abate nuisance that will be created by the Lodi Shopping Center.

In **short**, approval of the Lodi Shopping Center **as** proposed will adversely affect Downtown Lodi and likely cause urban decay. **As** a result, the Project does not meet the main objective of City – approving development that does not harm the Downtown.

E. Other Considerations

We believe that the City Council should **affirm** the decision of its Planning Commission. **As** described above, the Planning Commission's main **grounds** for rejecting certification of the EIR as adequate include the absence of sufficient GHG emissions and urban decay analysis. In addition, the Citizens in **their** October 8, 2008 and December 7, 2007 comment letters set forth other bases for why the EIR is inadequate under CEQA. These grounds include, inadequate analysis of **certain** air quality impacts such as PM2.5 emissions and SJVAPCD **9510** compliance, inadequate mitigation for prime farmland conversion, and lack of a set of alternatives to provide you with a reasonable policy choice. Lastly, **Wal-Mart** disclosed at **the** October 8 2008 Planning Commission that the Lodi Shopping Center will employ approximately 1000 people. As such, the City is required to do a water supply assessment ("WSA") as part of its CEQA **process** under Cal. Water Code Section **10912**. The City must therefore produce a **WSA** prior to certification.

City Council Members
December 10, 2008
Page 7 of 7

F. Conclusion

After hours of input and consideration, the **Planning** Commission declined to certify the Lodi Shopping **Center EIR**, instead finding it inadequate under **CEQA**. Wal-Mart **and** Browman Development Company's appeal of that decision should be rejected and the EIR sent **back to** staff for **further** processing in order to produce a legally **adequate** document.

Sincerely,

A handwritten signature in black ink, appearing to read "D. B. Mooney". The signature is written in a cursive style with a large, stylized initial "D".

John L. Marshall
Attorneys for Citizens for Open Government

cc: Client

RECEIVED

DEC 10 2008

Why is it when someone follows the rules set up by our Founding Fathers, ^{City Clerk} ~~City of Lodi~~ are always some one against them and their success'?

Take Wal-Mart. they are a great company, during disasters, they are the first to help. and they expect nothing in return. Check what they did during the floods in the South?

Sam Walton. founder of the Wal-Mart empire. was a great example of successful transition tax planning. He passed the bulk of his business interest to his heirs with little tax erosion by preparing the plan early in his career. Sam and Helen Walton started their retail business after WWII with \$5,000 in savings and \$20,000 borrowed from Helen's father; then they built that stake into a multi-billion dollar marketing behemoth. the American dream our Founding Fathers set up for them by using brains, hard work, and competition!

Many have done the same thing the same way, I knew three pharmacist who each had small drug store after WWII, and could not compete with the large drug chains, they did not cry and yell. they incorporated and form what was Payless Drugs, by using their brains. hard work. and competed!

Of course if Wal-Mart had let the Union run their store, they might have been greater like our school system among the worst. or our government who panders to them, and not lets forget the American. Auto industry, which the tax payer may be paying for if Pelosi .and other Socialist have there way; taxes and union benefits cost you a minimum of \$13,000 on every automobile! Where are the brains, hard work and COMPETITION?

When all foreign cars built in the US are competing, WHY?

Mac

Michael McAtee is still doing well he is very good in computers etc.

REIR fails to consider impact of more space

Editor:

As a part of Lodi First, I encourage the City Council to vote "No" on the Revised Environmental Impact Report on the Lodi Shopping Center. I was very pleased to see that the Planning Commission voted against it and I hope they will follow the Planning Commission's lead.

I am very concerned about the impacts this very large project will have on our city. With the recent increase in the size of Reynolds Ranch, adding the additional commercial space of the Lodi Shopping Center is a dangerous move in these tough economic times. Just as homeowners have difficulty getting credit from banks for loans, we're bound to see a slowdown in commercial development as well as developers and builders having trouble obtaining the funding for new stores.

We don't know what the impacts of both projects will be because the REIR fails to consider what the combined additional commercial square footage will mean for Lodi and our Downtown. Until this is studied, the council shouldn't approve this project.

Elizabeth Galbreath
Lodi

Lodi can't rely on code enforcement for blight

Editor

I applaud the Lodi Planning Commission's vote against the Wal-Mart Supercenter's environmental report. With the City Council getting ready to vote on the project, I hope they follow the commission's expertise and vote "No" as well. I was alarmed to read that the report says that urban decay caused by the Supercenter won't be significant because Lodi has code enforcement measures in place to prevent decay and blight. So we're counting on the city to make

sure empty buildings in the city don't become eyesores? I find this rather ironic, especially since Lodi is facing a \$1.5 million budget deficit.

The taxpayers shouldn't be on the hook to clean up Wal-Mart's mess. We should hold Wal-Mart and the developer accountable for paying for measures to prevent the blight and decay the supercenter will bring.

Second, Lodi shouldn't rely on anti-nuisance ordinances and code enforcement to combat blight and decay. The City Council voted to create a redevelopment area on the Eastside of the city because they declared it blighted. Obviously, code enforcement and anti-blight ordinances failed to stop urban decay on the Eastside so we can't count on it to prevent blight on the west side.

David Derus
Lodi

Don't OK environmental impact report

Editor:

The Lodi City council will be taking up the Wal-Mart Supercenter in December, and I hope that they will consider the Planning Commission's vote and vote against the Supercenter. I object to the project itself because we simply don't need it. People say they need Wal-Mart for cheap goods — fine. We already have a Wal-Mart. People say they want discount groceries — fine. We already have a Food-4-Less next to the existing Wal-Mart. People say we need more sales tax revenue. Show me any hard evidence that says this project will increase tax revenue for the city. It won't. Instead, it will simply shift tax revenue from other places in the city to this location while at the same time possibly putting existing businesses out of commission. The project's benefits simply do not outweigh its costs to our community.

For these reasons, I respectfully request that the City Council refuse to certify the environmental impact report and refuse to approve this project for Lodi.

Jessie Smith
Lodi

Dear MR. FRANKS
PLEASE VOTE NO ON
WAL-MART

Dorinda A. Ellender

REIR fails to consider impact of more space

Editor:

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We don't know what the impacts of both projects will be because the REIR fails to consider what the combined additional commercial square footage will mean for Lodi and our Downtown. Until this is studied, the council shouldn't approve this project.

*Elizabeth Galbreath
Lodi*

Lodi can't rely on code enforcement for blight

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The taxpayers shouldn't be on the hook to clean up Wal-Mart's mess. We should hold Wal-Mart and the developer accountable for paying for measures to prevent the blight and decay the Supercenter will bring.

Second, Lodi shouldn't rely on anti-nuisance ordinances and code enforcement to combat blight and decay. The City Council voted to create a redevelopment area on the Eastside of the city because they declared it blighted. Obviously, code enforcement and anti-blight ordinances failed to stop urban decay on the Eastside so we can't count on it to prevent blight on the west side.

*David Derus
Lodi*

Don't OK environmental impact report

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The Lodi City council will be taking up the Wal-Mart Supercenter in December, and I hope that they will consider the Planning Commission's vote and vote against the Supercenter. I object to the project itself because we simply don't need it. People say they need Wal-Mart for cheap goods — fine. We already have a Wal-Mart. People say they want discount groceries — fine. We already have a Food-4-Less next to the existing Wal-Mart. People say we need more sales tax revenue. Show me any hard evidence that says this project will increase tax revenue for the city. It won't. Instead, it will simply shift tax revenue from other places in the city to this location while at the same time possibly putting existing businesses out of commission. The project's benefits simply do not outweigh its costs to our community.

For these reasons, I respectfully request that the City Council refuse to certify the environmental impact report and refuse to approve this project for Lodi.

*Jessica Smith
Lodi*

Dear MR. KATZAROV

Please VOTE NO ON

WAL-MART

Jessica P. Alexander

REIR fails to consider Impact of more space

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As a part of Lodi First, I encourage the City Council to vote "No" on the Revised Environmental Impact Report on the Lodi Shopping Center. I was very pleased to see that the Planning Commission voted against it and I hope they will follow the Planning Commission's lead.

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Denise A. Alexander

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Lodi can't rely on code

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We don't know what the impacts of both projects will be because the REIR fails to consider what the combined additional commercial square footage will mean for Lodi and our Downtown. Until this is studied, the council shouldn't approve this project.

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Lodi

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DEAR MS MOUNCE PLEASE

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Lodi

PLEASE VOTE NO ON
WALL-MART

DENNIS ALEXANDER

MS. SUSAN HITCHCOCK

Randi Johl

From: Randi Johl
Sent: Wednesday, December 10, 2008 11:44 AM
To: 'maganadc@yahoo.com'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Wal mart

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Raoul Magana [mailto:maganadc@yahoo.com]
Sent: Wednesday, December 10, 2008 11:36 AM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen
Subject: Re: Wal mart

Dear City Council,

I am sending this note to convey the detrimental effects a "Super Walmart" would present to Lodi.

- 1) The economy would cause the local, Food4 less, JC Penny, Raleys, Smart, and other local businesses to close.
- 2) The existing Wal Mart should be updated as opposed to building a new one.
- 3) There is already the closure of Mervyns which is a large vacant(to be) store location.
- 4) Most of the businesses located in the current Wal Mart shopping center would likely be closing due to their main "Anchor store" leaving.
- 5) There should be a completely leased center prior to any new building of the same/similar store across the street.
- 6) The City Council needs to think **10-20** years down the road and see that existing businesses are protected and remain in Lodi first!!

Thanks,
Raoul Magana

Have a Great Today!

Randi Johl

From: Randi Johl
Sent: Wednesday, December 10, 2008 11:45 AM
To: 'Pat Johnston'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: message to council members

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Pat Johnston [mailto:pcjohns@att.net]
Sent: Wednesday, December 10, 2008 8:08 AM
To: Randi Johl
Subject: message to council members

NO, NO, NO, ON WAL-MART! What we have is enough.

We can change our inclination to sin into a willingness to serve God.
Romans 12:1-3

Randi Johl

From: Randi Johl
Sent: Wednesday, December 10, 2008 11:46 AM
To: 'ricky3d2000@yahoo.com'
cc: City Council: Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Super Wal-Mart

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

---_Original Message-----

From: Rick (mailto:ricky3d2000@yahoo.com)
Sent: Wednesday, December 10, 2008 8:00 AM
To: City Council
Subject: Super Wal-Mart

Nothing equates a small town atmosphere less than a Super Wal-Mart. A few people who are unwilling to drive a little around town to do their shopping should not have too loud a voice since most items at a super Wal-Mart can be already be found in Lodi. Besides who needs another empty building where the current Wal-Mart is should a superstore be built.

Rick Castelanelli

Randi Johl

From: Randi Johl
Sent: Wednesday, December 10, 2008 11:49 AM
To: 'C/V Grant'
CC: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Lodi's Retail Plans

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: C/V Grant [mailto:calgrant@sbcglobal.net]
Sent: Tuesday, December 09, 2008 7:23 PM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen
Subject: Lodi's Retail Plans

Members of the City Council:

Lodi's community pride and commitment to planning is unique in our region. Thank you in advance for treating the the retail designation at the southwest corner of Lower Sacramento Road the same way...part of a long standing plan for our fine city.

cg

Christopher Grant
1712 Mariposa Way
Lodi, CA 95242

RECEIVED

DEC 10 2008

city Clerk
city of Lodi

December 4, 2008

Mayor Mounce and City Council
C/O Lodi City Clerk
City Hall
221 West Pine Street
Lodi, CA 95240

Dear City Council Members,

I am a business owner here in Lodi and I am writing to ask you to vote no on the new Wal-Mart Supercenter. I think it's important that you hear from owners who have been a part of the Lodi community longer than Wal-Mart. Sure, my business will never be as large as Wal-Mart, but I would like to think that my voice is just as powerful.

Please do what is best for us, the locally owned businesses in Lodi, and vote against the Supercenter.

Sincerely,

Chuck Morris
Maifn Morris

Mon Petit Chic
School at Pine

RECEIVED

DEC 10 2008

City Clerk
City of Lodi

December 3, 2008

Lodi City Council
c/o City Clerk
221 West Pine St.
Lodi, CA 95240

Ms. Mounce and Council,

If I could have any wish this holiday season, it would be that Lodi had no Targets or Wal-Mart's and we had more parking spaces on School Street. Anything to attract more shoppers!

In all seriousness, many of us are worried about our business sales, especially during the holiday season. This month is very, very important to us. For some, it will be make or break. *So*, it is with a plea for help that I ask you to vote against the Wal-Mart Supercenter.

I really do see a decline in buyers on School St. Everyone just assumes that Target and Wal-Mart's prices will always beat any price in a store downtown. There are times when this is true, but also times when it is not. I wish shoppers would really do some price comparisons on their own. But, when we are constantly barraged with "same money, live better", I guess we just become conditioned to believe it and not even think about.

Many stores downtown can't compete with the big chains. We don't need a larger Wal-Mart drawing even more shoppers away from our stores. Please vote no.

Sincerely,

Dami Enas

Business owner

Willow Tree
16 W. Pine St

Why is it when someone follows the rules set up by our Founding Fathers, there are always some one against them and their success?

Take Wal-Mart, they are a great company, during disasters, they are the first to help. and they expect nothing in return. Check what they did during the floods in the South?

Sam Walton, founder of the Wal-Mart empire. was a great example of successful transition tax planning. He passed the bulk of his business interest to his heirs with little tax erosion by preparing the plan early in his career. Sam and Helen Walton started their retail business after WWII with \$5,000 in savings and \$20,000 borrowed from Helen's father: then they built that stake into a multi-billion dollar marketing behemoth. the American dream our Founding Fathers set up for them by using brains, hard work. and competition!

Many have done the same thing the same way, I knew three pharmacist who each had small drug store after WWII, and could not compete with the large drug chains, they did not cry and yell, they incorporated and form what was Payless Drugs, by using their brains. hard work. and competed!

Of course if Wal-Mart had let the Union run their store, they might have been greater like our school system among the worst, or our government who panders to them, and not lets forget the American, Auto industry. which the tax payer may be paying for if Pelosi .and other Socialist have there way; taxes and union benefits cost you a minimum of \$13,000 on every automobile! Where are the brains, hard work and COMPETITION?

When all foreign cars built in the US are competing, WHY?

A handwritten signature in cursive script, appearing to read "U. J. ...".

RECEIVED

DEC 10 2008

**City Clerk,
City of Lodi**

Randi Johl

From: Randi Johl
Sent: Tuesday, December 09, 2008 2:12 PM
To: City Council
cc: Blair King; Steve Schwabauer; Rad Bartlam; Jeff Hood
Subject: WalMart Correspondence
Attachments: DOC003.PDF

The attached will be included in the Blue Sheet for the special meeting tomorrow.

*Randi Johl, JD, CMC
City Clerk, City of Lodi
221 West Pine Street
Lodi, California 95240
(209) 333-6702*

Randi Johl

From: Rad Bartlam
Sent: Monday, December 08, 2008 5:45 PM
To: Randi Johl
CC: Steve Schwabauer
Subject: FW: Lodi - Shopping Center

Attachments: DOC003.PDF



DOC003.PDF (2 MB)

Randi, can you deliver to the City Council?

Thanks, Rad

-----Original Message-----

From: Alexis Pelosi [mailto:APelosi@sheppardmullin.com]
Sent: Mon 12/8/2008 4:54 PM
To: Rad Bartlam
Cc: Steve Schwabauer; Hobbs, Jonathan; Andee Leisy; Judy Davidoff
Subject: Lodi - Shopping Center

Rad,

Attached are a few more documents that we are submitting to be included in the record and ask that they be given to the City Council members in anticipation of the December 10, 2008, hearing. Thank you and please call me if you have any questions.

Alexis

Alexis M. Pelosi
Direct: (415) 114-2974
Fax: (415) 403-6080
apelosi@sheppardmullin.com
www.sheppardmullin.com
Sheppard, Mullin, Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111-4106

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Four Embarcadero Center | 17th Floor | San Francisco, CA 94111-4109
415-434-9100 office | 415-434-3947 fax | www.rheppardmullin.com

Writer's Direct Line: 415-774-2974
apelosi@sheppardmullin.com

December 8, 2008

Our File Number: 15CM-130407

VIA E-MAIL AND MAIL

Rad Bartlam
Interim Community Development Director
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

Re: Agenda Item B-1 - December 10, 2008. City Council Hearing on Appeal of Planning Commission's decision to not certify the Lodi Shopping Center EIR (October 8, 2008. Planning Commission Agenda item 3a.)

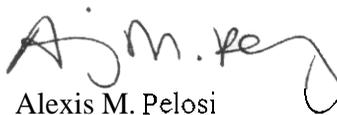
Dear Rad:

Attached please find two additional documents in support of our October 10, 2008, appeal of the Planning Commission's decision to not certify the Lodi Shopping Center EIR (October 8, 2008, Planning Commission agenda item **3a**). We **ask** that these documents be included in the record and distributed to the City Council in anticipation of the hearing on Wednesday December 10, 2008.

The first document is a study prepared by Navigant Consulting entitled "An Analysis of Taxable Retail Sales and Retail Business Permits in California Cities with Wal-Mart Supercenters" (December 2008). The second document is a visual depiction of the additional alternative mentioned by those who are economically motivated to oppose the Project to expand or redevelop the Wal-Mart store on its existing site.

If you have any questions please call me at 415-774-2974.

Very truly yours,



Alexis M. Pelosi

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

W02-WEST 5AMP1\401 186841 1

Attachments

cc: Judy V. Davidoff

WAL★MART

Stores, Inc.

1-800-331-0085 www.walmartfacts.com

What local community members are saying about Wal-Mart...

"Wal-Mart has provided a tremendous boost to our economy. Wal-Mart has provided needed jobs and has boosted local sales tax revenues. As I see it with the economy the way it is, Wal-Mart is starting to get the attention it deserves for its business plan."

City Councilmember Terry Hanson, City of La Quinta

"Wal-Mart is a positive presence in our community. Wal-Mart is a good corporate citizen, provides jobs and stable revenues for the city. Also, new businesses have succeeded since Wal-Mart opened."

Councilmember Luis J. Castro, City of Calexico

"We are glad to have Wal-Mart in our city. Wal-Mart's presence has stimulated other retailers to locate to Palmdale expanding our potential for increased revenues."

City Manger, Steve Williams, City of Palmdale

"The Sanger Wal-Mart has been a great community partner for the City of Sanger. Not only do they provide needed opportunity for the citizens of the area to buy goods and services, they have become involved with the community and the Sanger Chamber of Commerce as a community support partner. They have provided support for other Sanger business to encourage residents to shop in their home town. They are a great addition to Sanger."

Supervisor Judy Case, Fresno County

"Wal-Mart's presence in Brawley is already attracting additional development and sparking investment in our community. We anticipate the addition of Wal-Mart to our retail mix will jumpstart sales tax revenues in the city of Brawley."

Mayor John Benson, City of Brawley

Wal-Mart Press Release, Wal-Mart Brings Economic Boost to Brawley, 10.13.08

"The 300-plus jobs offered by the store will be an immediate boost to our economy, and the sales tax revenue it generates will help fund a variety of city services."

Joy Madison, Modesto Chamber of Commerce President

Modesto Bee, New Wal-Mart Supercenter Readies for Grand Opening, 11.7.08

#



1-800-331-0085 www.walmartfacts.com

December 3, 2008

Contact: Tiffany Moffatt
209.369.1377 (office)
479.381.8206 (cell)

NEW RESEARCH REVEALS STRONG LOCAL ECONOMIC BENEFIT OF WAL-MART SUPERCENTERS

*Regions throughout California Experienced Growth in Additional
Businesses and Local Sales after Wal-Mart Opening*

LOS ANGELES – The local business climate in communities throughout California benefits significantly from the presence of Wal-Mart Supercenters, according to a new study released today by the international consulting firm Navigant Consulting, Inc. (NYSE: NCI).

“The presence of Wal-Mart Supercenters in any California community enhances as it relates to local revenues and business development,” said Lon Hatamiya, a Director at Navigant Consulting and former Secretary of California’s Technology, Trade and Commerce Agency. “According to the study, Wal-Mart’s benefits are not limited to metropolitan or suburban communities, but **also** help economically challenged rural areas such as the Central Valley and Imperial Valley.”

The report found:

- In every city where a Wal-Mart Supercenter opened, city-wide taxable retail sales increased in the year following the opening and continued to grow in subsequent years in all communities that have had Supercenters for multiple years.
- Citywide taxable retail sales increases after the opening of a Supercenter averaged more than \$79 million the first year, \$123.9 million the second year, and \$206.2 million the third year compared to the year before the opening.
- The number of retail business permits increased by an average of 32.7 percent the first year after the opening of a Supercenter and all communities showed increases in the second year.
- In 15 communities where the data was available, taxable sales at other retail stores, including restaurants and bars, building materials and farm implements, auto dealers and supply, and service stations also increased an average of more than \$72 million following the opening of the Wal-Mart Supercenter.

-- more --

The study, commissioned by Wal-Mart, reviewed the 21 California Supercenters in operation between 2003 and 2007. The Supercenters are based throughout the state from Shasta to Imperial County. The full report is attached.

About Wal-Mart Stores, Inc. (NYSE: WMT)

Wal-Mart Stores, Inc. operates Wal-Mart discount stores, Supercenters, Neighborhood Markets and Sam's Club locations in the United States. The Company operates in Argentina, Brazil, Canada, China, Costa Rica, El Salvador, Guatemala, Honduras, Japan, Mexico, Nicaragua, Puerto Rico and the United Kingdom and, through a joint venture, in India. The Company's securities are listed on the New York Stock Exchange under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartstores.com. Online merchandise sales are available at www.walmart.com and www.samsclub.com.

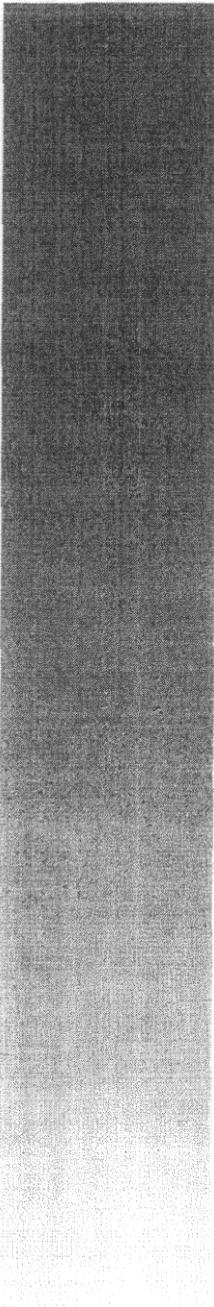
About Lon Hatamiya

Lon Hatamiya provides international, national and regional economic analysis and expert testimony as a Director at Navigant Consulting. He has testified over a hundred times before the WTO, U.S. Congress, California Legislature, and **all** levels of courts, boards and commissions on a wide variety of issues. He served as Secretary of the California Technology, Trade and Commerce Agency, **as well as** Administrator of the Foreign Agricultural Service at USDA. He serves **as** a lecturer at the UC Davis School of Law, and at the University of Denver International Studies Program. Mr. Hatamiya previously served **as** an adjunct professor at the UC Davis Graduate School of Management.

About Navigant Consulting

Navigant Consulting, Inc. (NYSE: NCI) is a global consulting firm providing dispute, investigative, operational, risk management and financial and regulatory advisory solutions to government agencies, legal counsel and large companies facing the challenges of uncertainty, **risk**, distress and significant change. The Company focuses on industries undergoing substantial regulatory or structural change and on the issues driving these transformations.

#



**An Analysis of Taxable Retail
Sales and Retail Business
Permits in California Cities with
WAL*MART[®] Supercenters**

Prepared for

Wal-Mart Stores, Inc.

Lon Hatamiya, MBA, JD

Director

Navigant Consulting, Inc.

December, 2008

Table of Contents

I.	Introduction	1
II.	Objective of Report	1
III.	Major Findings	2
IV.	Methodology	6
	A. Design	6
	B. Scope of Analysis	7
	C. Data	7
V.	Results of Analysis	10
	A. Changes in Taxable Retail Sales and Retail Business	
	Permits after One Year	10
	B. Changes in Taxable Retail Sales and Retail Sales Permits	
	after Multiple Years	13
	C. Changes in Taxable Retail Sales by Population	14
VI.	Summary of Analysis	17

List of Tables

TABLE 1 -Changes in Taxable Retail Sales and Retail Business Permits after One Year (21 Cities)

TABLE 2 - Changes in Taxable Retail Sales in Other Retail Outlets (15 Cities)

TABLE 3 -Changes in Taxable Retail Sales and Retail Business Permits after Two Years (10 Cities)

TABLE 4 - Changes in Taxable Retail Sales and Retail Business Permits after Two Years (3 Cities)

TABLE 5 –Difference in Taxable Retail Sales for Cities with Populations greater than 50,000

TABLE 6 –Difference in Taxable Retail Sales for Cities with Populations less than 50,000

TABLE 7 – Difference in Taxable Retail Sales for Cities with Populations less than 25,000

List of Appendices

Appendix A - Calculation and Analysis of Taxable Retail Sales and Retail Business Permits for Selected California Cities from 2003-2007

Appendix B - Calculation and Analysis of Taxable Retail Sales of Other Retail Outlets for Selected California Cities from 2003-2007

Executive Summary

We were retained by Wal-Mart Stores, Inc. to perform an independent and objective analysis to quantify the city-wide *Taxable Retail Sales* in California communities where Wal-Mart Supercenters have opened during the period of 2003-2007. We also analyzed the number of *Retail Business Permits* in those same communities. We accomplished this through a comparative analysis of *Taxable Retail Sales* and *Retail Business Permits* from the years just prior to and the years just after the opening of the various Wal-Mart Supercenters. We also looked at data from subsequent years for those locations that have been opened for more than one year. Since data is only available through the end of 2007, we were able to perform these comparisons for the cities of 21 of the 32 Wal-Mart Supercenters in California (the remaining 11 Supercenters opened in 2007 or later).

The results of our analysis are as follows:

- In *every* city where Wal-Mart has opened a Supercenter in California, the city-wide *Taxable Retail Sales* (including apparel stores, general merchandise stores, grocery stores, home furnishing and appliance stores, and other retail stores) have increased in the year following the opening of the Supercenter as compared to the *Taxable Retail Sales* of the year prior to the opening. Moreover, city-wide *Taxable Retail Sales* have continued to increase in each subsequent year in all communities that have had Wal-Mart Supercenters for multiple years.
- Increases of city-wide *Taxable Retail Sales* one year after the opening of the Wal-Mart Supercenter averaged over \$79 million compared to the year prior to the

opening for all communities (21 Supercenters). *Taxable Retail Sales* increases averaged 15.0% for all cities.

- Increases of city-wide *Taxable Retail Sales* two years after the opening of the Wal-Mart Supercenter averaged nearly \$123.9 million compared to the year prior to the opening for all locations opened more than one year (10 Supercenters). *Taxable Retail Sales* increases after two years averaged over 25.9% for the ten cities.
- Increases of city-wide *Taxable Retail Sales* three years after the opening of the Wal-Mart Supercenter averaged over \$206.2 million compared to the year prior to the opening for all locations opened for more than two years (3 Supercenters). *Taxable Retail Sales* increases after three years averaged over 39.6% for the three cities.
- Taxable sales for *Other Retail Outlets* (including restaurants and bars, building materials and farm implements, auto dealers and supply, and service stations) also increased in each community following the opening of Wal-Mart Supercenters. These increases averaged over \$72 million compared to the year prior to the opening for all locations with available data (15 Supercenters). This was an average increase of 10.5% for each city.
- Increases of taxable retail sales for *Other Retail Outlets* two years after the opening of the Wal-Mart Supercenter averaged over \$124.1 million compared to the year prior to the opening for all locations (with available data) opened more than one year (7 Supercenters). This was an average increase of 16.8% for each

city. Increases of taxable retail sales for *Other Retail Outlets* three years after the opening averaged over \$204 million (3 locations), with an average increase of 30.4% per city.

- When combined, city-wide *Taxable Retail Sales* and *Other Retail Outlets* ("total taxable retail sales") one year after the opening of the Wal-Mart Supercenter increased by an average of \$157 million when compared to the year prior to the opening (15 Supercenter locations). The total taxable retail sales increased even more dramatically after two years to an average of \$271.6 million per city (7 Supercenter locations). After three years, total taxable retail sales increased even further to an average of \$410.3 million per city (3 locations).
- In 18 of 21 communities, the number of *Retail Business Permits* increased in the year following the opening of the Wal-Mart Supercenter when compared with the year prior to the opening. The average increase in the number of Retail Business Permits was 32.7 per community. Slight declines occurred in Gilroy (from 516 to 508), Palm Desert (from 1446 to 1388), and Palm Springs (from 881 to 803). However, these were offset in those communities by sizable gains in *Retail Business Permits* two years following the opening of the Wal-Mart Supercenter—Gilroy (up to 517), and Palm Springs (up to 840).
- In 9 of 10 communities, the number of *Retail Business Permits* increased two years following the opening of the Wal-Mart Supercenter when compared with the year prior to the opening. The average increase was 65.8 Retail Business Permits per city. This is double the increase after only one year and reflects a total increase of 658 new *Retail Business Permits* across 10 cities and an average

increase of 8.2% per city. Additionally, the number of *Retail Business Permits* increased three years following the opening in all three communities, nearly doubling again to an average of 130.3 *Retail Business Permits* per city or a 15.7% increase.

- Regardless of population, all California communities which opened a Wal-Mart Supercenter also enjoyed sizeable gains in city-wide *Taxable Retail Sales*. Cities with populations over 50,000 had an average increase of nearly 591 million; cities with populations under 50,000 had an average increase of more than \$64.2 million; and cities with populations under 25,000 had an average increase of more than 534.4 million.
- Central Valley and Imperial Valley communities, where economic growth is historically the slowest in the state, experienced strong city-wide *Taxable Retail Sales* gains after the opening of Wal-Mart Supercenters. From the north to the south through the Central Valley, Anderson has seen an increase of \$51.2 million or 37%; Marysville—\$8.9 million or 6.6%; Yuba City—535.2 million or 7.9%; Dixon—527.8 million or 17.4%; Stockton—5122.3 million or 21.4%; Dinuba—549.9 million or 12.8%; and Hanford—\$32.4 million or 10%. In addition, the Imperial Valley cities of Calexico and El Centro have seen increases of 538.5 million or 18.4% and 561.8 million or 16.1% respectively. Just as impressive, all of the aforementioned communities also experienced a gain in the number of *Retail Business Permits* over this same period.

Based upon our analysis of the available data and information, we believe that the presence of Wal-Mart Supercenters across California has provided various positive



economic benefits to their local economies. City-wide *Taxable Retail Sales* have increased, often dramatically, in every California community where Wal-Mart has opened a Supercenter. In addition, these increases in *Taxable Retail Sales* were not solely the result of Wal-Mart's presence, but also the result of other new businesses opening in the same communities. Furthermore, the opening of Wal-Mart Supercenters also enhanced the taxable sales of *Other Retail Outlets* such as restaurants, auto dealers, and service stations. Thus, increased retail traffic brought on by the opening of Wal-Mart Supercenters appears to have resulted in sizable sales gains for other related service providers.

In addition, the benefits of the greater *Taxable Retail Sales* were not limited to metropolitan or suburban communities. Economically challenged rural areas such as the Central Valley and Imperial Valley both experienced strong increases in *Taxable Retail Sales* and in the number of *Retail Business Permits* after the opening of Wal-Mart Supercenters in their communities. In sum, the presence of Wal-Mart Supercenters in any California community appears to enhance the local community as it relates to increased *Taxable Retail Sales* and increased numbers of *Retail Business Permits*.

I. Introduction'

In this report, we provide a comparative analysis of the changes in the local *Taxable Retail Sales* and the *Retail Business Permits* for each community that Wal-Mart has opened a Supercenter in California. To this end, we first provide a general perspective on Wal-Mart's operations in the state of California.

As of August 2008, Wal-Mart has 32 Supercenters, 139 Discount Stores, 36 Sam's Clubs, and 7 distribution centers in California.² As of September 2008, the total number of Wal-Mart associates (employees) in California is 72,893, with an average hourly wage of 511.38 for regular full-time associates. In its Fiscal Year 2008 (February 1, 2007 - January 31, 2008), Wal-Mart Stores, Inc. spent 526,667,718,003 for merchandise and services with 3,743 suppliers in the state of California, supporting 249,175 supplier jobs.³ The sales tax collected on behalf of the state of California by Wal-Mart amounts to more than \$831.5 million, and Wal-Mart itself paid more than \$147.4 million in state and local taxes to the state of California and other various local governments.

II. Objective of Report

The objective of this report is to identify, quantify, and analyze changes to the city-wide *Taxable Retail Sales* and *Retail Business Permits* in California communities where Wal-Mart has opened new Supercenters or expanded an existing Wal-Mart Discount Store into a Supercenter. The information generated by this analysis demonstrates positive measures of the value as well as potential public benefits to

¹ This section is based on the California section at WalMartPacts.com (<http://walmartstores.com/FactsNews/StateByState/State.aspx?id=5>), downloaded October 28, 2008.

² The average size of a Supercenter is 185,000 sq. ft., about 80% larger than the average size of a Discount Store. A Supercenter provides, on average, 142,000 items about 18% higher than a discount store.

³ Supplier figures are provided by Dun & Bradstreet

stakeholders and municipal leaders of the presence of Wal-Mart Supercenters within their communities across California.

III. Major Findings

- In every city where Wal-Mart has opened a Supercenter in California, the city-wide *Taxable Retail Sales* (including only the sales from apparel stores, general merchandise stores, grocery stores, home furnishing and appliance stores, and other retail stores⁴) have increased in the year following the opening of the Supercenter as compared to the *Taxable Retail Sales* of the year prior to the opening. Moreover, *Taxable Retail Sales* have continued to increase in each subsequent year in all communities that have had Wal-Mart Supercenters for multiple years.
- Increases of city-wide *Taxable Retail Sales* one year after the opening of the Wal-Mart Supercenter averaged over \$79 million compared to the year prior to the opening for all communities (21 Supercenters). *Taxable Retail Sales* increases averaged 15.0%.
- Increases of city-wide *Taxable Retail Sales* two years after the opening of the Wal-Mart Supercenter averaged nearly \$123.9 million compared to the year prior to the opening for all locations opened more than one year (10 Supercenters).

⁴ These are five categories of retail businesses that the California Board of Equalization provides quarterly and annual reports on the value of taxable retail sales. We chose these categories for analysis since they most closely correlate with the types of retail items sold in Wal-Mart Supercenters.

Taxable Retail Sales increases after two years averaged over 25.9% for the ten cities.

- Increases of city-wide *Taxable Retail Sales* three years after the opening of the Wal-Mart Supercenter averaged over \$206.2 million compared to the year prior to the opening for all locations opened for more than two years (3 Supercenters). *Taxable Retail Sales* increases after three years averaged over 39.6% for the three cities.
- Taxable retail sales for *Other Retail Outlets* (including only the sales from restaurants and bars, building materials and farm implements, auto dealers and supply, and service stations;) also increased in each community following the opening of Wal-Mart Supercenters. These increases averaged over \$72 million compared to the year prior to the opening for all locations with available data (15 Supercenters). This was an average increase of 10.5% for each city.
- Increases of taxable retail sales for *Other Retail Outlets* two years after the opening of the Wal-Mart Supercenter averaged over \$124.1 million compared to the year prior to the opening for all locations (with available data) opened more than one year (7 Supercenters). This was an average increase of 16.8% for each city. Increases of taxable retail sales for *Other Retail Outlets* three years after the opening averaged over \$204 million (3 locations), with an average increase of 30.4% per city.

These are four additional categories of retail businesses that the California Board of Equalization provides quarterly and annual reports on the value of taxable retail sales. Taxable retail sales data for *Other Retail Outlets* was only available from the Board of Equalization for 15 cities, including Calexico, Chino, El Centro, Gilroy, Hanford, Hemet, La Quinta, Palm Desert, Palmdale, Rosemead, Roseville, Sacramento, Santa Clarita, Stockton, and Yuba City.

- When combined, city-wide *Taxable Retail Sales* and *Other Retail Outlets* ("total taxable retail sales") one year after the opening of the Wal-Mart Supercenter increased by an average of \$157 million when compared to the year prior to the opening (15 Supercenter locations). The total taxable retail sales increased even more dramatically after two years to an average of \$271.6 million per city (7 Supercenter locations). After three years, total taxable retail sales increased even further to an average of \$410.3 million per city (3 locations).
- In 18 of 21 communities, the number of *Retail Business Permits* increased in the year following the opening of the Wal-Mart Supercenter when compared with the year prior to the opening. The average increase in the number of *Retail Business Permits* was 32.7 per community. Slight declines occurred in Gilroy (from 516 to 508), Palm Desert (from 1446 to 1388), and Palm Springs (from 881 to 803). However, these were offset in those communities by sizable gains in *Retail Business Permits* two years following the opening of the Wal-Mart Supercenter—Gilroy (up to 517), and Palm Springs (up to 840)⁶.
- In 9 of 10 communities, the number of *Retail Business Permits* increased two years following the opening of the Wal-Mart Supercenter when compared with the year prior to the opening. The average increase was 65.8 *Retail Business Permits* per city. This is double the increase after only one year and reflects a total increase of 658 new *Retail Business Permits* across 10 cities and an average increase of 8.2% per city. Additionally, the number of *Retail Business Permits*

⁶ Since the Wal-Mart Supercenter in Palm Desert was opened in 2006, there is insufficient data on *Retail Business Permits* two years after the opening for this location.

increased three years following the opening in all three communities, nearly doubling again to an average of 130.3 *Retail Business Permits* per city or a 15.7% increase.

- Regardless of population, all California communities which opened a Wal-Mart Supercenter enjoyed sizeable gains in city-wide *Taxable Retail Sales*. Cities with populations over 50,000 had an average increase of nearly \$91 million; cities with populations under 50,000 had an average increase of more than \$64.2 million; and cities with populations under 25,000 had an average increase of more than \$34.4 million.
- Central Valley and Imperial Valley communities, where economic growth is historically the slowest in the state, experienced strong city-wide *Taxable Retail Sales* gains after the opening of Wal-Mart Supercenters. From the north to the south through the Central Valley, Anderson has seen an increase of \$51.2 million or 37%; Marysville—\$8.9 million or 6.6%; Yuba City—\$35.2 million or 7.9%; Dixon—\$27.8 million or 17.4%; Stockton—\$122.3 million or 21.4%; Dinuba—\$49.9 million or 12.8%; and Hanford—\$532.4 million or 10%. In addition, the Imperial Valley cities of Calexico and El Centro have seen increases of \$38.5 million or 18.4% and \$61.8 million or 16.1% respectively. Just as impressive, all of the aforementioned communities also experienced an increase in the number of *Retail Business Permits* over this same period.

IV. Methodology

A. Design

Identification and quantification of *Taxable Retail Sales* and *Retail Business Permits* for specific California cities was accomplished by analyzing detailed data provided by the California Board of Equalization in quarterly and annual reports and further compiled in the *California Retail Survey, 2008 Edition*, published by the Eureka Group ("Survey"). More specifically, the Survey provides detailed reports on each of California's 58 counties and 272 of the largest cities. The Survey also provides summary coverage on 210 smaller cities across the state. Retail sales data contain eleven years of sales data for up to 45 individual retail store categories. In addition to historical sales and outlet trend data, the Survey also includes a wide range of statistical measurements that evaluate past performance of individual markets and the prospects for future growth. Data was available for all 21 California cities analyzed in this report, except where noted. Moreover, we also relied upon the most up-to-date California population statistics as provided by the California Department of Finance's *City/County Population Estimates with Annual Percentage Change for January 1, 2008*.⁷

In order to best utilize the available data from the Survey, we determined that a comparative analysis of historical data was warranted. First, we identified the opening dates for each of the 21 Wal-Mart Supercenters analyzed in this report. Second, we reviewed and compiled the *Taxable Retail Sales* and *Retail Business*

⁷ http://www.dof.ca.gov/research/demographic/reports/estimates/e-1_2006-07/documents/E-1table.xls, downloaded 10/29/2008

Permits data from the one year prior to the opening of each Supercenter. Third, we reviewed and compiled the *Taxable Retail Sales* and *Retail Business Permits* data from the year(s) after the opening of the Supercenter. Finally, we compared and analyzed this year-over-year data to come up with our results to determine the impacts upon each community.

B. Scope of Analysis

As of the date of the writing of this report, local *Taxable Retail Sales* and *Retail Business Permits* data for California was available through the end of 2007. Therefore, the comparative analysis includes only 21 of 32 communities in California where Wal-Mart has opened or expanded Supercenters. These include the cities of Anderson, Beaumont, Calexico, Chino, Dinuba, Dixon, El Centro, Gilroy, Hanford, Hemet, La Quinta, Marysville, Palm Desert, Palm Springs, Palmdale, Rosemead, Roseville, Sacramento, Santa Clarita, Stockton, and Yuba City. The remaining 11 Wal-Mart Supercenters in California were opened in 2007 or later.

C. Data

As outlined above, we relied upon historical data regarding *Taxable Retail Sales* and *Retail Business Permits* as compiled in the Survey. Since the first Wal-Mart Supercenters were built in California in 2004, we analyzed data starting in 2003 and ending in 2007. The Survey defines *Taxable Retail Sales* as those sales that include all retail transactions subject to California's sales tax. The Survey defines *Retail Business Permits* as any licensed business establishment that is

engaged to some degree in the sale of goods at retail, either from a storefront location, or mail order. Individual store locations that are part of a multi-store chain are each counted as individual retail outlets.

For the purposes of this comparative analysis and review, we identified the most appropriate individual retail store categories which best correlate with the items sold in a Wal-Mart Supercenter. These categories include Apparel stores; General Merchandise stores; Grocery stores; Home Furnishings and Appliance stores; and Other Retail stores. The Survey defines these as follows:

Apparel stores—includes outlets primarily engaged in the retail sale of new clothing and accessories.

General Merchandise stores—includes larger scale retailers, offering a broad range of consumer goods, including apparel for all ages, furniture and home furnishings, electric appliances, jewelry, and personal care products.

Grocery stores—includes food stores offering a wide range of grocery products, but do not also offer liquor for retail sale. However, many do sell a range of beer and wine beverages.

Home Furnishings and Appliance stores—includes retailers such as furniture, floor covering, curtain and upholstery, lighting and lamps, household appliances, consumer electronics, computers and software, and radio and other audio equipment.

Other Retail stores—includes gifts, art supplies, sporting goods, florists, photo equipment and supplies, musical instruments, stationary and books, jewelry, office and school supplies, and other specialties.

For additional comparative analysis, we also reviewed the data from *Other Retail Outlets* to determine the impact of the opening of a Wal-Mart Supercenter on these types of stores. Data for *Other Retail Outlets* was only available for the 272 largest cities in California. Therefore, only 15 of the 21 cities are analyzed in this study. *Other Retail Outlets* include Restaurants and Bars, Building Materials and Farm Implement stores, Auto Dealers and Supply stores, and Service Stations. The Survey defines these as follows:

Restaurants and Bars—includes eating places and bars offering a full-range of alcoholic beverages (beer, wine, and/or spirits) for on-premises consumption, and eating places that do not offer any type of alcoholic beverage, such as fast-food restaurants, ice cream shops, lunchrooms and cafeterias, and pizza restaurants.

Building Materials and Farm Implement store—includes lumber and building material stores, hardware stores, plumbing and electrical supply stores, paint, glass, and wallpaper outlets, farming/gardening supply stores, and farm equipment/implement and related supply stores.

Auto Dealers and Supplies—includes retailers that are predominantly involved in the sale of new and used automobiles, automobile parts and repair, and automobile parts and supplies.

Service Stations—includes retailers primarily engaged in the sale of gasoline and/or diesel fuel, auto parts and repair service, and a limited line of packaged and prepared convenience food.

V. Results of Analysis

A. Changes in Taxable Retail Sales and Retail Business Permits after One Year

In every city where Wal-Mart has opened a Supercenter in California, the city-wide *Taxable Retail Sales* have increased in the year following the opening of the Supercenter as compared to the city-wide *Taxable Retail Sales* of the year prior to the opening. Taxable sales for *Other Retail Outlets* also increased in each community following the opening of Wal-Mart Supercenters. In 18 of 21 communities, the number of *Retail Business Permits* increased in the year following the opening of the Wal-Mart Supercenter when compared with the year prior to the opening.

The results of our analysis of the changes in *Taxable Retail Sales* and *Retail Business Permits* as the result of the opening of a Wal-Mart Supercenter are presented in the Tables below and the details of the calculations are fully presented in Appendices A and B.

City	Year Opened	Taxable Retail Sales Year Prior (\$000)	Taxable Retail Sales Year After (\$000)	Difference in Taxable Retail Sales (\$000)	Retail Permits Year Prior	Retail Permits Year After	Difference in Retail Permits
Anderson	2006	110,108 ('05)	161,263 ('07)	51,155	228 ('05)	230 ('07)	2
Beaumont	2006	137,595 ('05)	249,970 ('07)	112,375	360 ('05)	375 ('07)	15
Calexico	2005	209,086 ('04)	247,556 ('06)	38,470	1122 ('04)	1276 ('06)	154
Chino	2006	529,510 ('05)	584,790 ('07)	55,280	624 ('05)	669 ('07)	45
Dinuba	2006	170,608 ('05)	220,464 ('07)	49,856	173 ('05)	189 ('07)	16
Dixon	2005	159,319 ('04)	187,097 ('06)	27,778	189 ('04)	196 ('06)	7
El Centro	2006	384,067 ('05)	445,847 ('07)	61,780	353 ('05)	360 ('07)	7
Gilroy	2005	468,711 ('04)	558,486 ('06)	89,775	516 ('04)	508 ('06)	-8
Hanford	2006	323,568 ('05)	355,911 ('07)	32,343	422 ('05)	422 ('07)	0
Hemet	2004	284,158 ('03)	345,048 ('05)	60,890	452 ('03)	563 ('05)	111
La Quinta	2004	127,508 ('03)	265,583 ('05)	137,075	211 ('03)	312 ('05)	101
Marysville	2005	134,220 ('04)	143,132 ('06)	8,912	253 ('04)	267 ('06)	14
Palm Desert	2006	1,011,750 ('05)	1,046,665 ('07)	34,915	1446 ('05)	1388 ('07)	-58
Palm Springs	2005	194,817 ('04)	330,017 ('06)	135,200	881 ('04)	803 ('06)	-78
Palmdale	2005	652,514 ('04)	781,256 ('06)	128,742	1012 ('04)	1094 ('06)	82
Rosemead	2006	148,641 ('05)	148,662 ('07)	21	160 ('05)	228 ('07)	68
Roseville	2005	1,398,008 ('04)	1,525,211 ('06)	127,203	1561 ('04)	1625 ('06)	64
Sacramento	2006	2,091,995 ('05)	2,214,249 ('07)	122,254	3724 ('05)	3788 ('07)	64
Santa Clarita	2006	946,934 ('05)	1,050,176 ('07)	103,242	2518 ('05)	2572 ('07)	54
Stockton	2004	1,150,032 ('03)	1,395,756 ('05)	245,724	1829 ('03)	1848 ('05)	19
Yuba City	2006	443,893 ('05)	479,893 ('07)	35,222	515 ('05)	523 ('07)	8
TOTAL CHANGE				1,659,212			687
AVERAGE CHANGE				<u>\$79,010</u>			<u>32.7</u>

Table 1 highlights the changes in *Taxable Retail Sales* and *Retail Sales Permits* one year after the opening of a Wal-Mart Supercenter. The average change in *Taxable Retail Sales* from the year prior to the opening to the year after the opening is \$79,010,000 per city. The average change in the number of *Retail Sales Permits* is **32.7** permits per city.

TABLE 2
CHANGES IN TAXABLE RETAIL SALES IN OTHER RETAIL
OUTLETS (15 CITIES)

City	Year Opened	Taxable Retail Sales Other Outlets Year Prior (\$000)	Taxable Retail Sales Other Outlets Year After (\$000)	Difference in Taxable Retail Sales Other Outlets (\$000)
Calexico	2005	149,895 ('04)	161,299 ('06)	11,404
Chino	2006	405,580 ('05)	412,829 ('07)	7,249
El Centro	2006	337,208 ('05)	375,905 ('07)	38,697
Gilroy	2005	496,410 ('04)	513,994 ('06)	17,584
Hanford	2006	271,616 ('05)	281,556 ('07)	9,940
Hemet	2004	401,389 ('03)	562,080 ('05)	160,691
La Quinta	2004	249,358 ('03)	337,527 ('05)	88,169
Palm Desert	2006	305,587 ('05)	362,170 ('07)	56,583
Palmdale	2005	649,629 ('04)	698,543 ('06)	48,914
Rosemead	2006	117,817 ('05)	119,299 ('07)	1,482
Roseville	2005	1,857,362 ('04)	2,006,830 ('06)	149,468
Sacramento	2006	1,947,786 ('05)	2,034,250 ('07)	86,464
Santa Clarita	2006	1,339,344 ('05)	1,436,893 ('07)	97,549
Stockton	2004	1,361,242 ('03)	1,652,249 ('05)	291,007
Yuba City	2006	384,068 ('05)	399,260 ('07)	15,192
TOTAL CHANGE				1,080,393
AVERAGE CHANGE				<u>\$72,026</u>

Table 2 highlights the changes in *Taxable Retail Sales of Other Retail Outlets* one year after the opening of a Wal-Mart Supercenter. The average change in *Taxable Retail Sales of Other Retail Outlets* from the year prior to the opening to the year after the opening is \$72,026,000 per city

B. Changes in Taxable Retail Sales and Retail Sales Permits after Multiple Years

In those cities where Wal-Mart has opened a Supercenter in California and been open for more than one year, the city-wide *Taxable Retail Sales* have increased in all years following the opening of the Supercenter as compared to the city-wide *Taxable Retail Sales* of the year prior to the opening.

**TABLE 3
CHANGES IN TAXABLE RETAIL SALES AND RETAIL BUSINESS PERMITS
AFTER TWO YEARS (10 CITIES)**

City	Year Opened	Taxable Retail Sales Year Prior (\$000)	Taxable Retail Sales Two Years After (\$000)	Difference in Taxable Retail Sales (\$000)	Retail Permits Year Prior	Retail Permits Two Years After	Difference in Retail Permits
Calexico	2005	209,086	263,031	53,945	1122	1290	168
Dixon	2005	159,319	207,303	47,984	189	204	15
Gilroy	2005	468,711	573,039	104,328	516	517	1
Hemet	2004	284,158	368,938	84,780	452	552	100
La Quinta	2004	127,508	317,312	189,804	211	427	216
Marysville	2005	134,220	145,851	11,631	253	263	10
Palm Springs	2005	194,817	341,704	146,887	881	840	-41
Palmdale	2005	652,514	808,576	156,062	1012	1100	88
Roseville	2005	1,398,008	1,562,397	164,389	1561	1643	82
Stockton	2004	1,150,032	1,428,887	278,855	1829	1848	19
TOTAL CHANGE				1,238,665			658
AVERAGE CHANGE				<u>\$123,866</u>			<u>65.8</u>

Table 3 highlights the changes in *Taxable Retail Sales* and *Retail Business Permits* two years after the opening of a Wal-Mart Supercenter. The average change in *Taxable Retail Sales* from the year prior to the opening to two years after the opening is \$123,866,000 per city. The average growth in the number of *Retail Business Permits* is 65.8 permits per city

TABLE 4
CHANGES IN TAXABLE RETAIL SALES AND RETAIL BUSINESS PERMITS
AFTER TWO YEARS (3 CITIES)

City	Year Opened	Taxable Retail Sales Year Prior (\$000)	Taxable Retail Sales Three Years After (\$000)	Difference in Taxable Retail Sales (\$000)	Retail Permits Year Prior	Retail Permits Three Years After	Difference in Retail Permits
Hemet	2004	284,158	381,898	97,740	452	569	117
La Quinta	2004	127,508	333,451	205,943	211	446	235
Stockton	2004	1,150,032	1,465,076	315,044	1,829	1,868	39
TOTAL CHANGE				618,727			391
AVERAGE CHANGE				\$206,242			130.3

Table 4 highlights the changes in *Taxable Retail Sales* and *Retail Business Permits* three years after the opening of a Wal-Mart Supercenter. The average change in *Taxable Retail Sales* from the year prior to the opening to three years after the opening is \$206,242,000 per city. The average growth in the number of *Retail Business Permits* is 130.3 permits per city.

C. Changes in Taxable Retail Sales by Population

Regardless of population, all California communities with Wal-Mart Supercenters have enjoyed sizeable gains in city-wide *Taxable Retail Sales*. Cities with populations over 50,000 had an average increase of nearly **\$91 million** (TABLE 5); cities with populations under 50,000 had an average increase of more than **564.2 million** (TABLE 6); and cities with populations under 25,000 had an average increase of more than **534.4 million** (TABLE 7).

TABLE 5

Difference in Taxable Retail Sales for Cities with Population greater than 50,000

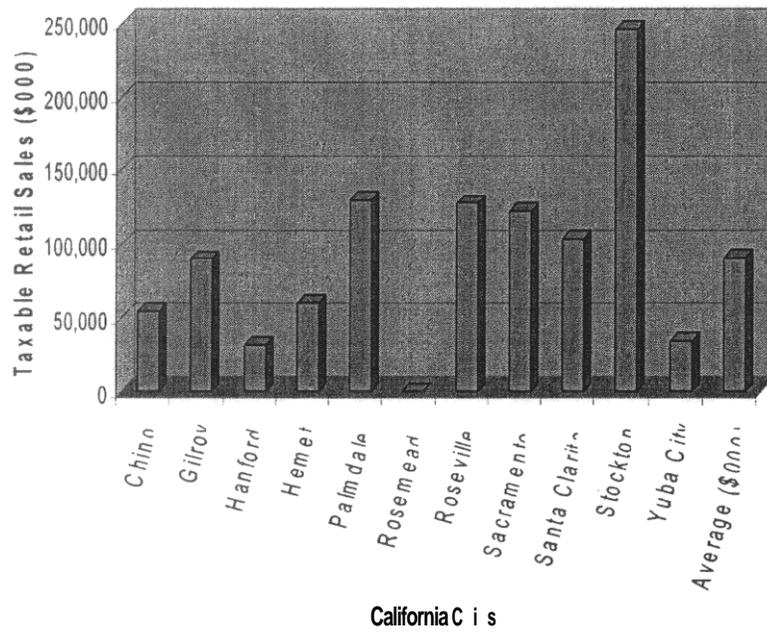
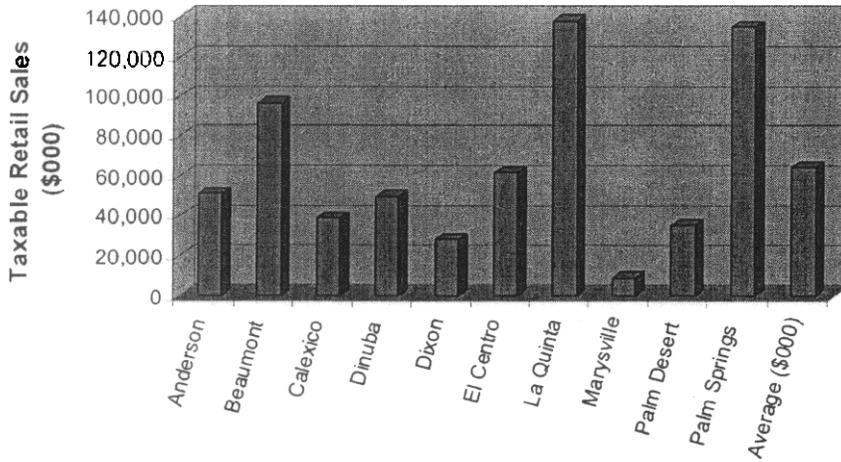


TABLE 6

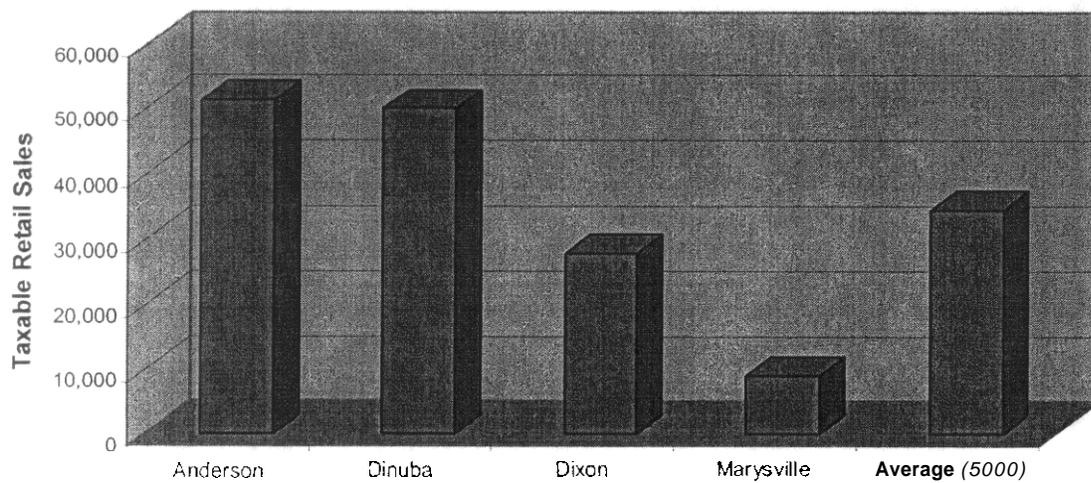
Difference in Taxable Retail Sales for Cities with Population less than 50,000



California Cities

TABLE 7

Difference in Taxable Retail Sales for Cities with Populations less than 25,000



California Cities

VI. Summary of Analysis

Based upon our analysis of the available data and information, we believe that the presence of Wal-Mart Supercenters across California has provided various positive economic benefits to their local economies. City-wide *Taxable Retail Sales* have increased, often dramatically, in every California community where Wal-Mart has opened a Supercenter. In addition, these increases in *Taxable Retail Sales* were not solely the result of Wal-Mart's presence, but also the result of other new businesses opening in the same communities. Furthermore, the opening of Wal-Mart Supercenters also enhanced the taxable sales of *Other Retail Outlets* such as restaurants, auto dealers, and service stations. Thus, increased retail traffic brought on by the opening of Wal-Mart Supercenters appears to have resulted in sizable sales gains for other related service providers.

In addition, the benefits of the greater city-wide *Taxable Retail Sales* were not limited to metropolitan or suburban communities. Economically challenged rural areas such as the Central Valley and Imperial Valley both experienced strong increases in *Taxable Retail Sales* and in the number of retail business permits after the opening of Wal-Mart Supercenters in their communities. In sum, the presence of Wal-Mart Supercenters in any California community appears to enhance the local community as it relates to increased *Taxable Retail Sales* and increased numbers of *Retail Business Permits*.

Appendix A

Taxable Sales Data: <http://boe.ca.gov/news/salescont.htm> and *California Retail Survey, 2008 Edition, by the Eureka Group*
 Population Data: http://www.dof.ca.gov/research/demographic/reports/estimates/e-1_2006-07/documents/E-1table.xls

Year prior to opening
 Year after opening

% Change

City	County	Current Population (11/1/2008)	Expansion Date	2003* Retail Sales (\$000)	2004* Retail Sales (\$000)	2005* Retail Sales (\$000)	2006* Retail Sales (\$000)	2007* Retail Sales (\$000)	% Change from year prior to year after*	% Change from year prior to 2 years after*	% Change from year prior to 3 years after*	Retail Permit 2003	Retail Permit 2004	Retail Permit 2005	Retail Permit 2006	Retail Permit 2007	% Change in Sales Permits	Yr. over yr change in Sales Permits
Anderson	Shasta	10,579	6/14/2006	94,953	103,366	110,108	144,891	161,263	37.0			200	222	228	234	230	0.9	2
Beaumont	Riverside	31,477	3/22/2006	91,465	112,214	137,595	205,062	249,970	70.2			245	291	360	354	375	4.2	15
Calexico	Imperial	38,733	5/25/2005	202,929	209,086	227,090	247,556	263,031	18.4	25.8		1060	1122	1176	1276	1290	13.7	154
Chino	San Bernardino	82,670	8/23/2006	498,415	503,276	529,510	564,772	584,790	10.4			499	563	624	654	669	7.2	45
Dinuba	Tulare	20,993	5/3/2006	123,611	134,567	170,608	195,447	220,464	12.8			161	177	173	183	189	9.2	16
Dixon	Solano	17,577	11/2/2005	122,770	159,319	175,615	187,097	207,303	17.4	30.1		171	189	181	196	204	3.7	7
El Centro	Imperial	43,316	1/27/2006	267,387	300,868	384,067	421,640	445,847	16.1			266	269	353	357	360	2.0	7
Gilroy	Santa Clara	51,173	9/28/2005	370,942	468,711	532,237	558,486	573,039	19.2	22.3		498	516	516	508	517	1.6	-8
Hanford	Kings	51,965	5/17/2006	265,944	283,515	323,568	347,443	355,911	10.0			400	410	422	412	422	0.0	0
Hemet	Riverside	74,185	10/27/2004	284,158	422,654	345,048	368,938	381,898	21.4	29.8	34.4	452	554	563	552	569	24.6	111
La Quinta	Riverside	42,958	3/3/2004	127,508	197,175	265,583	317,312	333,451	108.3	148.6	161.5	211	313	312	427	446	47.9	101
Marysville	Yuba	12,719	11/2/2005	n/a	134,220	143,668	143,132	145,851	6.6	8.7		n/a	253	247	267	263	5.5	14
Palm Desert	Riverside	50,907	6/28/2006	847,644	940,613	1,011,750	1,021,333	1,046,665	3.5			1266	1401	1446	1376	1388	-4.0	-58
Palm Springs	Riverside	47,251	10/26/2005	181,721	194,817	222,683	330,017	341,704	69.4	75.4		844	881	902	803	840	-8.9	-78
Palmdale	Los Angeles	147,897	8/31/2005 8/29/2007 E	544,080	652,514	735,772	781,256	808,576	19.7	23.9		942	1012	1104	1094	1100	8.1	82
Rosemead	Los Angeles	57,422	9/13/2006	132,069	141,763	148,641	139,863	148,662	0.0			n/a	n/a	160	n/a	228	42.5	68
Roseville	Placer	109,154	11/2/2005	1,210,821	1,398,008	1,498,463	1,525,211	1,562,397	9.1	11.6		1360	1561	1623	1625	1643	4.1	64
Sacramento	Sacramento	475,743	5/17/2006	1,937,945	1,984,564	2,091,995	2,138,603	2,214,249	5.8			3390	3562	3724	3758	3788	1.7	64
Santa Clarita	Los Angeles	177,045	1/27/2006	796,756	881,587	946,934	1,014,504	1,050,176	10.9			2103	2321	2518	2500	2572	2.1	54
Stockton	San Joaquin	289,927	10/20/2004	1,150,032	1,271,053	1,395,756	1,428,887	1,465,076	21.4	24.2	27.4	1829	1962	1848	1848	1868	1.0	19
Yuba City	Sutter	63,338	1/31/2006	381,009	400,170	443,893	462,833	479,115	7.9			478	496	515	515	523	1.6	8

AVG. CHANGE

15.0% 25.9% 39.6%

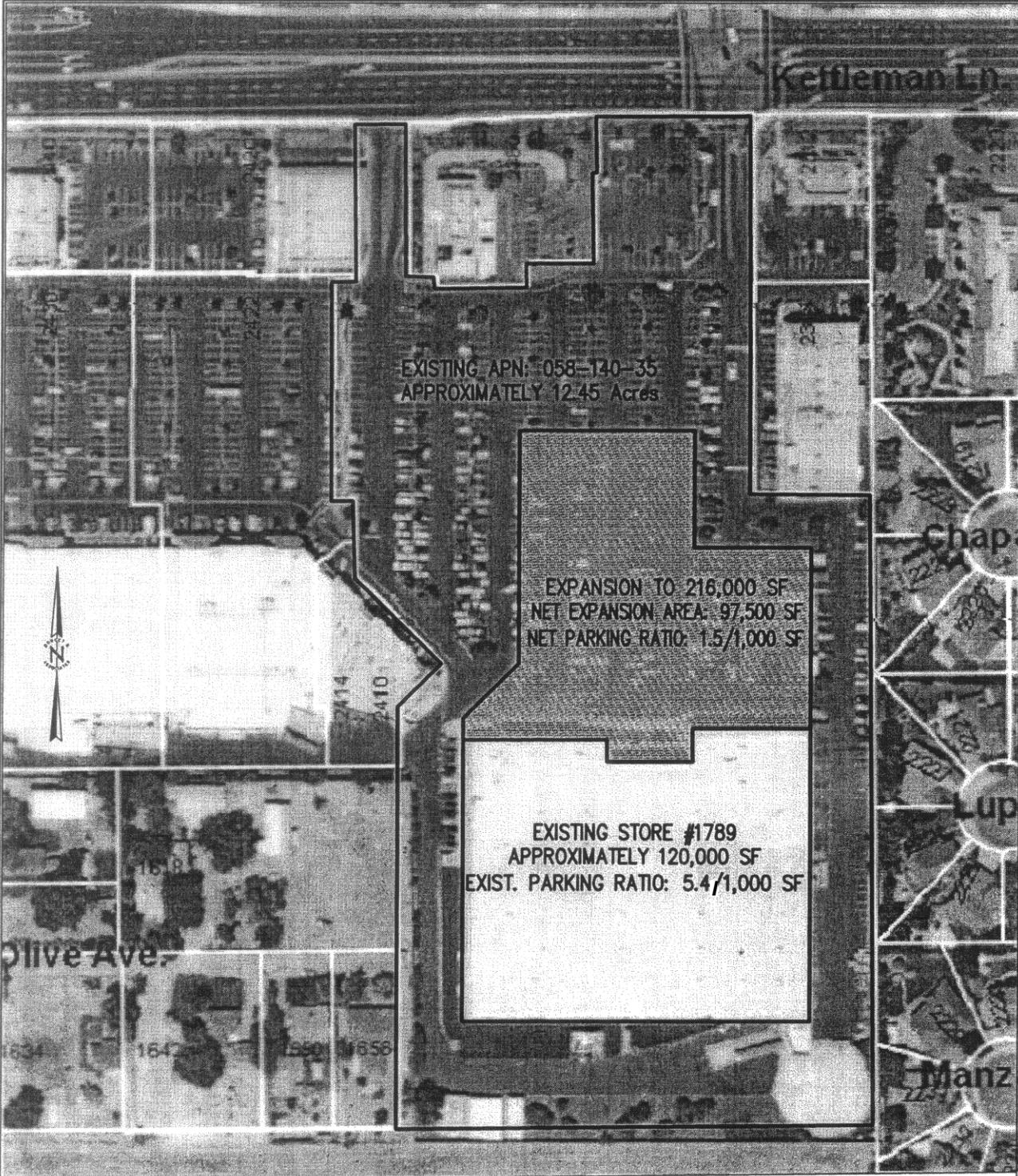
3.8% 32.7

*These figures include only Taxable Retail Sales for Apparel stores, General Merchandise stores, Grocery stores, Home Furnishings and Appliance stores, and Other Retail stores.

Appendix B

City	2003# Other Retail Sales (\$000)	2004# Other Retail Sales (\$000)	2005# Other Retail Sales (\$000)	2006# Other Retail Sales (\$000)	2007# Other Retail Sales (\$000)	Difference after one year (\$000)	Difference after two years (\$000)	Difference after three years (\$000)	Difference after 1 year total Taxable Retail Sales(\$000), excluding #
Calexico		149,895		161,299	170,313	11,404	20,418		38,470
Chino			405,580		412,829	7,249			55,280
El Centro			337,208		375,905	38,697			61,780
Gilroy		496,410		513,994	530,577	17,584	34,167		89,775
Hanford			271,616		281,556	9,940			32,343
Hemet	401,389		562,080	576,474	596,306	160,691	175,085	194,917	60,890
La Quinta	249,358		337,527	351,698	368,421	88,169	102,340	119,063	138,075
Palm Desert			305,587		362,170	56,583			34,915
Palmdale		649,629		698,543	723,642	48,914	74,013		128,742
Rosemead			117,817		119,299	1,482			21
Roseville		1,857,362		2,006,830	2,069,812	149,468	212,450		127,203
Sacramento			1,947,786		2,034,250	86,464			122,254
Santa Clarita			1,339,344		1,436,893	97,549			103,242
Stockton	1,361,242		1,652,249	1,611,898	1,659,469	291,007	250,656	298,227	245,724
Yuba City			384,068		399,260	15,192			35,222
TOTAL						1,080,393	869,129	612,207	1,273,936
AVG.									
CHANGE									
(\$000)						72,026	124,161	204,069	84,929

#These figures include only Taxable Retail Sales for Other Outlets--Restaurants and B as. Building Materials and Farm Implements, Auto Dealers and Supply, and Service Stations



Scale:	1"=150'
Date:	11/24/08
Project No:	001-272A
Drawn by:	RVP
Reviewed by:	REC
Sheet:	1 OF 1

EXHIBIT "A"
Wal-Mart Store #1789
2350 West Kettleman Road, Lodi, CA
APN 058-140-35

D&A Doucet & Associates, Inc.
 1025 Creekside Ridge Drive, Suite 175
 Roseville, CA 95678
 Phone : (916) 7802005 Fax : 7802015
 www.doucetandassociates.com
 Austin, TX • Northampton, MA • Roseville, CA • Gonzales, TX



ANNIVERSARY

CELEBRATING TWENTY YEARS
OF BUILDING EXCELLENCE

BUILDING INDUSTRY ASSOCIATION OF THE DELTA

December 9, 2008

Mayor Mounce
City of Lodi
221 W. Pine St.
Lodi, CA 95240

RE: City Council Meeting of December 10, Item B-1

Mayor Mounce,

I have attached the letter we sent to the Planning Commission regarding the agricultural mitigation requirements imposed on the Lodi Shopping Center Project. I would like you to consider the arguments posed in that letter in addition to the following.

The City has asserted "It is the City's current practice to require development projects to acquire off-site conservation easements to off-set the loss of prime farmland." This "practice" of the City has NOT been adopted by the Council as an official policy, rule, regulation or development guideline. Although the City has the power to adopt statutes of general applicability, in the case of agricultural mitigation, the City has chosen not to do so. A project specific condition such as this must meet a heightened scrutiny level under the legal principles of Nolan/Dolan.

Although the BIA remains neutral on the proposed project we strongly oppose the project-by-project approach the City is using in regards to agricultural mitigation and specifically the requirements imposed on the Lodi Shopping Center Project. If the City wishes to have a "practice" with regards to agricultural mitigation a city-wide ordinance should be adopted.

The exaction called for in the conditions of this project regarding agricultural mitigation should be eliminated or at least modified to mirror the requirements of the San Joaquin County Agricultural Mitigation Ordinance. The BIA continues its strong opposition towards the mitigation measures imposed on this project.

Thank you,

John Beckman
Chief Executive Officer

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Kimball Hill Homes
Mahesh Ranchhod
American-USA Homes
Jeremy White
The Grupe Company
John Looper
Top Grade Construction

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H. D. Arnaiz Corporation
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Pulte Homes
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Oak Valley Community Bank
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Herum Crabtree Brown
Wayne LeBaron
LeBaron Ranches
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Visionary Home Builders, Inc.
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BUILDING INDUSTRY ASSOCIATION OF THE DELTA

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October 8, 2008

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American-USA Homes
- Jeremy White**
The Grupe Company
- John Looper**
Top Grade Construction

Planning Commission
 City of Lodi
 221 W. Pine St.
 Lodi, CA 95240

Commission Members,

BOARD OF DIRECTORS

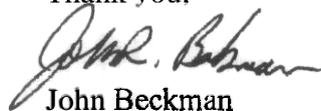
- Debbie Armstrong**
Old Republic Title Company
- Matt Arnaiz**
H.D. Arnaiz Corporation
- Rod Attebery**
Neumiller & Beardslee
- Rey Chavez**
Kelly-Moore Paint Company
- Ryan Gerding**
Pulte Homes
- Cathy Ghan**
Oak Valley Community Bank
- George Gibson**
FCB Homes
- Steve Herum**
Herum Crabtree Brown
- Wayne LeBaron**
LeBaron Ranches
- Terry Miles**
Teichert Construction
- Carol Ornelas**
Visionary Home Builders, Inc
- Jim Panagopoulos**
A.G. Spanos Companies
- Denise Tschirky**
Matthews Homes

The Building Industry Association has been actively engaged in the process of mitigation for the loss of agricultural land for several years now. Every city in San Joaquin County, with the exception of Lodi, has an Agriculture Mitigation Ordinance and the BIA participated in the creation of each of those. Recently San Joaquin County passed an Agriculture Mitigation Ordinance and created an Agriculture Technical Advisory Committee (ATAC) to implement the ordinance. The BIA appoints three of the nine voting members of the ATAC.

Section 9-1080.1(a) of the County ordinance calls for intergovernmental coordination. "It is the policy of San Joaquin County to work cooperatively with the cities within the County and to encourage them to adopt agricultural preservation policies and ordinances which are consistent with this ordinance in order to undertake an integrated, comprehensive Countywide approach to preservation. It is the ultimate goal of the County that all seven cities participate in or adopt an agricultural mitigation ordinance that is the same as or substantially similar to this ordinance."

The agricultural mitigation required in the Lodi Shopping Center EIR specifically excludes the Delta Primary Zone from use as mitigation land. This exclusion is in direct conflict with the County ordinance, Through careful deliberation the County found that preserving prime farm land in the Primary Zone of the Delta is as important as preserving prime farm land outside of the Delta. Considering the stated purpose of an agricultural easement, there is no legitimate reason to exclude the primary zone for mitigation purposes. We strongly oppose the inclusion of this restriction on agricultural easements.

Thank you.



John Beckman
 Chief Executive Officer

LIFETIME DIRECTORS

- Dennis Bennett**
Bennett Development
- Bill Filios**
AKF Development, LLC
- Mike Hakeem**
Hakeem, Ellis & Marengo
- Jeffrey Kirst**
Tokay Development
- Steve Moore**
Calandev Development
- Zandra Morris**
Old Republic Title Company
- Toni Raymus**
Raymus Homes, Inc.
- Tony Souza**
Souza Realty & Developmen

Randi Johl

From: Randi Johl
Sent: Tuesday, December 09, 2008 1:43 PM
To: 'strings1@sbcglobal.net'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Wal-Mart Supercenter

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Mark Green Dba Green [mailto:strings1@sbcglobal.net]
Sent: Tuesday, December 09, 2008 1:35 PM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen
Subject: Wal-Mart Supercenter

Dear Mr. Mayor and Council Members,

The purpose of this letter is to communicate my support of Browman Development for its ongoing proposal for the Wal Mart Supercenter. I have been a tenant of Browman Development since 1994. It has been my experience that Browman Development is a quality landlord and is committed to their tenants success. Our Center has always been totally occupied and I have confidence that all efforts will be made to insure that it will continue to be fully occupied in the future. I believe Browman Development is very aware of the importance of making sure all of their tenants continue to prosper, even with the Supercenter approval, as they will continue to be our Landlord after Wal-Mart has re-located. In my opinion, this project will only help keep more consumer spending In Lodi, which is good for our entire community. I urge each of you to take appropriate action to insure the approval of this project.

Regards,
Mark Green, Owner
Strings Italian Cafe
23 14 W Kettleman Lane
Lodi. CA 95242

Randi Johl

From: Randi Johl
Sent: Tuesday, December 09, 2008 9:29 AM
To: 'Dorothy Shaw'
Cc: City Council: Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Walmart center

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Dorothy Shaw [mailto:ncs@softcom.net]
Sent: Monday, December 08, 2008 8:13 PM
To: Randi Johl
Subject: Walmart center

We support a super center for Lodi. I shop regularly at the one in Stockton and I am very pleased with the prices there. The quality of the food is very good .

I would like to shop here in Lodi. We are in our 80s and would rather not go to Stockton. We prefer to have our taxes used here. We do believe a super center would be good for Lodi.

Dorothy Shaw

Randi Johl

From: Randi Johl
Sent: Tuesday, December 09, 2008 9:29 AM
To: 'George and Betty Sampson'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Want Wal-Mart Super Market

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: George and Betty Sampson [mailto:gbsam@soRcom.net]
Sent: Monday, December 08, 2008 9:02 PM
To: Randi Johl
Cc: George and Betty; danisaniceguy@yahoo.com
Subjed: Want Wal-Mart Super Market

Dear Mayor Larry Hansen; Council member Bob Johnson; Council member Joanne Mounce; Council member Susan Hitchcock; Council member Phil Kazakian:

This is to urge you to please vote and approve the new Walmart Super Shopping Center. Wal-Mart has proven to be good for our community

I am grateful and I appreciate their:

FRIENDLINESS.

PROMPT PHONE ANSWERING,

CHEERFUL CLERKS READILY AVAILABLE FOR ASSISTANCE,

WIDE CHOICE OF MERCHANDISE AT BEST PRICES,

RETURNS WITHOUT HASSLE,

GENEROUSITY TO CHARITABLE GROUPS WITH WHICH I AM AFFILIATED.

THANK YOU!

George L. Sampson
522 Willow Glen Dr.
Lodi, CA 95240
209-368-3707

Randi Johl

From: Randi Johl
Sent: Tuesday, December 09, 2008 9:28 AM
To: 'Michael Kost'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Wal Mart Supercenter
Attachments: Mr. Mayor and Council Members.doc

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Michael Kost [mailto:gomichaell@sbcglobal.net]
Sent: Monday, December 08, 2008 9:21 PM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen
Subject: Wal Mart Supercenter

Mr. Mayor and Council Members:

This correspondence is to urge you to NOT approve the proposed Wal-Mart Supercenter on Lower Sacramento Road and Highway 12. It is my belief that this prime location can be put to use for more worthwhile endeavors than the expansion of this low-end mega-discount retailer.

As one of the major "gateways" into Lodi, the Lower Sac/Hwy 12 intersection reflects our town's character and priorities to everyone who travels this route: character and priorities that have embodied thoughtful foresight and a conservative approach to growth that has helped Lodi maintain its small town charm. I believe this Super Wal-Mart project will cheapen Lodi's image and cast a negative shadow over her future.

Please don't sell out our principles in order to receive the gratification of tax revenue, Lodi deserves better.

Thank you.

Michael Kost

Randi Johl

From: Randi Johl
Sent: Tuesday, December 09, 2008 9:28 AM
To: 'Dan Wolcott'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Wal-Mart

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Dan Wolcott [mailto:juiceitupoflodi@clearwire.net]
Sent: Tuesday, December 09, 2008 8:55 AM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen
Subject: Wal-Mart

As a community concerned resident of Lodi and a business owner in Lodi as well, I can see nothing good for a super Wal-Mart development. As a resident of Lodi we do not need a super Wal-Mart and the extra retail space that it brings, we are unable to fill the existing retail spaces already vacant and have the Reynolds Ranch Project on the horizon. Out of control growth is not a good thing and the reason we have planning commissions is to design smart growth not just growth.

As a business owner anyone that believes additional competition in a sagging economy that is at best halfway through a major recession is not a smart business analyst, this can and will bring major loses to local long standing businesses with loss of jobs and lively hoods. The possible income tax gain will be nothing but mostly dollars traded. There is no way this make any sense at the present time.

Kim Wolcott
Juice It Up
Lodi

RECEIVED

DEC 8 2008

City Clerk
City of Lodi

December 1, 2008

Lodi City Hall
City Council
221 West Pine Street
Lodi, CA 95240

Dear Mayor Mounce and Members of the Council:

I own a business downtown and I have been following the recent debates about the Lodi Shopping Center. I guess that I am not surprised that the Planning Commission raised concerns about the economic impacts that the Supercenter will have on other businesses here in Lodi. I've never been convinced that we need a Supercenter. We already have a Wal-Mart. Why do we need a larger one? What's wrong with the existing one?

Perhaps there is nothing wrong and maybe the Planning Commission knows something I don't. Or, perhaps they know something Wal-Mart doesn't want any of us to know. I believe the Planning Commission has Lodi's interests at heart. It's time to move on.

Please vote **NO** on the Supercenter.

Sincerely,

ROYCE INMAN OWNER

Inman's Jewelry



December 4, 2008

Lodi City Council
C/O City Council Clerk
221 W. Pine Street
Lodi, CA 95240

RECEIVED

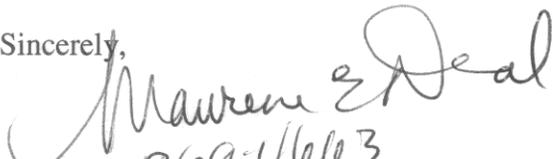
DEC 8 2008

City Clerk
City of Lodi

Dear Mayor Mounce and Council Members:

As a part of Lodi First, I'm asking you to vote NO on the Wal-Mart Supercenter at the December 10th meeting. I think the Planning Commissioner's made the right choice when they rejected the project. I'm not convinced by Wal-Mart's arguments made at the Planning Commission hearing that there will not be significant store closures and in fact Commissioner Kirsten, who is more knowledgeable about these issues than I am, felt that Wal-Mart's economic report was insufficient and leaves too many unanswered questions. These are tough economic times and I think it would be irresponsible for you to build this new retail development and risk losing existing businesses. Please do what is best for Lodi's future and vote no.

Sincerely,


209.369.4663

December 5, 2008

RECEIVED

DEC 8 2008

City Clerk
City of Lodi

Mayor-elect Hansen and Council Members
City Hall
221 West Pine Street
Lodi, CA 95240

Dear Council:

I **am** writing to ask you to vote "no" on the Wal-Mart Supercenter. I own a business here in **Lodi** and I'd like to think that my voice is just **as** powerful as Wal-Marts.

I do not understand Wal-Mart's argument that a Supercenter will bring our **town** any more **tax** revenue than the store we have now. A Supercenter just adds groceries, which aren't even taxable.

Perhaps **Lodi** should wait to see happens with the development of Reynolds Ranch before the Supercenter is built, I would hate to see Reynolds Ranch built and then fall victim to this bad economy, attracting no tenants. **Lodi** could end up having a Supercenter on the western side and an empty strip mall on the east. I don't see how that benefits the planned **Lodi** Community Improvement Project you all are looking forward to starting. Let's hold off on giving the OK on the Supercenter.

Sincerely yours,


Renee Devine
Devine Home & Garden

RECEIVED

DEC 8 2008

City Clerk
City of Lodi

December 4, 2008

The Honorable JoAnne Mounce and City Council
Lodi City Hall
221 West Pine Street
Lodi, CA 95240

Dear Mayor Mounce and Members of the Council:

I am a business owner here in Lodi and I recently saw the fancy Wal-Mart mailer making the claim that Wal-Mart is a "local" company. This is absolutely preposterous. This is a pathetic PR move and Lodi residents are smart enough to see through it. How dare they insult our intelligence!

You ought to vote no just to prove the point that Lodi doesn't want companies like Wal-Mart to be the image of a local Lodi business.

Thank you,

J Palmer, Josh PALMER
HARD LUCK TATTOO.

December 5, 2008

The Lodi City Council
C/O City Council Clerk
221 W. Pine Street
Lodi, CA 95240

RECEIVED

DEC 8 2008

City Clerk
City of Lodi

Dear Mayor Mounce and Members of the Council:

It seems to me that the time has come for Lodi to move past its **Wal-Mart** Supercenter dreams. Four years have passed since we first were confronted with the question of should we build it or not? Fortunately, you have continued to move forward with a vision for the future of Lodi such as the Community Improvement Project. **As** the city **looks** forward, it saddens me that we're still stuck in the past and the Supercenter is back for a vote. The Planning Commission has already determined that it is a bad fit. I ask you to please put the Supercenter where it belongs, in the past and move forward. Vote No.

Sincerely yours,

A handwritten signature in cursive script that reads "Melina Robinson".

Randi Johl

From: BOB JOHNSON [value@softcom.net]
Sent: Sunday, December 07, 2008 8:43 AM
To: City Council; Randi Johl; Blair King; Steve Schwabauer
Subject: FW: Fw: Wal-Mart

-----Original Message-----

From: Mary Colbert [mailto:lovetolaugh0443@sbcglobal.net]
Sent: Sunday, December 07, 2008 5:50 AM
To: Robert Johnson
Subject: Re: Fw: Wal-Mart

Thank you for your informative reply.

Ms. Mounce has contacted me by telephone and informed me that it indeed was not our trusty City Council that put out that ad, so I apologize and do so appreciate you taking the time to put me in the right lane of thinking.

Your Lodi Neighbor,,,,,,Mary Colbert

Message from MARY COLBERT - Life is Good!

--- On Sat, 12/6/08, Robert Johnson <value@softcom.net> wrote:

From: Robert Johnson <value@softcom.net>
Subject: Re: Fw: Wal-Mart
To: lovetolaugh0443@sbcglobal.net
Date: Saturday, December 6, 2008, 11:07 PM

Ms. Colbert

I too was appalled by the ad in the paper. Please believe me it was not placed by **any** member of the City Council or by the city. If you reread the ad, I'm certain that you will realize that our names were included to provide a means for people to contact us

Bob Johnson
Lodi City Council

On 12/6/08, Mary Colbert <lovetolaugh0443@sbcglobal.net> wrote:

Message from MARY COLBERT - Life is Good!

--- On Sat, 12/6/08, Mary Colbert <lovetolaugh0443@sbcglobal.net> wrote:

From: Mary Colbert <lovetolaugh0443@sbcglobal.net>
Subject: Wal-Mart
To: Hitchcock@lodi.gov

Date: Saturday, December 6, 2008, 12:57 PM

Dear Mr. Johnson,

I was appalled and disgusted with your full page add in the Lodi News Sentinel today, I had no idea that our Council members would stoop so low to take a swing at Wal-Mart.

If you will notice in the add it shows partial writings concerning the events at Wal-mart, first off the man was not molesting children at Wal-Mart it happened to be his friends children he just happened to be employed by Wal-Mart. In the second article the employee that found the meth reported it to police therefore taking that parolee off of the streets to keep from spreading that terrible drug.

I am sending this article to everyone I know to let them know how low our City personnel are.

I called Wal-Mart early this morning to make them aware of this add, I hope they come back at you people swinging just as hard as you have swung.

A lot of other big box stores have been allowed in our town and taken out a lot **of** our local stores so what is the big hang up with Wal-Mart?

What about the priest that molested Ann Jyono, you did not take **an** add out about the Catholic Church, or other churches in our town that have had employees that are predators?

This is so low, I am ashamed of these actions.....

Mary Colbert
2133 Jackson Street
Lodi, California 95242
209 369-1102
Message from MARY COLBERT - Life is Good!

Randi Johl

From: Randi Johl
Sent: Monday, December 08, 2008 9:37 AM
To: 'osmccombs@sbcglobal.net'
Cc: City Council; Blair King; Steve Schwabauer; Rad Bartlam; Jeff Hood
Subject: RE: WAL-MART

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response, and/or handling.

Randi Johl, City Clerk

From: Sue McCombs [mailto:osrnccombs@sbcglobal.net]
Sent: Friday, December 05, 2008 8:51 PM
To: Randi Johl
Subject: Fw: WAL-MART

Since this was mailed to an incorrect address, I am forwarding a copy to you to be sure it went to City Council members.

Thank you,

Olen & Sue McCombs

--- On Fri, 12/5/08, Sue McCombs <osmccombs@sbcglobal.net> wrote:

From: Sue McCombs <osmccombs@sbcglobal.net>
Subject: WAL-MART
To: "Susan Blackston" <sblackston@lodi.gov>
Date: Friday, December 5, 2008, 11:06 AM

Lodi City Council.

We are writing one last time before your vote on the Wal-Mart issue hoping that you can see the positive benefits for the city but most of all for the citizens of Lodi who have fewer and fewer places to shop without heading to Stockton . Yes, there are empty store fronts, but this is about moving and enlarging an existing store, and adding groceries at an affordable price which is a definite plus for the citizens.

When I moved to Lodi in 1966, Lodi had 35,000 people and had a fabric store, Squires and The Toggery for men, a boy's clothing store (maybe Ivans), Girl Talk and a store downtown on the mall for girls, Christensens, Christines, Color Closet, and Du Bois for women besides Penneys, Burtons , Parrots, Cottage Bakery and Alexanders for shopping.

Now Lodi is 60,000 plus and we have Christensens, Burtons , Penneys and a new men's store at Lakewood , Target, Wal-Mart, and. Penneys is small and not a full service department store. Wal-Mart has limited space for the merchandise they carry. It would be wonderful to have a larger fabric and craft department for example. Any shopping we can do in Lodi to avoid the many trips Stockton would be a welcome relief. As a matter of fact, we venture to say that none of you on the City Council buy your suits off-the-rack at Penneys and *do* all your other shopping in Lodi . Try as we may, the fact is that Lodi has limited shopping in many areas.

We hope the council does not prefer to leave the fourth corner of Kettleman Lane and Lower Sacramento Road with weeds instead of Lodi Shopping Center and Wal-Mart Supercenter. The entrance to Lowes on Kettleman Lane and the landscaping are very nice and I'm sure this would be the same. It would be a thriving shopping center.

Please get this project started as soon as possible.

Thank you,

Olen & Sue McCombs

Randi Johl

From: Randi Johl
Sent: Monday, December 08, 2008 9:39 AM
To: 'j bett'
Cc: City Council: Blair King; Steve Schwabauer; Rad Bartlam; Jeff Hood
Subject: RE: Walmart

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response, and/or handling.

Randi Johl, City Clerk

From: j bett [mailto:motoracn116@yahoo.com]
Sent: Friday, December 05, 2008 4:56 PM
To: Randi Johl
Subject: Walmart

I support Super-Wal*mart! Let me keep my money in Lodi and stop driving to Stockton...

Randi Johl

From: Randi Johl
Sent: Monday, December 08, 2008 9:47 AM
To: City Council; Blair King; Steve Schwabauer; Rad Bartlam; Jeff Hood
Cc: Bob Asklof
Subject: RE: Wal Mart Store in Lodi

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response, and/or handling.

Randi Johl, City Clerk

From: BOB JOHNSON [mailto:valve@softcom.net]
Sent: Friday, December 05, 2008 9:28 AM
To: City Council
Cc: Bob Asklof
Subject: FW: Wal Mart Store in Lodi

Per a citizens request

Bob

-----Original Message-----

From: Bob Asklof [mailto:basklof@comcast.net]
Sent: Thursday, December 04, 2008 4:11 PM
To: Bob Johnson
Subject: Wai Mart Store in Lodi

Bob:

Can you circulate this email of support for Wal Mart's proposed Super Store among your fellow council members please? My wife, my daughter (a new homeowner in Lodi) all support the proposed Wal Mart Super Store. The Wal Mart store values definitely give us more purchasing power for our dollars. I really don't like driving to Stockton to purchase goods, I would much rather support Lodi tax revenues and shop locally.

The Wal Mart proposed store will not in anyway cause a lack of business in downtown Lodi or downtown businesses to "suffer", there are no businesses in downtown Lodi that compete with Wal Mart. The Wal Mart Super Store is a "win, win" situation for all residents of Lodi and the City itself in the tax revenue that will be gained from it by those of us that live in Lodi.

Thank you,
Bob Asklof
1107 Lake Home Dr.
Lodi, Ca. 95242

Randi Johl

From: Randi Johl
Sent: Monday, December 08, 2008 9:49 AM
To: 'Janice Harrison'
Cc: City Council; Blair King; Steve Schwabauer; Rad Bartlam; Jeff Hood
Subject: RE: the suouer walmart

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response, and/or handling.

Randi Johl. City Clerk

From: Janice Harrison [mailto:ladyjan45@hotmail.com]
Sent: Thursday, December 04, 2008 1:56 PM
To: Randi Johl
Subject: the suouer walmart

Hello

My name is Janice Harrison. I had e-mailed a letter to the clerk about the super walmart store a few weeks ago. Well today I received a letter saying there would be a meeting of city council on Dec. 10, 2008 at 6:30 pm. I was just wondering if the letter that I e-mailed was for this meeting or not. If it isn't I am writing a new one.

Re: Walmart super store in Lodi

I am very much opposed to this happening in Lodi.

1. It will bring more traffic to our city.
2. Which will cause more violence and accidents.
3. I feel it will hurt the grocery stores that are already established here. for instance S-mart, Safeway, Raleys not to mention the Mom and Pop stores.

I feel that if someone wants to shop at a Super Walmart Store, Stockton is close enough for them to go there.

I love Lodi and for one do not want my town any bigger. We do not need more people here. A lot of people moved to this town because it was a small town. We want to keep it that way. Thanks for letting me be at this meeting via e-mail.

I want my voice heard and my voices says "No to the Super Walmart In Lodi.

Sincerely
Janice Harrison
Lodi, California

You live life online. So we put Windows on the web. [Learn more about Windows Live](#)

November 29, 2008

The Lodi City Council
C/O City Council Clerk
221 W. Pine Street
Lodi, CA 95240

RECEIVED

DEC 4 2008

City Clerk
City of Lodi

Dear Mayor and Councilmembers,

I'm writing in support of Lodi First's efforts to support our local businesses and ask you to vote against the Lodi Shopping Center Project. I don't think Lodi needs a Wal-Mart Supercenter. We've already got great shopping options on School Street and I like having the option to shop at Target if need be. I don't understand why people think we need a Super Wal-Mart. We already have one and it seems to be successful. Plus, all the Supercenter adds is groceries, which are non-taxable. ■don't buy the tax revenue argument and I hope you see through Wal-Mart's expensive PR campaign. Please listen to us residents and vote NO. Lodi is a special place and unlike our neighbors, people want to come to Lodi because of our wineries and great downtown. We don't need a Supercenter to attract outside dollars.

Thank you,

Chloe Caray

December 3, 2008

The Lodi City Council
C/O City Council Clerk
221 W. Pine Street
Lodi, CA 95240

RECEIVED

DEC 4 2008

City Clerk
City of Lodi

Dear Mayor and Council,

Please vote no on the Lodi Shopping Center Project at the December 10th hearing. The Planning Commission made the right decision by voting against the certification of the REIR. As a member of Lodi First, I agree with the commission that there are still too many unanswered questions about store closures and possible blight. We don't need a Wal-Mart Supercenter. We don't have to be like all the other cities in the Valley.

Thank you very much,

Richard Keirle
209-327-2632

December 10, 2008

VIA EMAIL TO CITYCLERK@LODI.GOV

Mayor Larry Hansen
City of Lodi
221 W. Pine Street
Lodi, CA 95241

Re: Opposition to Browman/Wal-Mart's Appeals of Planning Commission's Decision to not Certify Revised EIR

Dear Mayor Hansen:

This office represents Lodi First ("Lodi First"), an unincorporated association of Lodi-area residents, merchants, voters, property owners, and taxpayers interested in ensuring responsible and lawful development in Lodi – and the Petitioner in the pending San Joaquin County Superior Court matter of *Lodi First v. City of Lodi* which resulted in Lodi preparing the Revised EIR ("EIR") for the Lodi Shopping Center Project ("Project") that is before you on appeal. Our clients are particularly interested in Lodi discharging its public duty to satisfy the requirements of the California Environmental Quality Act ("CEQA").

This letter is submitted in support of the Planning Commission's determination the EIR is legally inadequate for certification, in opposition to the appeals of Wal-Mart Stores, Inc. ("Wal-Mart") and Browman Development Company ("Browman"), in response to the 600+ page City Council Packet received electronically on Monday December 8, 2008 and letter from Sheppard Mullin dated December 8, 2008, and in compliance with Pub.Res.C. §21 177 and the public hearing notice for this meeting.

Generally speaking, and **as formally determined by the Planning Commission on a 5-1 vote**, the EIR is legally deficient and does not fulfill its duty as an informational document. Rather than grant the Appeal and order the Planning Commission to certify an EIR that a super majority of its members believe fails to include sufficient information and disclosures, the City Council should deny the appeal and uphold the decision of its Planning Commission.

Lodi First's comments are founded on the principle that an EIR acts as an informational document identifying potentially significant impacts of a project, as well as alternatives and mitigation measures necessary for informed decision-making (Pub.Res.C. 921002.1), and that an EIR's findings and conclusions must be supported by substantial evidence. *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal.3d 376. An adequate EIR "must be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences" and "must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." *Id.* The Planning Commission overwhelmingly agreed that the EIR does not meet this threshold and Lodi First concurs. Accordingly, the EIR is not adequate for certification and the appeals should be denied.

1. Appeal Limited to EIR Adequacy - Not Project's Merit

In these appeals, the sole issue before the City Council is whether the Planning Commission erred in refusing to certify the EIR. The appellants bear a heavy burden not only in convincing the Council to overturn the Planning Commission decision, but also in demonstrating substantial evidence in the record supports this determination and this determination conforms to CEQA's procedural and substantive requirements.

Because the Planning Commission did not decide whether to approve or deny the project itself, the Council is not to consider the merits of the Project application but rather only whether the EIR contains sufficient information that the San Joaquin County Superior Court will uphold its legal adequacy. As noted above, the Planning Commission found - via supermajority 5-1 vote - that the EIR does not meet the informational disclosure requirements of CEQA and therefore is inadequate to return to the Court for review and approval. Wal-Mart and Browman appeal this determination, but ignore the fact that "It is undisputed that members of the planning commission are experienced in matters of planning and development." and "opinions expressed during a formal hearing that the project will [cause undisclosed environmental effects] is significant." *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144. Instead, Wal-Mart and Browman ask the Council to ignore the Commission and simply certify the EIR. Unfortunately for the appellants, the record before the Council does not support their desired result.

Moreover, Lodi First submits that the Council cannot actually certify the EIR - it may, at most, sustain the appeal and remand the EIR to the Planning Commission for certification. *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 prohibits segregating the CEQA process from the land use approval

process. In that case, the Bakersfield city council certified shopping center project EIRs on the consent calendar and then called the hearings on the land use applications claiming opponents were too late to raise CEQA issues. The appellate court repudiated this approach, "Apparently, [Bakersfield] did not realize that if a public hearing is conducted on project approval, then new environmental objections could be made until the close of this hearing..If a CEQA action is subsequently brought, the EIR may be found to be deficient on grounds that were raised at any point prior to close of the hearing on project approval." The same result will occur here if the Council certifies the EIR and then remands to the Planning Commission for a hearing and decision on the Project. Accordingly, the Council cannot effectively certify the EIR before the close of the public hearing on the subject land use approvals.

2. Scope of EIR Comments and Objections is not As Limited as The ER Claims

At the outset, the EIR suffers a fatal flaw in its treatment of impacts other than those expressly identified in the Revised EIR. Specifically, the EIR and staff reports claim that the public and responsible agencies may only comment on the topics included in the Revised EIR - and nothing more. In support of this claim, the EIR relies on *Federation of Hillside and Canyon Associations v. City of Los Angeles* (2004) 126 Cal.App.4th 1180 and Pub.Res.C. 921166. This assertion is both factually and legally erroneous and renders the EIR's treatment of impacts such as water supply and climate change inadequate.

The stipulated order dismissing the related case of *Citizens for Open Government v. City of Lodi* (Case No. CV026002) signed by Browman and the City and entered by the Court states, "Citizens shall have the right to comment fully on the revised draft and final EIRs" and "Subject to applicable exhaustion of administrative remedies requirements, Citizens shall have the right to assert **any claims**, including any claim asserted in this action, in any subsequent litigation over Lodi's reconsideration of the Project and the revised EIR." (See Attachment A to Nov. 24, 2008 letter from counsel for Wal-Mart and Browman found in the Council Packet.) Thus, Lodi and Browman expressly opened the door to allow "any claims" to be raised subject to presenting the claims during the administrative proceedings and is not overridden by *Federation*, §21166, or other legal authority.

To the extent the City/Browman/Wal-Mart claim the order allows only Citizens for Open Government - and not Lodi First or other project opponents to assert any claims subject to exhaustion - such a restriction violates Pub.Res.C. 921177 which allows CEQA litigants to contest issues presented by themselves or others prior to the close of the public hearing. Moreover, the EIR fails to explain why the City staff may choose to evaluate issues beyond the scope of the *Lodi First* Judgment, but the citizenry, other

governmental agencies, and perhaps even the Planning Commission are prohibited from addressing deficiencies beyond the City's selected scope of review.

Regarding the asserted legal defenses, Pub.Res.C. §21166's restrictions on supplemental environmental review apply only "[w]hen an EIR has been certified" (See Guideline § 15162(a)). The Judgment in *Lodi First v. City of Lodi* expressly ordered Lodi to vacate the Planning Commission and City Council resolutions certifying the EIR and Lodi did vacate certification in 2006. Thus, the original EIR is not certified and §21166 does not apply. And even if the Citizens for Open Government order did not resolve this issue, the EIR's reliance on Federation is misplaced. This case involved a CEQA petition which re-litigated some of the same issues previously challenged. The court concluded because material facts had not changed, the issues were barred by *res judicata*. In contrast, each issue raised herein is either a new issue created by the revised EIR (such as energy, urban decay, and alternatives) or involves new material facts (such as Browman's announcement that the project will employ 1,000 persons triggering a water supply assessment, the development of "climate change" as a CEQA topic with AB 32 and new reports submitted by Wal-Mart, and recirculation based on new information added to the record). Accordingly, *Lodi First* may properly raise all claims addressed in this letter.

3. The EIR's Urban Decay Analysis Is Fatally Flawed

The EIR's urban decay analysis suffers two fatal flaws. First, it ignores and omits blight in East Lodi resulting in a fatally flawed urban decay environmental setting and a failure to proceed as required by CEQA. Second, it reverses the evidentiary burden, concluding there is "insufficient evidence" to find urban decay will be significant – rather than finding "substantial evidence" supports a finding the urban decay will be less than significant.

a. Incomplete Environmental Setting

On the former point, the EIR must describe the environmental setting of the project to establish the baseline – the physical conditions on the ground – against which impacts are evaluated to determine significance. Guideline §15125. Failing to comply with §15125 and adequately disclose a project's environmental setting will render an EIR defective. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713 (environmental setting that omitted wetlands and wildlife preserve was inadequate as a matter of law); *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74 (environmental setting for landfill EIR was defective in that it identified underlying aquifer but did not quantify size of aquifer).

The EIR commits the same error here – in failing to describe existing blight in the City, the EIR is unable to establish a baseline or to determine the project's likelihood to cause, contribute to, or exacerbate urban decay and blight.¹ Specifically, on June 18, 2008 Lodi Redevelopment Agency and City Council certified an environmental impact report and adopted a redevelopment area (RDA) encompassing much of east Lodi. See Resolution RDA 2008-05, 2008-115, 2008-116, 2008-117, and Ordinance No. 1812, incorporated herein by reference. In order to establish a redevelopment area, the City must declare the area "blighted" – which Lodi did. Thus, the City Council affirmatively found substantial blight exists in Lodi.² These blight conditions – which were known at the time the EIR for this Project was prepared – is curiously omitted from the EIR.

The EIR's error is akin to concluding a project will not contribute to significant traffic congestion while ignoring the fact that existing roadways operate at failing levels of service: or as in the case of *San Joaquin Raptor*, concluding a project will not significantly impact wetlands without describing existing wetlands in the area. Omitting this information prejudices the information disclosure process and necessitates redrafting and reticulating the EIR. For without this information, the public and decisionmakers lack sufficient information to understand the actual individual and cumulative impacts of this Project. For example, how can the EIR claim vacant commercial space will be replaced before decay sets in when it ignores existing vacancy and blight in east Lodi? Or how can the EIR claim the Project will not result in decay because nuisance ordinances and code enforcement will prevent decay, when such conditions already exist in Lodi? It can't, and it must be revised to include the relevant component in the environmental setting.

¹ There remains confusion over the relationship between "urban decay" and "blight". Lodi First submits "blight" is a legal term to describe conditions identified in the Health and Safety Code. "Urban decay" is a term of art describing store closures, vacancy, deterioration, and neglect. Thus one may find urban decay even where blight is not declared to exist, however a blighted area will typically exhibit signs of urban decay. To this end, existing blight in Lodi is relevant to determining whether urban decay will be significant.

² Although the City's legislative decision adopting the RDA (Ordinance No. 1812) has been qualified for election by the referendum process, Lodi First believes the City's decision to certify the RDA's EIR has not – nor has that document been challenged in court. Thus, whether or not the RDA is approved, there was no reason to exclude this project from the EIR. More pointedly, the Council's finding of blight is still relevant to the issue of whether urban decay will be significant and will require mitigation.

In addition to constituting a failure to proceed in the manner required by CEQA, failing to consider east Lodi blight necessarily means that concluding the Project is unlikely to cause or contribute to significant urban decay is not supported by substantial evidence. For, "substantial evidence" is defined as "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." Guideline §15384(b). On the contrary, "Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence." In this case, concluding urban decay will be less than significant while ignoring existing blight and decay in the City reflects an unsubstantiated opinion based on clearly erroneous and inaccurate evidence.

b. The EIR Reaches a Faulty Conclusion of "Insufficient Evidence" Rather than "Substantial Evidence"

One additional error flows from the EIR's treatment of urban decay: a meaningless conclusion that never actually finds urban decay will be less than significant. Instead, the EIR states "The project would include new retailers who would compete with existing retailers in the City of Lodi: however there is insufficient evidence to suggest that this increased competition would result in any business closures, and consequently would not indirectly result in substantial physical deterioration or properties, or urban decay." (EIR at 33). This "insufficient evidence" finding is repeated elsewhere at pages 14 and 35 of the EIR text. Unfortunately, an EIR's findings and conclusions are not evaluated against an "insufficient evidence" standard as the EIR indicates, they are evaluated against a "substantial evidence" standard – which places the burden on the agency to support findings of no impact with substantial evidence in the record. The EIR essentially places the burden on the public to show decay will occur before mitigation is imposed, rather than requiring the EIR to provide evidence that the impact will be less than significant. In short, once the EIR preparers determined they lacked sufficient evidence to determine whether or not significant decay would occur, they were obligated to gather more evidence or find the impact significant and impose mitigation.

4. The EIR's Alternatives Discussion Does not Satisfy CEQA

a. The ER fails to Provide a Reasonable Range of Alternatives that Would Attain Basic Project Objectives and Reduce Significant Impacts

CEQA requires that an EIR describe a range of reasonable alternatives to a proposed project, or to the location of a proposed project, which would feasibly obtain most of the basic objectives of the proposed project, but would avoid or substantially lessen any of the significant effects of the proposed project, and evaluate the comparative merits of the alternatives. Guidelines § 15126.6(d). "The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects." Guidelines § 15126.6(c). Here, the EIR fails to describe one alternative, let alone a "reasonable range" of alternatives, that both substantially lessens impacts and feasibly obtains most of the Project's objectives as required.

The EIR evaluates only three alternatives in detail, none of which would both reduce the Project's impacts and meet most of the Project's objectives. The EIR states the mandatory "no project" alternative would reduce project impacts but would not meet the Project's objectives. Likewise the "reduced project alternative" would slightly reduce some impacts, but "would not entirely fulfill the project objective of developing the project site with a regional shopping center." Finally, the "alternative project location" considers placing the project at Flag City in unincorporated San Joaquin County. According to the EIR this alternative would actually increase impacts while at the same time conflicting with the County's planning and zoning restrictions and failing to fulfill project objectives such as building *within* Lodi.

Therefore, the EIR does not describe a range of alternatives which would both feasibly obtain most of the basic Project objectives and substantially lessen the significant effects of the proposed Project. It describes three projects which do one but not both. To this end, the EIR fails comply with §15126.6.

b. Feasible Alternatives Do Exist that Would Both Reduce Significant Impacts and Satisfy Project Objectives

More pointedly, the EIR's conclusion that "there are no alternatives to the project which could feasibly attain most of the basic objectives of the project which would also avoid or reduce the significant impacts associated with the proposed project to less-than-significant levels" is not supported by the record. Specifically, the EIR sets fairly detailed "project objectives" and then dismisses the three alternatives for failing to satisfy those objectives. However, upon concluding none of the selected alternatives would attain basic project objectives and reduce impacts, because the EIR must discuss a reasonable range of such alternatives, the City is obligated to identify and consider other alternatives that do meet this criteria. Strangely, the EIR ignores four seemingly obvious and feasible alternatives: (1) a "Reynolds Ranch" alternative. (2) an "East

Lodi/Redevelopment Area" alternative, (3) a "Proportionate Reduced Size" alternative, and (4) a "High Efficiency" alternative more likely to satisfy the two-pronged criteria of §15126.6 than the two selected in the EIR.³

Because the Flag City alternative was dismissed for failing to meet project objectives of building the project within Lodi. Lodi erred in not considering any alternative locations within Lodi. A "Reynolds Ranch" alternative would locate the shopping center at the mixed-use Reynolds Ranch development located at Harney Lane and Highway 99. As the EIR notes the City Council approved this project in 2006 – which included a Blue Shield call center, housing, and approximately 350,000 sq. ft. of regional commercial retail – long before Lodi released the EIR in 2007. In 2008 the City Council approved modifications to Reynolds Ranch to allow development of up to 750,000 sq. ft of regional commercial retail. [See October 8, 2008 memo from Bay Area Economics to Rad Bartlam] Because Reynolds Ranch is already approved for commercial development and partially constructed, locating the shopping center at this location would not significantly impact agricultural lands, thereby reducing one of the Project's significant and unavoidable impacts. Another obvious but ignored alternative location would locate the project on Lodi's eastside, likely within the proposed RDA. As noted previously, the City Council adopted the RDA on July 2, 2008 via Ordinance No. 1812, incorporated herein by reference. According to the environmental impact report prepared for the RDA [certified by the Council on June 18, 2008 and incorporated herein by reference), the purpose of the RDA is "to provide a financial and administrative mechanism to alleviate blight and improve physical and economic conditions in the Proposed Project Area." Goals for the RDA include "Stimulat[ing] new commercial, industrial and residential construction," "Rehabilitat[ing] and moderniz[ing] existing commercial, industrial, and residential properties," and "Creat[ing] local job opportunities by preserving and expanding the area's existing employment base." [See Draft Environmental Impact Report for the Lodi Community Improvement Project at 18-19.) Like the Reynolds Ranch alternative, the eastside alternative also would eliminate all impacts to agricultural lands (the RDA includes no agricultural lands). Moreover, unlike the Flag City alternatives these alternative locations would keep the Project in Lodi – apparently satisfying the objectives not achieved by the Flag City site. Moreover, although the EIR claims urban decay impacts will not be significant, as noted above Lodi First disagrees with this conclusion and the EIR concludes the potential closure of several anchor stores in west Lodi due to over-saturation of the immediate market area. By locating this Project on the east site of town – either in Reynolds Ranch or the proposed RDA, presumably some economic pressure would be alleviated from west Lodi anchor stores and retailers, in turn potentially reducing store closures and decay or blight risks. More pointedly, the RDA environmental impact report explains one

³ The "No Project" alternative is expressly required by CEQA and cannot be substituted.

characteristic of blight is "A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions" - or the very types of operations that the Lodi Shopping Center will add to an already-saturated west Lodi.

Thus, in determining that alternative locations should be considered but any extra-jurisdictional locations would not attain a basic objective of developing the Project within Lodi (and therefore not satisfy §15126.6), the EIR should have considered alternatives in Lodi or explained why no feasible alternative locations exist in Lodi. The former it did not do, and the latter it could not do: for substantial evidence in the record shows at least two viable Lodi locations that would presumably reduce significant impacts and attain most of the basic project objectives.

The EIR also fails to consider a "*Proportionally Reduced Size*" alternative. Specifically, the EIR includes a "reduced size alternative" - but this alternative should really be labeled the "Supercenter Only Alternative": it keeps the Supercenter at its full 226,868 sq. ft. size, while eliminating the remaining 113,090 sq. ft. of non-Wal-Mart pads and smaller retail on site. According to the EIR this alternative would reduce agricultural land conversion from 40 to 24 acres, would reduce air pollution emissions "by approximately one-third," and would "result in far less energy consumption than the proposed project". Therefore, this alternative substantially lessens impacts from the Project. But according to the EIR, eliminating the "pads" does not satisfy the Project's objectives of developing a regional shopping center, meeting unmet retail demand, increasing sales tax, and capturing sales leakage. The implied predicate of this statement, then, is that the Supercenter use, itself, will not meet these objectives, and the "pads" are necessary to meeting these objectives. The EIR never says a Project that includes the pads only - or even the pads and a reduced Supercenter - would not satisfy this criteria. In light of this information, Lodi should have considered a reduced size alternative that includes a smaller supercenter and a portion or all of the ancillary retail. Such an alternative is feasible - in recent years Wal-Mart has been developing Supercenters as small as 99,000 sq. ft. (see **Exhibit "A"**⁴). In fact, the Stockton City Council just approved a 99,000 sq. ft. Supercenter at the Weston Ranch Towne Center Project. [See **Exhibit "B"** [staff report and ordinance]]. Although a 99,000 square foot Supercenter would not satisfy the applicant's objective of expanding the size of the

⁴ In fact, Wal-Mart is currently developing a 100,000 square foot Supercenter in Modesto. See January 12, 2008 Modesto Bee article attached. This store will be less than half the size of the proposed Lodi Supercenter. The list also includes Galt (132,000 sq. ft. Supercenter, per Sacramento Business Journal article). Wal-Mart is also developing 99,000 sq. ft. 24-hour Wal-Mart Supercenters in Alabama, Arizona, Florida, Iowa, Missouri, and Texas.

existing 119,684 sq. ft. Lodi Wal-Mart store, a store between 119,684 and 228,868 sq. ft. would. With the EIR's Supercenter Only alternative – the land would be reduced from 40 to 24 acres (or to 60%) and building square footage would be reduced from 339,966 to 226,868 (or to 67%). Thus, after determining that a Supercenter-only alternative would not satisfy the project objectives, the EIR should have considered a true reduced project alternative that proportionally reduces entire project – including the Supercenter – to 60%. Even under this alternative, a straight 40% reduction in Supercenter size would still leave a Supercenter footprint of 137,320, which exceeds the existing 119,684 sq. ft. Lodi Wal-Mart store by nearly 20,000 sq. ft. and even satisfies the recently added project objective "To expand the existing Wal-Mart to a Wal-Mart Supercenter with more retail space and the addition of grocery sales" (EIR at 31).

The EIR also fails to consider a "High Efficiency" model Supercenter for the project. In March 2008, Wal-Mart introduced what it touts as its most energy efficient U.S. store – the HE.5 prototype – designed to use up to 45 percent less energy than a regular Supercenter like that proposed for Lodi. See articles attached as **Exhibit "C"**. The HE.5 store, which is western climate-specific and is located in Las Vegas, features advancements in heating, cooling, refrigeration and lighting to conserve energy and reduce greenhouse gas emissions. *Id.* Prior to the HE.5 prototype, Wal-Mart developed the HE.1 and HE.2 prototypes, which use 20 to 25 percent less energy than a regular Supercenter, and have been in operation since 2007 and 2008. The HE.1 and HE.2 stores operate in Missouri, Illinois, Texas, and Colorado. See articles attached as **Exhibit "D"**.⁵ Not only does the City fail to consider an energy efficient alternative, but also the EIR's air quality and energy sections omit an analysis of the energy saving features of these high efficiency stores, which use between 20 to 45 percent less energy than typical Wal-Mart Supercenters and undoubtedly reduce the severity of air quality, health, energy impacts, and climate change impacts. In an area plagued by poor air quality, fuel prices approaching \$5/gallon this past summer, and rolling blackouts – in this western climate – the EIR errs in failing to consider a "HE" Supercenter alternative.⁵

In short, after determining that none of the three selected alternatives would both substantially lessen project impacts and meet most of basic project objectives, the City failed to satisfy Guideline §15126.6 by not considering other alternatives – such as the

⁵ The EIR concludes energy impacts will be less than significant, therefore Wal-Mart and Brownman may assert considering an HE alternative is unnecessary. Such argument is materially flawed however. As noted elsewhere, the EIR's conclusion the energy will be less than significant is unsupported by the EIR because the project design attributes that will presumably reduce energy impacts are not included in the project description and are not included as mitigation measures or enforceable conditions. Moreover, the EIR acknowledges the air quality impacts will be significant. Increasing energy efficiency by up to 45% would presumably substantially lessen such impacts.

four described above - to ultimately describe a reasonable range of alternatives to the project.

c. The Record Does not Support Reiectina the Proposed Alternatives

Finally, the EIR's basis for rejecting the three proposed alternatives is not supported by the record and violates *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437 which holds that reasons for rejecting alternatives must be based on substantial evidence in the record (overturning County's rejection of BLM land swap alternative because EIR said BLM opposed land swap but record showed BML was receptive to land swap but developer rejected the proposal). With this Project, the EIR designates the Reduced Project Size Alternative as the "environmentally superior alternative," but states the alternative is rejected by the applicant because it would not create a regional shopping center, would be "substantially less effective" in meeting unmet retail demand, would be "substantially less effective" in enhancing fiscal resources through sales tax and property tax, in creating jobs, or in reversing retail leakage.

However, the record is devoid of evidence showing that the proposed Project will meet these objectives and the conclusion is materially flawed for several reasons. First, although Wal-Mart's representative told the Planning Commission that the project may bring in \$790,000 in sales tax revenue, he failed to provide any evidence supporting this conclusion. Rather, he cryptically advised this figure reflected an average of California Supercenters open for 12 months but did not provide any data upon which this conclusion. Such naked conclusions are not fact based and therefore are not substantial evidence. Second, this statement compares apples to oranges and does not account for differing sales tax rates in California; the State's base tax rate is 7.25% and local government receives 1%. But local government can increase this amount subject to proper procedures (generally an election). San Joaquin County has adopted a 0.5% transportation tax increasing Lodi's tax rate to 7.75% - but the City still only receives 1%. Many larger cities in California - from which this speculative \$790,000 figure derives - charge significantly higher local tax rates. For example, Stockton. has an 8% sales tax rate and one of the best performing Supercenters in the nation. Thus, with this quarter percent bump, Stockton receives 25% more sales tax than Lodi for every dollar spent. Therefore, including stores in these higher tax markets and stores with higher sales inflates the average above and beyond what will actually be generated in Lodi. Without this information, Wal-Mart's claim that the Project will increase sales tax is meaningless and cannot stand to support rejecting alternatives.

5. **The EIR Incorrectly Ignores Climate Change and the Belated MBA Report Does Not Cure this Defect.**

As explained by Citizens for Open Government, the EIR must evaluate the Project's climate change impacts. Lodi First generally concurs with those arguments and adds the following:

Wal-Mart belatedly produced a climate change report prepared by Michael Brandeman Associates - effectively acknowledging the fact that this necessary information is missing from the EIR. Yet, when Citizens for Open Government commented on the need to do this assessment in the draft EIR, the EIR responded that global warming is beyond the scope of the document and falls within §21166's prohibitions on supplemental environmental review. As noted above, this response is factually and legally erroneous. But more importantly, rather than simply do the necessary analysis at that time, the EIR [which Lodi First believes was drafted by - or at least substantially influenced by - Wal-Mart and its attorneys] Wal-Mart waited until after the Planning Commission denied the EIR, and only on appeal to the City Council does Wal-Mart capitulate and address global warming [technically Lodi does not].

But this is a case of too little, too late. For, "[W]hatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report." *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal.3d 376,405. There, the Supreme Court rejected the Regents' extra-EIR treatment of alternatives because, while it may have allowed the Regents to participate, it deprived the public of participating in the CEQA process:

The Regents miss the critical point that the public must be equally informed. Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. We do not impugn the integrity of the Regents, but neither can we countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the environmental consequences of action by their public officials.

Here, the belated climate change report suffers the same procedural defect as the Regent's rejection of alternatives. Notwithstanding its conclusions, the document was not included in the draft EIR nor was it even added to the final EIR: it only became available to the public a few days prior to the City Council hearing.

This omission is indeed prejudicial. According to a September 1, 2007 *Real Property Law Reporter* article called "Analyzing Climate Change in a Climate of Uncertainty" (and authored by Wal-Mart's counsel)⁶ "Given California's political and actual climate today, there is a growing consensus among CEQA practitioners that in at least some, if not most, circumstances, even in the absence of an express statutory requirement to do so, governmental agencies will expand the traditional scope of their environmental review under CEQA to consider a project's GHG emissions and potential climate change impacts."

The article further explains CEQA compliance should come in one of three forms:

CEQA documents may address GHG emissions and a project's potential impacts on climate change by using one of the following approaches:

- Limited discussion of the issue followed by a finding that the impact is too speculative for evaluation:
- A "qualitative" analysis that discusses the issue in more detail, but ultimately concludes that one or more elements of the analysis are too speculative for determination; or
- A "quantitative" analysis that makes determinations regarding the project's anticipated GHG emissions, findings of significance, and the adequacy of feasible mitigation measures.

Strangely, even the October 2007 draft EIR - which post-dates both the enactment of AB 32 and this article - does not adopt any of these three approaches: it simply ignores the impact. This is not enough under CEQA and amounts to a failure to proceed in the manner required by law. Accordingly, as noted below the EIR should be revised to include this information and recirculated for public review and comment.

6. **The ER Errs In its Treatment of Water Supply and Related Impacts.**

a. **The EIR Improperly Omits a Required Water Supply Assessment.**

Before an agency may approve certain projects subject to CEQA, the agency must prepare a water supply assessment and include the assessment in the EIR. See Water Code §§10910, 10912, 10911(b); see also Pub.Res.C. §21151.9. Projects subject to the water supply assessment requirement include proposed shopping centers having more

⁶ A Copy of this document is attached hereto as **Exhibit "E"**

than 500,000 square feet of floor space or employing more than 1,000 persons. See Water Code §10912(a)(2). When the water supply for a proposed project includes groundwater, a water supply assessment must discuss and analyze specific information pertaining to groundwater sources and supply. See Water Code §10910(f). An agency that fails to prepare and include a water supply assessment in an ER for proposals meeting the statutory criteria fails to proceed in the manner required by law. In this case, substantial evidence shows the Project will likely employ more than 1,000 persons yet the ER does not contain the necessary water supply assessment, nor does it explain why Lodi dispensed with preparing the assessment.

During the October Planning Commission hearing, Browman's representative, in touting the Project's purported benefits, stated the Project will create "900 to 1,000 new jobs." See October 8, 2008 Planning Commission Hearing Transcript at 26-27. Thus, by the developer's own admission, the Project likely triggers the statutory duty to prepare a water supply assessment.

Moreover, easily accessible information (from Wal-Mart's own website) demonstrates that similarly sized Supercenters alone often employ 600 to 700 employees. See e.g., Wal-Mart Supercenter Store Facts, attached as **Exhibit "F"**. For instance, the 207,000 square foot El Centro Supercenter has 720 employees; the 219,570 square foot Gilroy Supercenter has 650 employees; the 204,000 Yuba City Supercenter has 630 employees; the 216,000 square foot Beaumont Supercenter has 600 employees; the 209,860 square foot Hanford Supercenter has 600 employees; the 207,000 square foot Antelope Supercenter has 655 employees; and the 237,000 square foot West Sacramento Supercenter has 650 employees. And, according to Wal-Mart, a newly proposed 132,000 square foot Supercenter in Galt (roughly 100,000 square feet smaller than the Supercenter proposed for this Project) anticipates employing at least 450 employees. See Chris Nichols, Wal-Mart Eyes New Store Site in Galt, Lodi New Sentinel, attached as **Exhibit "G"**.

On average, the above-mentioned Wal-Mart Supercenters employ approximately 3.06 employees per 1,000 square feet. Other studies also show that 1,000 square feet of commercial space generates approximately three employees. See e.g., City of Glendale City Center II Mixed-Used Project DEIR at 4.2.3, attached as **Exhibit "H"**. Applying a 3.0 employee per 1,000 square foot ratio reveals the Project will employ approximately 1020 persons, above the 1,000-employee threshold. Moreover, the planned 226,868 square foot Supercenter constitutes roughly sixty-seven percent (67%) of the 339,966 square foot development. Assuming the proposed Supercenter employs as many people as the Supercenters listed above (which is a reasonable assumption, and indeed, highly likely), the remaining 33% (113,098 square feet) of the shopping

center need only employ approximately 300 people to meet the 1,000 employee criteria [or approximately 2.65 employees per 1,000 square feet).

Exceeding the 1,000-employee threshold triggers the duty to prepare a water assessment. And, in any event, the EIR should have explained why the Project, based on substantial evidence, will not exceed the statutory threshold. Wholly ignoring the duty to prepare and include a water supply assessment in the EIR, or at a minimum, to explain why such an assessment is unnecessary, renders the Project's environmental document legally defective. By omitting this necessary information, the City failed to proceed in the manner required by law. The City must prepare the requisite water assessment prior to considering the revised EIR or approving the Project.

b. The EIR Fails to Adequately Analyze the Project's Individual and Cumulative Water Supply Impacts.

The EIR omits relevant information regarding the Project's individual and cumulative water supply impacts. These errors violate CEQA's mandate requiring an EIR to address the "reasonably foreseeable impacts of supplying water to a proposed project." See *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, (2007) 40 Cal. 4th 412, 434 (emphasis in original). Because the omission of this relevant data precludes informed decisionmaking, the City cannot certify the EIR and approve the Project without first including the necessary water supply impact information and recirculating the EIR for public review and comment. Guideline § 15088.5.

According to the EIR, the Project will have less than significant water supply impacts. DER at 132. This unsubstantiated conclusion is based on the EIR's estimate that the Project will consume 49,397 gallons of water per day and that, according to a City Engineer, "the Lodi Water Utility has sufficient existing water supply to serve the project without adding new municipal wells or water storage facilities." DER at 132.

Simply estimating the amount of water a proposed project will consume and then stating that the amount will be supplied to the project, however, is not enough under CEQA. See *Santiago County Water Dist. v. County of Orange*, 118 Cal. App. 3d 818, 829-31 (1981). In *Santiago*, the court held that an EIR for a proposed mining project was legally inadequate where it stated only that the mine would consume 12,000 to 15,000 gallons of water daily and that the local water district would supply the water. The court found that "[W]ithout any 'facts from which to evaluate the pros and cons of supplying the [needed] amount of water'" to the project, the EIR was legally defective. *Santiago* at 829; see also *Vineyard* at 429, 434 ("The ultimate question under CEQA...is not whether an EIR establishes a likely source of water, but whether it adequately addresses the reasonably foreseeable impacts of supplying water to the project.").

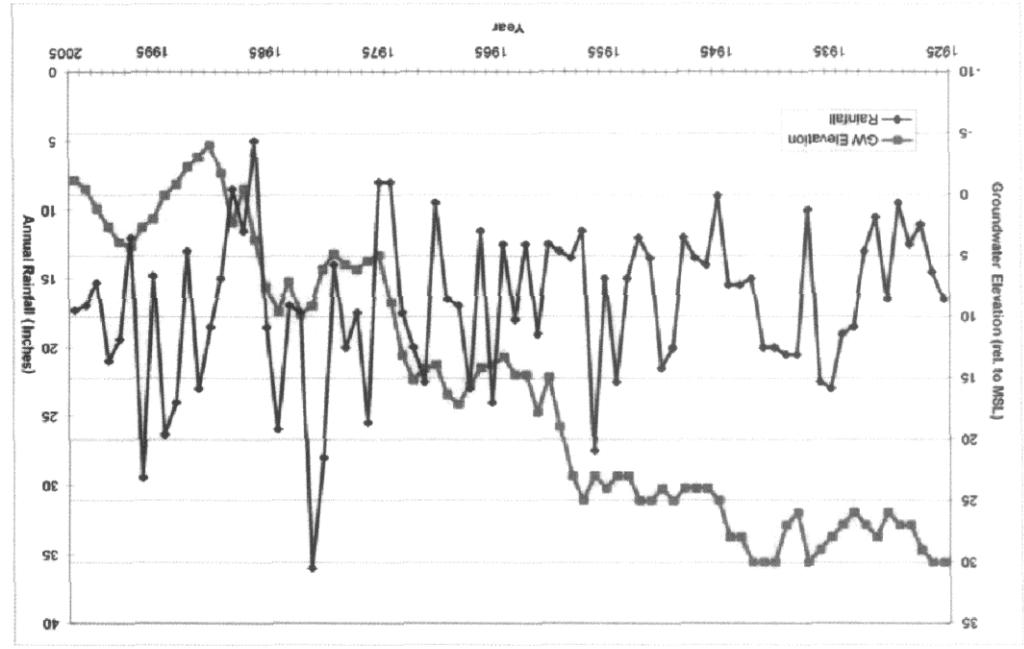
Mayor Larry Hansen
December 10, 2008
Page 16 of 22

In this case, the EIR suffers from the same infirmities as the EIR in Santiago and runs afoul of the mandates set forth by the California Supreme Court in *Vineyard*. The EIR never even identifies the source of the water needed to implement the Project, let alone analyzes the impact of supplying such water to the Project. The EIR instead contains only a naked conclusion, unsupported by any factual data or information, that water supply impacts are less than significant because sufficient groundwater exists to serve the Project. This conclusory statement, however, does not constitute evidence of less than significant water supply impacts. See *City of Livermore v. LAFCO*, (1986) 184 Cal. App. 3d 531, 542 (agency's conclusory statement unsupported by evidence is not substantial evidence).

In fact, the EIR's conclusion directly contradicts other City documents, including the City of Lodi 2005 Urban Water Management Plan ("UWMP"), which establish: (1) the City is currently overdrafting the groundwater basin; (2) this overdraft has adverse environmental impacts; and (3) the EIR did not analyze the impact of providing additional water to this Project. For example, the City's 1990 General Plan EIR Water Supply section states, "Because overdraft of the aquifer already exists in the GP area (resulting in lowering the water table at a rate of between 0.5 and 1.75 feet per year), it is unlikely that future water demands can be met without increased overdraft and salt water intrusion, unless projected growth occurs in agricultural areas where groundwater pumping is occurring at a rate greater than that required for domestic use. Domestic water demand, however, is estimated to exceed agricultural uses by 25 times based on daily evapotranspiration rates (University of California Cooperative Extension 1987) and crop coefficients (University of California Agricultural Experiment Station 1985) for grapes." See Draft General Plan EIR at 12-3, attached hereto as **Exhibit "I"**.

The 1990 General Plan EIR further provides, "The overdraft of groundwater has caused the infiltration of saltwater from the San Joaquin Delta. Although salt-contaminated groundwater is not present in the GP area, it can be found a few miles west. Currently, the City relies on groundwater for municipal supplies. Increases in municipal demand caused by development allowed under the Proposed GP would cause continued overdraft. Continued overdraft of groundwater resulting in saltwater intrusion is a significant adverse impact." *Id.* at 12-6. According to the UWMP, "DWR had declared that the groundwater basin underlying Eastern San Joaquin County is overdrafted, and groundwater levels in the County and the City are generally decreasing." See UWMP at 3-1, attached hereto as **Exhibit "J"**. Figure 3-1 of the UWMP reveals that groundwater elevation in the basin has dropped 32 feet from 1925 to 2005. *Id.* at 3-2.

Figure 3-1: Historical Groundwater Elevation

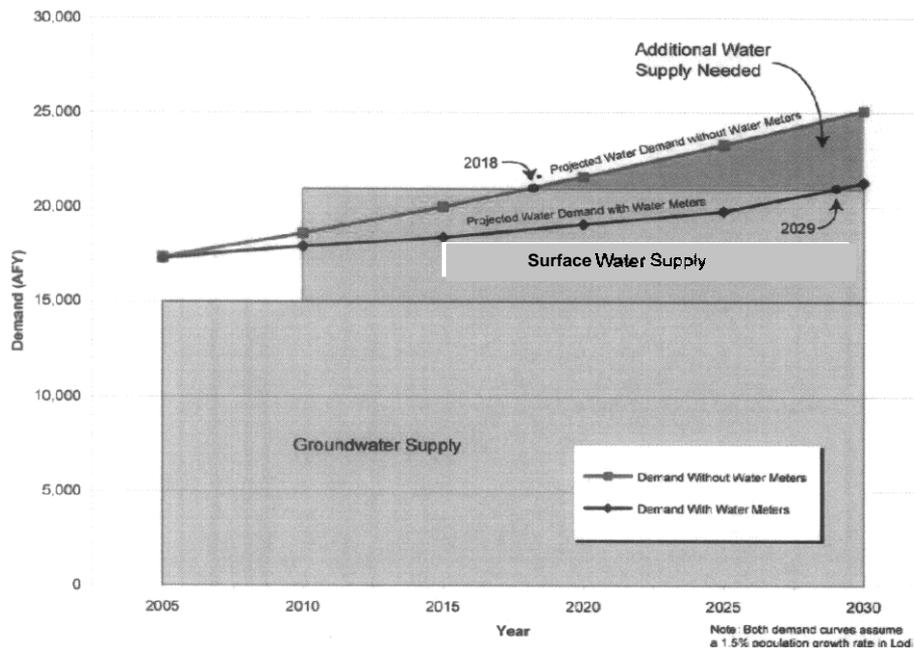


Source: City of Lodi Public Works Department

The UWP further provides, "The City's current water supply system is constrained by 1) the pumping capacity of its currently active wells, and 2) a longer-term reduction in supply due to the overdrafting currently taking place in the City's groundwater basin. Although the declining groundwater basin is a result of groundwater extraction by all groundwater pumps in the area, including other cities, agriculture, private well owners, and the City itself, the City plans to reduce its groundwater pumping in the long term as part of what will have to be a regional effort to stabilize the groundwater basin." *Id.* at 3-6. "The continuing decline of groundwater levels in the aquifer underlying the City means that the sustainable annual groundwater supply available to the City is something less than what is currently extracted. . . the City plans to reduce its overall groundwater pumping in the future. A safe yield of approximately 15,000 AFY (Treadwell and Rollo, 2005) has been estimated for the aquifer serving Lodi based on water balance calculations (see Appendix g) performed using data primarily from the Eastern San Joaquin Groundwater Management Plan." *Id.* at 3-7. Table 3-2 of the UWP reveals that groundwater production in 2004 was 17,011 acre feet, in excess of the 15,000 acre feet safe yield established by the City. *Id.* at 3-5. Table 4-1 reveals that the City has exceeded its estimated safe yield beginning in 1986, and every year since 1996. *Id.* at 3-7.

Other documents make clear that overdrafting and salt water intrusion constitute significant issues facing the City's water supply, which will most likely be exacerbated by providing water to the Project. Lodi's 2004 Surface Water Supply Options states, "Each year the City of Lodi water system delivers about 17,000 acre-feet of water. . . In general, groundwater extractions in the City and surrounding area exceed natural replenishment and groundwater levels have been declining for many years. Projected growth will add approximately 5,000 acre-feet of demand on the aquifer system underlying the City." See City of Lodi Surface Water Supply Options at Executive Summary, incorporated herein by reference. Similarly, according to Lodi's Public Works Director, "The recently-completed 2005 Urban Water Management Plan concisely presents the City's existing a future water supply vs. demand outlook (see Exhibit A). As shown on Exhibit A, the safe long-term yield of the groundwater basin underlying the City is estimated at 15,000 acre-feet annually (AFA). At present the City is using 17,300 afa to meet the demands of existing customers, reflecting a current need for additional water supply and/or conservation." See March 1, 2006 Staff Report regarding Implementing Woodbridge Irrigation District Surface Water Program at 2, attached hereto as **Exhibit "K"**. Exhibit A to the March 2006 Staff Report is depicted below.

EXHIBIT A



Mayor Larry Hansen
December 10, 2008
Page 19 of 22

The March 2006 Staff Report further acknowledges that "[t]he groundwater basin Lodi shares with other agencies and individual property owners is being mined by over 150,000afa. This results in declining water levels in wells, which reduces yield, increases pumping costs, and impacts water quality as more saline water is drawn into the basin, rendering wells unfit for use." *Id.* at 3; see also December 20, 2006 City of Lodi Staff Report, incorporated herein by reference, Excerpts from Public Works Director ["The groundwater basin in which Lodi draws its water is being overused to the point the area is seeing water quality being adversely affected. This is not a sustainable practice."].

The above-referenced materials show that significant environmental impacts are associated with increased pumping of Lodi's groundwater supplies. The EIR, however, never discloses or addresses these issues. It is thus impossible to determine the foreseeable impact of supplying additional water supplies to the Project from the groundwater basin. This is precisely the type of information the Supreme Court found necessary for an adequate evaluation of water supply impacts under CEQA. See Vineyard at 430-34.

Moreover, the EIR's significance threshold for determining water supply impacts is also fundamentally flawed. For purposes of the EIR, "the project would be considered to result in a significant impact to utilities and service systems if it would have insufficient water supplies available to serve the project from existing entitlements and resources." DEIR at 131. It is possible, however, to have a sufficient quantify of water supplies but still have a significant adverse environmental impact from making that *quantify* available to the Project. In other words, although the Project may be able to pump additional water from the groundwater basin, it may not have the legal right to do so, or doing so may permanently destroy a portion of the groundwater basin.

The EIR also fails to evaluate and disclose the Project's cumulative water supply impacts. In fact, the EIR's cumulative impacts analysis omits any information regarding the combined effects of the Project and other reasonably foreseeable projects on water supply. See DER at 141, 143-44 (briefly discussing water quality issues and wastewater collection and treatment capacity, but omitting any mention of water supply impacts). CEQA, however, stresses the significance of a comprehensive cumulative impacts evaluation. See *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal. App. 4th 1184, 1214 (2004). A proper cumulative impact analysis, however, "is vital 'because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources.'" *Id.*

Because the EIR omits relevant information and factual data regarding the proposed water supply and the impact of providing that supply to the Project, it fails to satisfy CEQA's mandate of disclosing and analyzing a proposed project's potentially significant individual and cumulative water supply impacts. This dearth of information thus prevents the EIR from complying with its informational disclosure requirements under CEQA and from satisfying Lodi's General Plan requirement that "The City shall provide for an adequate high-quality water supply prior to approving future development." Lodi General Plan at 7-3. Lodi must include this critical information in the EIR and recirculate the environmental document for public review and comment prior to certifying the EIR or approving the Project. Guideline § 15088.5.

7. The EIR's Treatment of Energy Impacts is Still Fatally Flawed.

The EIR improperly concludes that while the Project will increase energy consumption, "energy conservation measures incorporated into the design the project would avoid wasteful, inefficient or unnecessary consumption of energy." Therefore this impact is designated as "less-than-significant." Because the impact is deemed insignificant, no mitigation measures are identified. The legal error arises from the fact that neither Wal-Mart nor Browman is required to incorporate "energy conservation measures" into the Project.

Instead, the EIR assumes compliance with Title 24 of the "California Energy Code" which appears to be *minimum* building efficiency standards applicable to all construction in California and a list of energy saving features "the Wal-Mart store is proposed to include." Two errors flow from this analysis.

First, this analysis addresses only energy from the Supercenter and ignores the remaining 100,000+ sq. ft. of the Project. Second, the less than significant finding relies on circular logic. Specifically, the proposed design features are not included in the Project Description, nor are they included as mitigation measures, and when asked whether Wal-Mart would be open to conditioning project approval on specific energy saving features by Planning Commissioner Kirsten, Wal-Mart opposed. Thus, there is nothing that obligates Wal-Mart or Browman to incorporate the described energy saving features into the Project, and the proposed energy saving features could be abandoned at the drop of a hat should Wal-Mart, Browman, or their successors determine they are infeasible - financially or otherwise. The EIR essentially relies on the fox to guard the energy-conservation henhouse. Such a result turns CEQA on its head and, once again, renders the EIR's treatment of energy defective.

8. The Post-Denial information Submitted by Browman and Wal-Mart requires Recirculation of the EIR.

The City Council should uphold the Planning Commission decision and remand the matter to the Planning Commission to identify specific areas of the EIR that need redrafting. Thereafter any revised EIR should be recirculated for public comment.

But even if the Council is disinclined to support its Planning Commission's determination, recirculation is still necessary. Significant new information has become available since the EIR was finalized, which requires the City to revise the EIR to include the information and to recirculate the environmental document for public review. See *Save Our Peninsula Comm. v. Monterey County Bd. of Supervisors*, (2001) 87 Cal. App. 4th 99, 130-31. Failing to do so deprives the public of a meaningful opportunity to comment on the Project's environmental consequences and precludes informed decisionmaking. See Guideline §§ 15088.5, 15003(a)-(f).

In this case, significant new evidence regarding urban decay, global warming, and alternatives has subsequently become available since the City prepared the final EIR. For example, evidence regarding feasible alternatives that the developer and Wal-Mart refuse to implement, such as a reduced size alternative, a high efficiency alternative, and an alternative location (such as in Reynolds Ranch) have not been appropriately considered in the EIR process. Wal-Mart itself even submitted information regarding an existing store expansion alternative on December 8, 2008. Evidence of feasible alternatives that clearly will lessen significant environmental impacts constitutes "significant new information" triggering a duty to recirculate. Guideline § 15088.5(a)(3).

Moreover, after the Planning Commission refused to certify the EIR, Project proponents, including Browman, Wal-Mart, and their consultants, submitted significant new information regarding the Project's environmental effects, including a Climate Change Analysis, an Analysis of Taxable Retail Sales, and a depiction of a feasible alternative for expanding the current Wal-Mart store location.

The belated introduction of this significant new information does not substitute for critical information lacking in the EIR. Such information "must be subjected to the same 'critical evaluation that occurs in the draft stage,' so that the public is not denied an 'opportunity to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom.'" *Save Our Peninsula* at 131. In other words, the information must be subjected to the "test of public scrutiny." *Id.*

Notably, Wal-Mart has a course of conduct of advocating as little environmental review as possible, instead taking the risk that members of the public will not sufficiently raise

EXHIBIT A

Sacramento Business Journal - May 20, 2008

<http://sacramento.bizjournals.com/sacramento/stories/2008/05/19/daily21.html>



Tuesday, May 20, 2008

WalMart opens Supercenter in Orangevale

Sacramento Business Journal - by [Kelly Johnson](#) Staff writer

Orangevale gets its first Wal-Mart Supercenter on Wednesday **with** the opening of a store at 8961 Greenback Lane.

The 107,000-square-foot store, open around the clock, will employ more **than 285** people. Its grocery department will offer bakery goods, deli and frozen foods, produce, meat and dairy.

The Supercenter was built with energy-efficient features to reduce energy and water consumption and reduce waste, including skylights, **LED** lighting, sensor-activated faucets **and** concrete flooring made in part **with** recycled materials.

To mark the store opening, **Wal-Mart Stores Inc.** (NYSE: WMT) will give \$18,000 to local organizations.

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BUSINESS AND FINANCIAL NEWS

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423 words

Wal-Mart is to open next year

The Modesto Bee, Calif.

Feb. 29—The smallest Wal-Mart Supercenter in California is to open in Modesto in early 2009, according to company officials.

The store, at 3848 McHenry Ave., will occupy one building that previously housed two stores in the North Point Landing Center.

Aaron Rios, a California spokesman for Wal-Mart, said the store will be 105,000 square feet, slightly smaller than a supercenter that Wal-Mart opened in Sanger last year in what was formerly a Kmart.

The Modesto supercenter will have grocery items, including full produce, bakery, deli and meat counter areas, Rios said, along with items found at a standard Wal-Mart store.

Rios said the supercenter will complement, not replace, an existing Wal-Mart store in Modesto on Plaza Parkway. Wal-Mart also has a store in Ceres and plans for a supercenter in that city.

The building that will house Modesto's supercenter has been home to a variety of tenants over the years. Most recently, a SavMax store dosed there in 2002, and a Rite Aid dosed in the other half of the building in 1998.

Wal-Mart will knock out an interior wall in the building to create one store. Rios said site work will begin as soon as the Bentonville, Ark.-based retail giant receives permit approval from the city of Modesto.

The supercenter will need about 350 employees, Rios said, and generate about \$500,000 in local sales taxes. Hiring will begin about three months before the store opens, Rios said.

Employees will get wages comparable with the average Wal-Mart pays in Stanislaus County — \$11.67 an hour — Rios said.

The store will have a budget for contributing to local nonprofit groups, as other Wal-Mart stores do, he said.

Wal-Mart Supercenters have been controversial in many cities — including Turlock, where they prompted a virtual ban — because of their effect on local economies and use of nonunion labor.

Rios said Wal-Mart's experience with supercenters in California suggests that consumers will like what they find at the new Modesto store.

"Once they're open, they're well-received," Rios said. "It's really an opportunity both for us to open a new store and for customers to save more money."

Studies for Wal-Mart project under way

October 28, 2008 12:00 am

By ALISHA WYMAN

The Union Democrat

As one grocery store owner has announced plans to open in Sonora, Wal-Mart is navigating the application process to add a second new store.

Wal-Mart officials sought Sonora City Council approval in January to expand the Sonora store by **27,477** square-feet dedicated to grocery sales.

The city has contracted with San Ramon firm Michael Brandman Associates to complete the Environmental Impact Report.

Jason Brandman, executive vice president and project director, estimates the report should be complete by early next year.

A series of studies are examining traffic impacts, whether it will hurt other area grocery stores, lighting, watershed and other environmental issues.

"We may potentially have significant impacts resulting from the project," he said, adding that his firm will recommend ways Wal-Mart could mitigate the effects.

The studies are still under way, so Brandman couldn't detail the firm's findings so far.

The existing 130,166 square-foot store was approved in **1992** as part of the Sonora Crossroads Shopping Center off of Sanguinetti Road. A 30,000-expansion pad on the east side of the building was included in the original project.

The store will help boost the local economy with job creation and other economic growth, as unemployment rises in the county, City Administrator Greg Applegate said.

"We've got to get some jobs going here; we've got to get some economic vitality going on, because we can't rely on the state government," he said. "We can't rely on the federal government."

The new grocery offerings at Wal-Mart will be in addition to a new grocery store slated to replace Albertson's in The Junction shopping center. Albertson's closed in February 2007 and left 65 employees without work.

Randy Toy, owner of a grocery store in Stockton, plans to open a store called PriceCo in its stead.

A languishing economy hasn't shaken Toy or Wal-Mart from their goals.

Stores like Wal-Mart usually do market studies of the area before plunging into the local business arena, Applegate said.

"They're not about to make an investment not knowing they're going to have a positive return," he said.

The **two** stores are essentially replacing John Sierra Market and Albertson's, he added.

Wal-Mart officials did not return a **call** in time for publication.

After completion of the EIR, there will be a **30-to-45-day** public comment period. In addition to written comments, the city will **hold** a public hearing.

The **consultant** will examine the comments and give a reply.

It's up to the Sonora Planning Commission to approve or deny the final project.

Contact Alisha Wyman at awyman@uniondemocrat.com or 588-4526.

Close Window

Sonora Wal-Mart expansion plan in works

Published: January 11, 2008

By REBECCA HOWES

The Union Democrat

Wal-Mart wants to expand its Sonora store by nearly 27,500 square feet.

The City of Sonora Planning Commission will hold a public meeting Monday regarding the proposed expansion of the store, at 1101 Sanguinetti Road.

The meeting is to discuss the project's environmental ramifications.

Addressed will be city Community Development Director Ed Wyllie's recommendation that an environmental impact report be completed before a site plan and design review of the expansion project proceeds. An original EIR, prepared 15 years ago and before the store was built, advised that further environmental review may be required if major changes to the project were made.

The existing 130,166 square foot building at The Crossroads shopping center, if expanded **as** proposed, would grow to 157,657 square feet.

"The proposed expansion would be grocery oriented. Wal-Mart is possibly taking advantage now that Albertsons is gone," City Administrator Greg Applegate said.

The Albertsons store in East Sonora closed almost a year ago and has remained empty. Raley's, a West Sacramento-based chain of supermarkets in California and Nevada, holds the lease on the still-vacant store in The Junction shopping center.

The closure of Albertsons left 65 employees without jobs.

The proposed expansion of Wal-Mart would create 100 to **150** new jobs and increase the sales tax revenues for the city, Applegate said.

The existing **store** is not open overnight, however, the proposed expanded store, if approved, would be open 24 hours per day, seven days a week.

Should the project be approved, parking spaces will increase **from** 787 to 876, which meets the city's zoning code requirements of one space per 200 square feet for retail use. Additionally, the project would improve existing ADA parking spaces along the front of the building.

The existing Wal-Mart store was approved by the City of Sonora **as** part of the Sonora Crossroads Shopping Center project in 1992. Included in the original project was a 30,000-square-foot expansion pad on the east side of the building.

The environmental review of the original project acknowledged the expansion pad, but it did not include development of the pad at that time.

The expansion area to the east of the building was rough graded when the shopping center was built and now houses storage containers.

"We **are** not allowing for urban sprawl. The area is already equipped for sewer and water lines. As a city we have concentrated on keeping the stores confined in a concentrated commercial area," Applegate said.

Since **15** years have passed since the first EIR, a new environmental report should be prepared by **a** consultant in accordance with California Environmental Quality Act and city EIR guidelines, Wyllie said.

Giving Sonora residents **more** choice when grocery shopping, increased sales **tax** revenue for the city and the creation of new jobs all contribute to the overall positive outlook Wyllie and Applegate share for the proposed project.

"I don't anticipate much muss or **fuss**," Wyllie said. "I feel pretty optimistic."

Neither Wal-Mart representatives nor RSC Engineering, a Roseville **firm** which submitted a site plan and design review application to the city on Wal-Mart's behalf, would comment.

Contact Rebecca Howes at 588-4531 or rhowes@uniondemocrat.com.

Sacramento Business Journal - October 8, 2007

<http://sacramento.bizjournals.com/sacramento/stories/2007/10/08/newscolumn1.html>



Friday, October 5, 2007

Wal-Mart downsizing plans for Galt store to a hybrid format

Retailer hopes approvals will come more quickly with new site, size

Sacramento Business Journal • by [Kelly Johnson](#) Staff Writer

Wal-Mart Stores Inc. has moved to Plan B for Galt, with a site and smaller store that the giant retailer hopes will be more satisfactory to the community.

For several years Wal-Mart had expressed interest in -- but had no formal agreement for -- building a grocery-selling "supercenter" store in a 400,000-square-foot shopping center proposed for east of Highway 99 between Boessow and Simmerhorn roads.

Now Wal-Mart is in escrow for 10 acres a couple of miles away, at Twin Cities Road east of Fermoy Way, and has submitted plans to the city for a store of 132,000 square feet. This store would sell groceries, but it would be a blend of traditional Wal-Marts and the company's larger supercenter format of more than 200,000 square feet.

The proposed Wal-Mart also wouldn't be subject to a superstore ban the city is mulling. Galt city leaders are considering an ordinance that would ban stores bigger than 40,000 square feet and require extra studies for stores of more than 100,000 square feet.

That requirement wouldn't be a problem for Wal-Mart, company spokesman Aaron Rios said, because the company already routinely includes the analysis the city is considering. Even so, Wal-Mart objects to the proposed ordinance. The city's planning process already has the tools available to evaluate projects on an individual basis, Rios said.

The proposed Wal-Mart is still several years away, Rios said. But Wal-Mart expects that this site and smaller store could get through the approval process and start serving customers sooner than the other location it was eyeing.

The Twin Cities Road site has the appropriate zoning with no big constraints, though traffic will be an issue, said Art Campion, Galt's community development director.

Wal-Mart would become Galt's largest store, even at the smaller size. Galt's largest retailers now are grocery stores.

Wal-Mart would employ about 450 people. The retailer is still working on estimates for the amount of sales tax revenue the store would produce for the city.

While Wal-Mart has moved on, Southern California developer **P.Z. Partners** is still working through the planning process for 56 acres on which it wants to build the 400,000-square-foot shopping center.

Baby fashion maker goes retail

After 18 years of selling wholesale **socks** for babies and toddlers, and other footwear, clothing and accessories, designer Jon Stevenson has opened his first retail **location** of Trumpette.

Trumpette opened in 1,000 square feet Aug. 28 in Gold River at 2095 Gold River Lane.

Stevenson, who moved himself and the business to the Sacramento area four years ago from Petaluma, **figured** his product line -- with 427 separate stock keeping units -- was now large enough to warrant a store. He'd like to have five stores open within two years, either company-owned or through licensing agreements. Stevenson, 52, said this region could support another store, perhaps in east Sacramento, Roseville or Sacramento -- he'd love to land in the upscale Pavilions center.

Trumpette's colorful tights, socks designed to look like shoes, Maryjane rain boots and other items are sold through **12,000** vendors, including Bloomingdale's, Neiman Marcus and Saks Fifth Avenue stores, catalogs and Trumpette's Web site.

Through a year-old deal with The **Walt Disney Co.**, Trumpette **also** can market itself in connection with Disney (NYSE DIS) and sell its products at Disney's stores, parks and resorts.

About **60** percent of Trumpette's business is baby socks sold in six-packs, Stevenson said, but the company sells a variety of products for babies and kids up to age 7.

Stevenson had two menswear stores in San Francisco two decades ago when he discovered a void in the baby fashion industry. He **was** a new single father of an adopted baby boy when his au pair, out with the baby, would hear complimentary comments about the cute girl. After Stevenson had a romper printed in front with the word "BOY" on it, others wanted to buy it. Trumpette **was** born.

Trumpette Inc., the wholesale business, employs 50 people in Rancho Cordova. Manufacturing is done overseas.

In the past five years, revenue **has grown** by 100 percent and the work force **has grown to 50** from four. **Now**, with the store open, Stevenson **wants** to increase Trumpette's involvement with charitable groups.

Sacramento center sold

Evergreen Center, a **29,823-square-foot** shopping center at 5575 Mack Road in Sacramento, has changed hands for nearly **\$7.9** million.

The buyer is **Lilac Real Estate Holdings** in Los Angeles, which was represented by Michael Pourmirza of **Sperry Van Ness**. It is the company's **first** purchase in Greater Sacramento. Brett Machale of **CB Richard Ellis** represented the seller, a Sacramento-based family trust.

Evergreen Center, built in 1985 on 2.94 acres, is 100 percent occupied. Its tenants include AutoZone and 7-Eleven.



DATE: April 4, 2008

TO: Interested Persons

FROM: Chris Erias, Associate Planner

SUBJECT: Notice of Preparation (**NO**P) to prepare a Draft Focused Environmental Impact Report for the Galt Wal-Mart Project.

PUBLIC **REVIEW** PERIOD: April 4, 2008 through May 5, 2008

The City of Galt is the lead agency for the preparation of an Environmental Impact Report (EIR) for the Galt Wal-Mart project located within the City of Galt. The document is being prepared in compliance with the California Environmental Quality Act (CEQA).

CEQA Section 15082 states that once a decision is made to prepare an EIR, the lead agency (the City of Galt) must prepare a Notice of Preparation (**NO**P) to inform all responsible agencies that an EIR will be prepared. The purpose of the **NO**P is to provide sufficient information describing the project and the potential environmental effects to enable responsible agencies to **make** a meaningful response regarding the scope and content of the information that should be included in the EIR. Comments are also being solicited from the 'public.

PROJEC DESCRIP

Project Location

The project is located in the City of Galt, California. Galt is located within Sacramento **County** and is approximately 27 miles south of Sacramento and 92 miles northeast of San Francisco. Highway 99 runs north to south through Galt and provides the major regional access to the City (See Figure 1). The project site is located at the southeast corner of Twin Cities Road and Fernoy Way. The proposed project site consists of approximately 11.26 acres on a single undeveloped parcel (See Figure 2) identified as Sacramento **County** Assessor's Parcel Number (**APN**) 148-0074-058. The existing land uses surrounding the proposed project site are as follows:

- North: Twin Cities Road abuts the project site to the north. Undeveloped property exists outside the current City limits beyond.
- South: The Emerald Senior Village abuts the project site to the south.
- East: A single family residential development (Rancho San Jon) abuts the project site to the east.
- West: Fernoy Way abuts the project site to the west across from which is a developed commercial shopping center that includes a Raley's Grocery Store and a Dollar Store beyond. Highway 99 is located less than a 1/2 mile to the west.

Project Components

The proposed project includes the development of the approximately 11.26-acre site and construction of an approximately 133,279 square foot Wal-Mart store, including a 6,030 square foot (s.f.) fenced outdoor garden center (See Figure 3). While the project site plan currently illustrates a 133,279 s.f. store, this EIR evaluates a maximum conservative not-to-exceed size of 137,277 square feet. The building would be oriented toward Twin Cities Road with vehicle access points on Twin Cities Road and Fermoy Way.

Table 1 lists the components included in the floor plan for the proposed project.

General Merchandise Sales Area	69,119 sq. ft.
Grocery Sales Area	24,999 sq. ft.
Retail Tenant Area	782 sq. ft.
Stockroom Receiving Area	11,803 sq. ft.
Ancillary Area	7,247 sq. ft.
Grocery Support Area	7,909 sq. ft.
Indoor Garden Center	5,390 sq. ft.
Outdoor Garden Center	6,030 sq. ft.
Total Area	133,279 sq. ft.

Necessary entitlements for the development of the proposed project would include the following:

- Certification of the **EIR**, findings, and **MMP** ;
- **Site Plan and** Design Review;
- Sign Permit;
- Architectural Review; and
- Conditional Use Permit.

ENVIRONMENTAL EFFECTS

The City has reviewed the proposed Galt **Wal-Mart** project application and **has** determined that the **EIR** should address the following issues. Each issue chapter will include a discussion of the existing setting, the thresholds of significance, evaluation of potential impacts, mitigation measures, **and** monitoring strategies.

Land Use – The Land Use chapter will evaluate the consistency of the proposed project with the City of Galt's adopted plans and policies. The chapter will address the City's General **Plan**, Northeast **Area** Specific Plan, and Zoning Ordinance, **as well as** any other appropriate documents such **as** the recently

adopted Big Box Ordinance, to address consistency issues. The chapter will further assess the compatibility of the proposed project with the surrounding land uses, both existing and proposed. The land use chapter will identify land use impacts and mitigation measures and will note any inconsistencies or incompatibilities with adopted plans and policies created by the approval of the proposed project.

Aesthetics – The Aesthetics chapter will summarize existing regional and project area aesthetics and visual setting. The chapter will briefly describe project-specific aesthetics issues regarding development of the proposed project such as scenic vistas, scenic highways, existing visual character or quality of the site and its surrounding areas. In addition, the potential impacts related to the light and glare associated with retail centers in close proximity to residential uses will be analyzed. This chapter of the EIR will include an analysis of the existing setting, identification of the thresholds of significance, identification of impacts, and the development of mitigation measures and monitoring strategies.

Transportation and Circulation – The Transportation and Circulation chapter will describe existing traffic conditions, existing plus project traffic conditions (near-term), and cumulative traffic conditions (including with and without the proposed project). This chapter will be based upon a Traffic Impact Study prepared specifically for the proposed project. The chapter will also include standards of significance and methods of analysis, and will describe the impacts associated with the traffic and propose mitigation to reduce the level of impacts. The traffic chapter will summarize the existing and planned regional and local transportation network as well as existing and future traffic conditions. The chapter will identify traffic loads and capacity of street systems including level of service standards for critical street segments and intersections. In addition, a detailed site circulation and access review will be conducted to determine the adequacy of the proposed site plan in accordance with generally accepted traffic engineering standards. Construction traffic, emergency access, transit, pedestrian, and bicycle facilities will also be discussed and analyzed to ensure adequacy of the proposed facilities based upon existing City of Galt plans.

Air Quality and Climate Change – The Air Quality and Climate Change chapter will summarize the regional air quality setting, including climate and topography, existing ambient air quality, regulatory setting, and presence of any sensitive receptors such as hospitals, convalescent homes, and schools near the project or roads providing access to the project site. This chapter will be based upon an Air Quality Study prepared specifically for the proposed project. The air quality impact analysis will include a quantitative assessment of short-term (i.e., construction) and long-term (i.e., operational) increases of criteria air pollutant emissions of primary concern (i.e., ROG, NO_x, and PM₁₀) using the most current Urban Emissions (URBEMIS), an ARB-approved emission factor computer modeling program. Emissions of onsite sources of toxic air contaminants (TACs) associated with the proposed land uses and resultant impacts to nearby sensitive land uses are anticipated to be minor and, therefore, will be qualitatively discussed. Local mobile source carbon monoxide (CO) concentrations will be assessed using the CALINE4 model for any intersections projected to operate at unacceptable levels of service (i.e., LOS E or worse). In addition, detailed emissions calculations for diesel particulate based on expected activity levels will be prepared and a model run using the AERMOD dispersion program to estimate annual average concentration at sensitive receptors. The project's cumulative contribution to regional air quality will be discussed, based in part on the modeling conducted at the project level. Increases in greenhouse gas emissions (GHG) (i.e., carbon dioxide, nitrous oxide, and methane) attributable to the proposed project will also be quantified and included in the cumulative air quality impact discussion. The significance of air quality impacts will be determined in comparison to SMAQMD-recommended significance thresholds. SMAQMD-recommended mitigation measures will be incorporated to reduce any significant air quality impacts and anticipated reductions in emissions associated with proposed mitigation measures will be quantified.

Noise – The Noise chapter will include an analysis of the existing setting, identification of thresholds of significance, identification of impacts, and the development of mitigation measures and monitoring strategies. This chapter will be based upon a Noise Study prepared specifically for the proposed project. To assess potential construction noise impacts, sensitive receptors and their relative exposure to the proposed project area (considering topographic barriers and distance) will be identified. Noise levels of specific construction equipment will be determined and resultant noise levels at nearby receptors (at given distances from the source) will be calculated. To assess potential operational noise impacts, traffic noise modeling will be conducted based on daily traffic volumes to be obtained from the traffic analysis to be prepared for this project. Traffic noise modeling will be conducted for existing, existing-plus-project, and cumulative-plus-project scenarios. The assessment of long-term noise impacts will also include an analysis of stationary source noise impacts associated with the proposed project. This analysis will include an evaluation of the potential for proposed onsite noise sources to affect nearby noise-sensitive receptors. The significance of noise impacts will be determined in comparison to state and local noise standards. Feasible mitigation measures will be identified for any impacts found to be significant or potentially significant.

Energy – The Energy chapter will be based on Appendix F of the CEQA Guidelines. The chapter will consider the potentially significant energy implications of the proposed project. The chapter will identify the energy consuming portions of the project during construction and operations, and describe the existing energy supplies and energy use patterns in the area. The EIR will describe potential impacts and propose mitigation measures to reduce wasteful, inefficient and unnecessary consumption of energy.

Public Services – The Public Services chapter will summarize setting information and identify potential new demand for services on water supply, storm water drainage, sewage systems, solid waste disposal, law enforcement, fire protection, and schools. The chapter will be based upon consultation with the appropriate City and other agencies in order to address public services and utilities and obtain the most recent information. Impacts to law enforcement will be determined based upon a Police Services Impact Report prepared specifically for the proposed project. This chapter will include an analysis of the existing setting, identification of the thresholds of significance, identification of impacts, and the development of mitigation measures and monitoring strategies,

Socio-Economics – The EIR will include a Socio-Economics chapter to determine the extent to which the project will impact the existing retailers and shopping centers within the City and market area to determine potential impacts associated urban decay or deterioration. This chapter will be based upon an Economic Impact Study prepared specifically for the proposed project. The Economic Impact Study will include an annual sales estimate, primary market area definition, competitive store reconnaissance, vacancy analysis, and an analysis of retail sales leakage. The study will also assess the proposed project's impact on existing primary market area stores, address cumulative impacts, provide a determination regarding urban decay, and project fiscal revenues.

Cumulative Impacts – The EIR will discuss and evaluate the cumulative development that would occur independent of, but during the same timeframe as, the proposed project, or in the reasonably foreseeable future, as provided in CEQA Guidelines Section 15130. This chapter will determine whether project-level incremental contributions to impacts evaluated in the EIR are cumulatively considerable. CEQA Guidelines Section 15130(a)(1) defines a cumulative impact as “[...] an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts.”

Other Issues to be Addressed – The EIR will evaluate the potential for the proposed project to impact existing on-site biological resources and the quality of stormwater runoff.

ALTERNATIVES

In accordance with Section 15126.6(a) of the CEQA Guidelines, the EIR will include **an** analysis of several project alternatives, including the No Project Alternative. The alternatives section will "describe a range of reasonable alternatives **to** the project, or to the **location** of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." The EIR will include sufficient information about each alternative to allow meaningful evaluation, **analysis**, and comparison with the proposed project. The significant effects of the alternatives will be discussed, but in less detail than the significant effects of the proposed project. The EIR will also include a discussion of the environmentally superior alternative, and a description of alternatives considered but rejected from detailed analysis.

At this time, the alternatives to be analyzed by the EIR are still under consideration. Input is sought from the public **as** to alternatives to be included in the EIR.

SUBMITTING COMMENTS

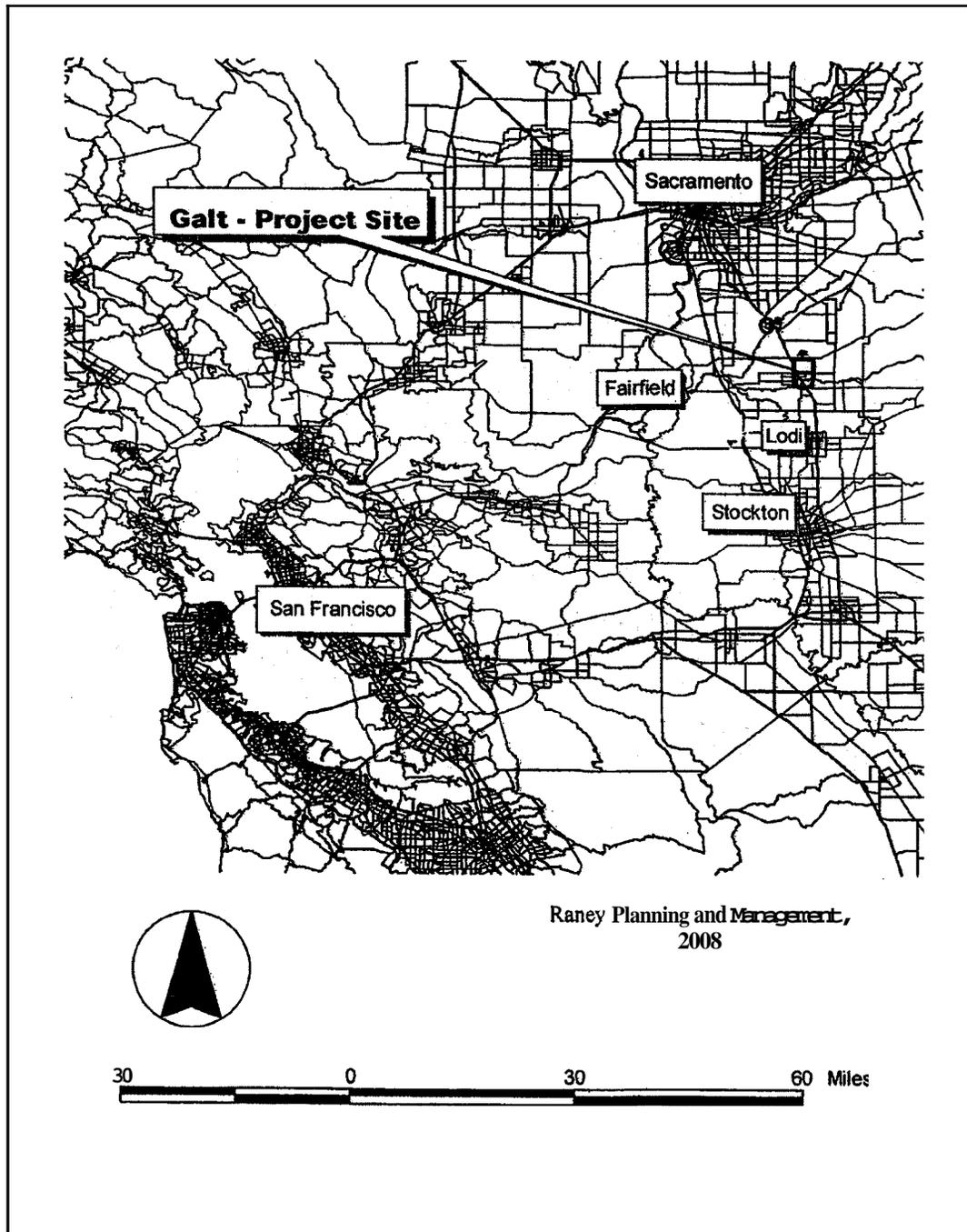
To ensure that the full range of project issues and alternatives related to the proposed project are addressed and that all significant issues **are** identified, comments and suggestions are invited from all interested parties. Written comments or questions concerning the EIR for the project should be directed to the following address by **5:00 p.m. on Monday, May 5, 2008**.

City of Galt Planning Department
ATTN: Chris Erias
495 Industrial Drive
Galt, **CA 95632**
(209) **366-7230**
(209) **744-1642 fax**
planning@ci.galt.ca.us

In addition, a scoping meeting will be held on **Wednesday April 23, 2008 at 6:00 p.m.** at the Galt Police Department Community **Room, 455 Industrial Drive** to receive verbal and/or written comments **on** the Notice of Preparation (NOP).

All comments must include full name and address in order for staff to respond appropriately.

Figure 1
Regional Location Map



**Figure 2
Project Location**



***Note:** The aerial photo does not show the current status of the development to the south of the project parcel. To date, only three parcels have not been developed with senior home units.

Figure 3
Wal-Mart Site Plan

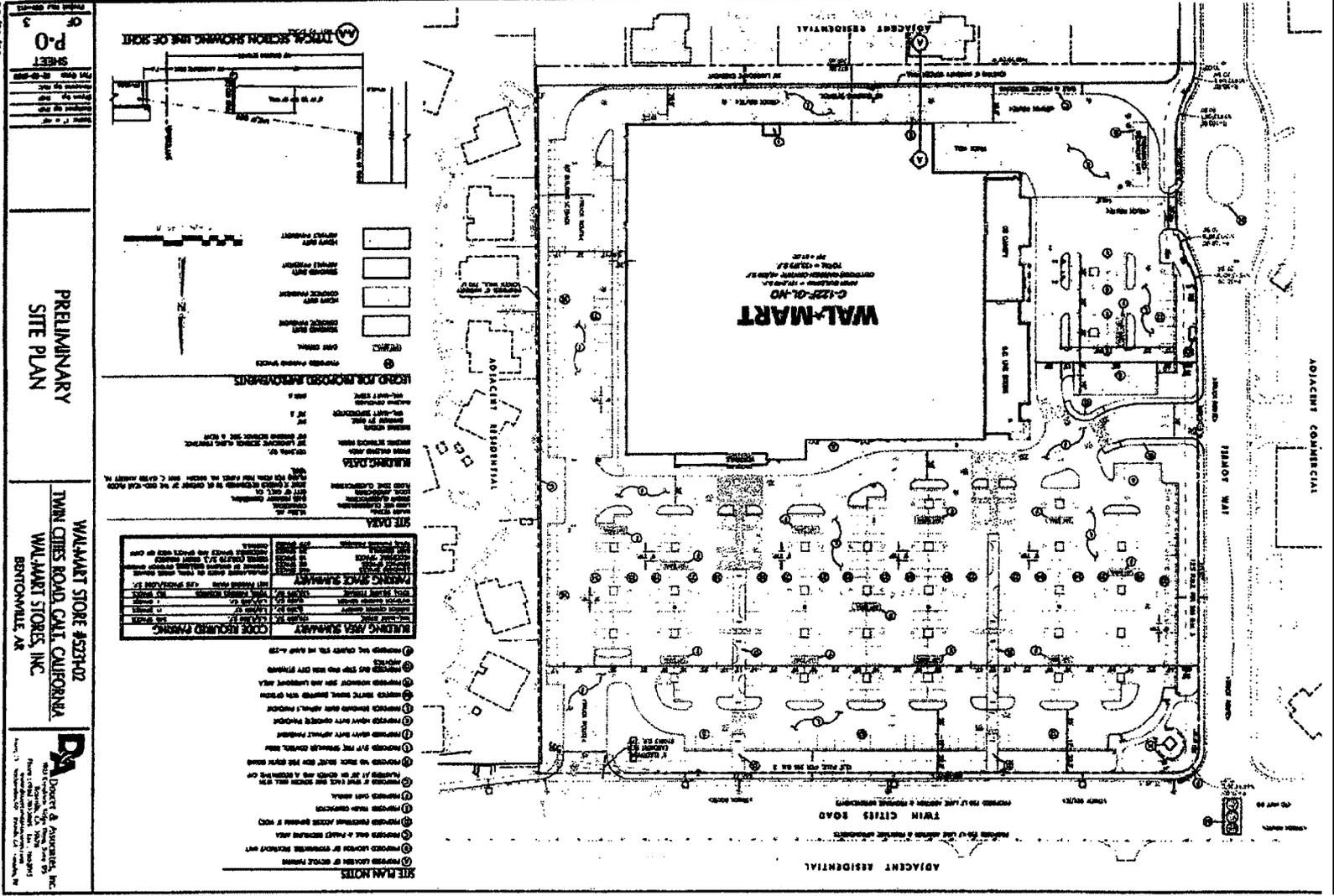


EXHIBIT B

Resolution No. 08-0477

STOCKTON CITY COUNCIL

RESOLUTION APPROVING THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR5-04) FOR THE WESTON RANCH TOWNE CENTER PROJECT

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS
FOLLOWS:

The City Council of the City of Stockton, after careful review and consideration of all comments received, and after using its independent judgment, hereby approves the Final Environmental Impact Report for the Weston Ranch Towne Center Project and adopts the Findings, Statement of Overriding Considerations and Mitigation Monitoring/Reporting Program for the Weston Ranch Towne Center Project, for property located on the west side of Manthey Road between Henry Long Boulevard and French Camp Road as set forth in the report of the Planning Commission filed with the City Council on December 2, 2008, based upon the following findings:

It is recommended that the Planning Commission certify the Final Environmental Impact Report (FEIR 5-04) and adopt the "Findings of Fact, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program for the Weston Ranch Towne Center Project" (Findings), prior to, or in conjunction with any related discretionary actions for which the Commission is the final decision-making body. Similarly, the Planning Commission should recommend that the City Council certify FEIR5-04 and adopt the related Findings prior to, or in conjunction with, any applicable discretionary approvals for this project, based on the following findings:

1. The Draft EIR and Final EIR have been completed in compliance with the California Environmental Quality Act (CEQA), State CEQA Guidelines, and City Guidelines for the Implementation of CEQA.
2. The FEIR has been reviewed and considered prior to any related project approvals, reflects the City's independent judgment, and has been found to be adequate for said approvals.
3. The anticipated benefits of the proposed project outweigh the unavoidable or unresolved adverse environmental effects, as supported by the Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program for the Weston Ranch Towne Center commercial project.
4. Based on the significant and/or potentially significant environmental effects identified in Final Environmental Impact Report for the Weston Ranch Towne Center (FEIR5-04) and pursuant to Sections 15091 and 15093 of the State CEQA

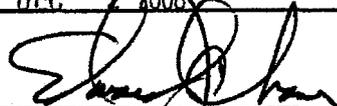
City Atty
Review

Date: November 20, 2008



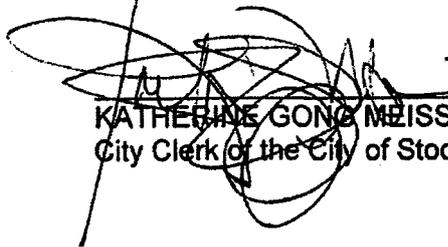
Guidelines, all applicable approvals are based on, and subject to the adopted findings, mitigation/measures and mitigation monitoring/reporting provisions, as specified in the Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program for the Weston Ranch Towne Center project.

PASSED, APPROVED AND ADOPTED DEC - 2 2008



EDWARD J. CHAVEZ, Mayor
of the City of Stockton

ATTEST:



KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

December 2, 2008

**PUBLIC HEARING: FINAL ENVIRONMENTAL IMPACT REPORT (FEIR5-04) AND
REZONING (Z-13-04) REQUESTS OF VESTAR CALIFORNIA XXVIII, LLC, ET AL.**

(Page 2)

DISCUSSION

The Weston Ranch Towne Center project initially proposed a 232,000 square foot Wal-Mart Supercenter and a 134,720 square foot major retail building on the same parcel within the overall shopping center. The original project included other retail stores for a total maximum floor area of 710,000 square feet on a **54-acre** site. However, on August 14, 2007, ~~the~~ City Council passed an ordinance to prohibit retail stores larger than 100,000 square feet with 10 percent or more of the floor space for the sale of groceries. Subsequently, the applicant revised the project to comply with the ordinance. The revised project reduces the floor area of ~~the~~ proposed Wal-Mart store to ~~99,996~~ 99,996 square feet and removes the second large major retail store (134,720 square feet), so that the floor area of the shopping center will not exceed 481,000 maximum square feet at build-out.

Background

At its regular meeting of October 23, 2008, the **City** Planning Commission considered and recommended approval of the requests of Vestar California XXVIII, LLC, ET AL for a Final Environmental Impact Report (FEIR5-04) and adoption of the related California Environmental Quality Act *Findings, Statement of Overriding Considerations and Mitigation Monitoring/Reporting Program for the Weston Ranch Towne Center Project. Rezoning (Z-13-04), Tentative Map (TM34-06), Vesting Tentative Map (VTM11-08), and Use Permit (UP89-04), to allow the construction of a regional shopping center and Variance (V-1-08) for property located on the west side of Manthey Road between Henry Long Boulevard and French Camp Road. The environmental document and Rezoning require final approval by the *City* Council. Accordingly, a public hearing has been scheduled for consideration and determination by the **City Council**. Council action is not required for the Tentative Map, Vesting Tentative Map, Use Permit and Variance, as there was no appeal filed.

Present Situation

Environmental Clearance (FEIR5-04)

The Final Environmental Impact Report (FEIR5-04) for the Weston Ranch Towne Center Project was prepared in compliance with ~~the~~ California Environmental Quality Act, California Environmental Quality Act Guidelines and City Guidelines for the Implementation of ~~the~~ California Environmental Quality Act. In addition, the mitigation monitoring/reporting provisions and related California Environmental Quality Act findings are included in the related *Findings, Statement of Overriding Consideration and Mitigation Monitoring/Reporting Program for the Weston Ranch Towne Center Project* (California Environmental Quality Act Findings). The *City Council* must adopt all

December 2, 2008

PUBLIC HEARING: FINAL ENVIRONMENTAL IMPACT REPORT (FEIR5-04) AND REZONING (Z-13-04) REQUESTS OF VESTAR CALIFORNIA XXVIII, LLC. ET AL.
(Page 3)

applicable mitigation measures identified in the Final Environmental Impact Report (FEIR5-04) and the related California Environmental Quality Act Findings in conjunction with approval of any related discretionary authorizations.

Rezoning (Z-13-04)

The rezoning request would rezone a ±45-acre project site from RL (Residential, Low Density) to CL (Commercial, Large-Scale) to allow construction of a regional shopping center.

Tentative Map (TM34-06), Vesting Tentative Map (VTM11-08), Use Permit (UP89-04) and Variance (V-1-08)

As noted above, the Planning Commission also considered and approved the related discretionary applications for the project site, subject to the City Council's approval of the Final Environmental Impact Report and Rezoning applications. Since these applications were not appealed to the City Council, these exhibits are being transmitted for informational purposes only.

Information related to the above-noted environmental clearance and discretionary applications for the project is provided in the staff report to the Planning Commission, attached as Exhibits 1 through 16.

PUBLIC HEARING DISCUSSION

Following staff's presentation to the Planning Commission on October 23, 2008, the applicant and a representative from Wal-Mart Stores, Inc. spoke in favor of the request. The applicant provided a brief chronology of the project and explained the reasons why the project took six years to process. He indicated that the project was delayed because of the entitlement requirements, change in ownership and the "Big Box" ordinance that was adopted by the City, which resulted in revisions to the project. The size of the Wal-Mart store was reduced to comply with the new ordinance. He stated that several community meetings were held to receive input from area residents regarding the types of businesses they would like in the retail shopping center. Further, he stated that development of the regional shopping center will provide job opportunities for local residents and would generate tax revenue for the City. The applicant met with staff at the San Joaquin Regional Transit District and discussed ways to design and integrate public transit stops within the shopping center to provide easy access for the public. Commercial building design will comply with the Leadership in Energy and Environmental Design standards including energy-efficient heating, ventilation, lighting and air conditioning, water-efficient irrigation systems and devices, ride sharing programs and the design of bicycle enhancing infrastructure connecting to an existing

**PUBLIC HEARING: FINAL ENVIRONMENTAL IMPACT REPORT (FEIR5-04) AND
REZONING (Z-13-04) REQUESTS OF VESTAR CALIFORNIA XXVIII, LLC, ET AL.**

(Page 4)

bikeway system within the community. The applicant stated that this Wal-Mart store also would have a budget for community giving and provide charitable opportunities for community non-profit organizations particularly in the south Stockton area. Several Planning Commissioners expressed concern regarding security issues once the shopping center commenced operation and directed staff to prepare a condition regarding a security plan as part of approval of the Use Permit (see security condition No. 31 of UP89-04 listed below).

Area residents spoke in support of the project. They indicated that development of the shopping center would benefit south Stockton residents. There was nothing in this area and they were in need of a shopping center. When the shopping center begins operation, south Stockton residents would no longer need to drive to shop in Lathrop, Tracy, or the Eight Mile Road and North Hammer Lane areas. Further, the retail stores would provide employment opportunities for the local residents and generate more tax revenue for the City. The area residents stated that allowing the shopping center in Weston Ranch would bring new residents to the area and keep the existing ones from leaving.

A former Wal-Mart employee spoke in opposition to the project. He expressed concern about the future security problems in the shopping center.

PLANNING COMMISSION ACTION

Following the public hearing and its deliberation, the Planning Commission voted unanimously (7 to 0) to recommend that the City Council approve the following actions based on the findings, as contained in the attached Planning Commission Staff Report (Exhibits 1 through 16):

1) Certify the Final Environmental Impact Report (FEIR4-05) and adopt the CEQA Findings, Statement of Overriding Consideration and Mitigation Monitoring/Reporting Program for the Weston Ranch Towne Center Project; and

2) Rezoning request (Z-13-04).

In addition, the Planning Commission approved the related Tentative Map, Vesting Tentative Map, Use Permit and Variance, based on the findings and subject to the conditions as listed in the staff report, as modified by the Planning Commission, for Tentative Map (TM34-06), Vesting Tentative Map (VTM11-08) and Use Permit (UP89-04):

December 2, 2008

**PUBLIC HEARING: FINAL ENVIRONMENTAL IMPACT REPORT (FEIR5-04) AND
REZONING (Z-13-04) REQUESTS OF VESTAR CALIFORNIA XXVIII, LLC. ET AL.**
(Page 5)

FINANCIAL SUMMARY

There is no financial impact to the City's departments from this action.

PUBLIC TIF

Notice in the local newspaper at least one time, ten days prior to the public hearing and notice to owners of record as shown on the last equalized tax roll and addresses within 300 feet of the site, at least ten days prior to the public hearing (Stockton Municipal Code Section 16-420).

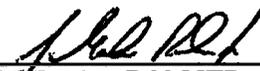
VOTES REQUIRED

Four votes of the City Council are necessary to approve the noted requests.

Respectfully submitted,

APPROVED BY


MICHAEL M. NIBLOCK, SECRETARY
CITY PLANNING COMMISSION


J. GORDON PALMER, JR.
CITY MANAGER

MMN:JL:fw

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EXHIBIT C

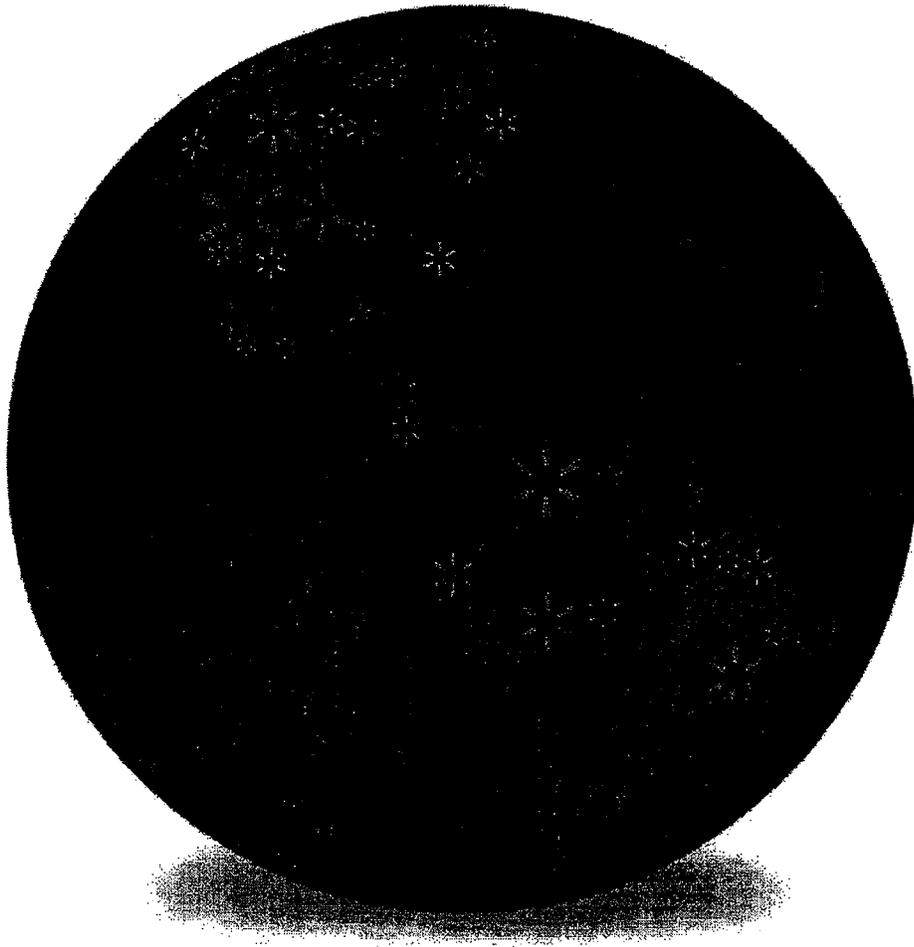
Global Sustainability News from Wal-Mart Stores, Inc.

S★MART

March 2008

Envisioning a Sustainable Future

Lee Scott announces goals for energy efficiency and supply chain



China Sustainability

Two-day meeting held
in Shenzhen

HE.5 Opens

Most energy efficient U.S.
retail store opens its doors

Let the Contest Begin!

First Sustainable Business Plan
competition is April 18

WAL★MART



Wal-Mart Opens Its Most Energy Efficient U.S. Retail Store

In March 2008, Wal-Mart Stores, Inc. opened its **HE.5** prototype in Las Vegas, Nev. The **HE.5** is a western climate-specific store that is up to 45 percent more energy efficient than the baseline Supercenter. The store is part of Wal-Mart's high efficiency series of **HE.1**, **HE.2** and **HE.5** prototypes that incorporate many years of research, experiments, partnerships and pilots, and will ultimately become Wal-Mart's stores of the future.

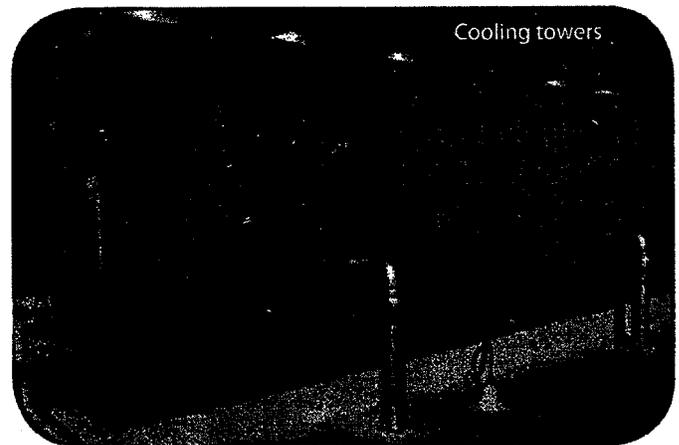
Building upon learnings from the **HE.1** and **HE.2** stores that Wal-Mart opened in 2007 and 2008 respectively, the **HE.5** begins a new series of prototypes designed for specific climates. The **HE.5** is western climate-specific, meaning the efficiency gains are made possible by innovations designed for the unique conditions of the region. Specifically, the **HE.5** includes new evaporative cooling and radiant flooring technologies that together provide a cool, comfortable shopping environment while using less energy. Additionally, the stores include all of the industry-leading technologies currently being installed in new Wal-Mart Supercenters, such as white roofs, daylight harvesting systems, light-emitting diodes (LEDs) in grocery cases and highly efficient bathroom fixtures.

Given the climate-specific nature of the **HE.5** store, this prototype will only be built in regions where its innovations can provide the greatest benefit. Additionally, because most of the pioneering technologies are housed on the roof and within the walls, floor and ceiling of the building, the **HE.5** store will look and feel much like a typical Wal-Mart Supercenter.

Wal-Mart is working to stay on the leading edge of sustainable building practices and is committed to openly sharing its learnings with the retail industry and the world. Increasing the efficiency of its stores is just one more way Wal-Mart is moving toward its goal to open a viable prototype that is 25 to 30 percent more efficient by 2009.

The **HE.5** store features advancements in heating, cooling, refrigeration and lighting to conserve up to 45 percent more energy than the baseline Wal-Mart Supercenter and reduces refrigerant use by 90 percent. These technologies include:

Indirect Evaporative Cooling: The new indirect evaporative cooling system cools water naturally by pumping it through roof-mounted towers and then running the cold water underneath the retail floor to cool the shopping area.



Radiant Flooring: Most retail buildings use heating, ventilating and air conditioning (HVAC) units located throughout the store to cool the ambient air. With Wal-Mart's radiant floor system, cold water is circulated underneath the sales floor, cooling the ambient air closest to customers as it floats upwards. The radiant floor is much more efficient than a conventional air-cooled system and significantly reduces maintenance costs.

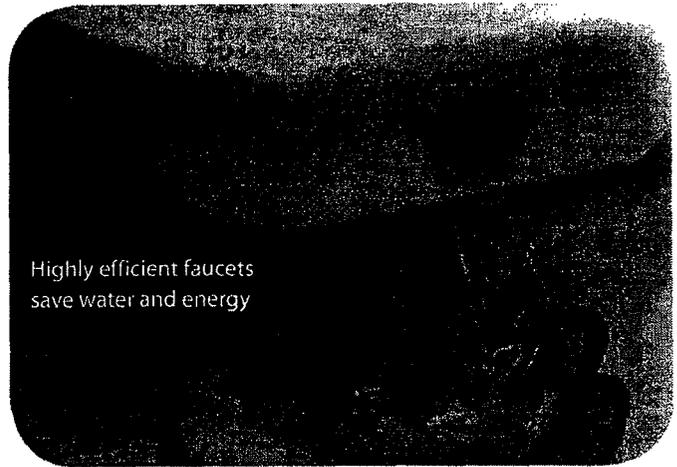
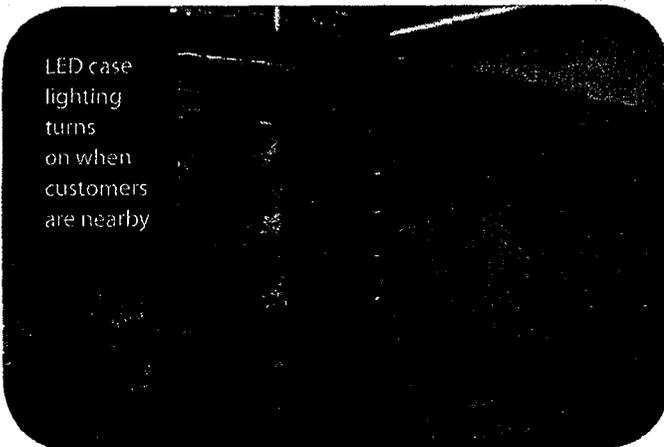
continued to page 8 . .

Wal-Mart Opens Its Most Energy Efficient U.S. Retail Store

continued from page 9...

Integrated water-source format refrigeration system: All of Wal-Mart's high-efficiency stores contain 100 percent integrated, water-source format heating, cooling and refrigeration systems that reclaim waste energy from the refrigeration units. This, as with the HE2 projects, utilizes a medium temperature, secondary loop system driven by a modular chiller concept that both improves overall system efficiency and reduces the refrigerant charge by 90 percent.

LED motion-sensing case lighting: All of Wal-Mart's high efficiency stores contain motion-activated sensors in LED lighted cases, illuminating merchandise as customers approach and conserving energy when shoppers are not nearby. LEDs with motion sensors use 70 percent less energy than industry standard fluorescent bulbs and can lower a Supercenter's overall energy use by approximately three percent. The total energy savings for LED lighting with motion sensors is more than 120,000 kWh per year, enough energy to power 11.5 single family homes (11,020 kWh average annual usage) for an entire year.



Water conservation in restrooms: Restroom sinks in newly constructed Wal-Mart stores contain sensor-activated 1/2 gallon per minute high efficiency faucets, reducing water usage by 78 percent compared to currently mandated 1992 EPA standards. In newly constructed stores and Sam's Clubs, Wal-Mart also installs high efficiency urinals that yield an 87 percent reduction in water usage and low-flow toilets that yield a 20 percent reduction in water usage. Water turbines are also built into each faucet and similar turbines are in the automatic toilet flush valves. During use, water flowing through the turbines generates the electricity needed to operate the sensors.



Wal-Mart Introduces Its Most Energy Efficient U.S. Retail Store

Latest prototype is expected to save up to 45 percent more energy than the baseline Wal-Mart Supercenter

Las Vegas, Nev., March 18, 2008 – Today, Wal-Mart Stores, Inc. introduced its most energy efficient U.S. store – the HE.5 prototype – that will use up to 45 percent less energy than the baseline Supercenter. Building upon learnings from previous high efficiency stores Wal-Mart opened in 2007 and 2008, the HE.5 begins a new series of prototypes designed for specific climates. This facility is western climate-specific, meaning the efficiency gains are made possible by innovations designed for the conditions of the region.

"Wal-Mart is piloting new technologies, driving innovation and leveraging advances in building design to better align our stores with the communities we serve," said Charles Zimmerman, Wal-Mart vice president of Prototype and New Format Development. "We are committed to openly sharing our learnings with the retail industry and the world because being more energy efficient is something everyone can benefit from."

The HE.5 store features advancements in heating, cooling, refrigeration and lighting to conserve energy and reduce greenhouse gas emissions. Specifically, the store takes the integrated water-source format system that Wal-Mart piloted in its successful high efficiency stores and adapts it to the unique local climate by adding evaporative cooling and radiant flooring technologies. The new HE.5 system reduces the temperature of water naturally by pumping it through roof-mounted cooling towers then runs the cold water underneath the retail floor to cool the shopping area. Together, the systems provide a comfortable shopping environment while using less energy.

"The Western Cooling Efficiency Center at the University of California, Davis, applauds Wal-Mart's cooling system design for the new Las Vegas store," said Richard Bourne, WCEC associate director. "We believe this is the most efficient cooling system implemented in a major retail facility. This project recognizes the very significant opportunity to integrate advanced natural cooling features in dry climates, thereby reducing the need to build new peak power generating plants."

Given the climate-specific nature of the HE.5 store, this prototype will only be built in regions where its innovations will provide the greatest benefit. Wal-Mart's high efficiency series of HE.1, HE.2 and HE.5 stores build upon many years of research, experiments, partnerships and pilots, and will ultimately help Wal-Mart reach its goal to design and open a viable store prototype that is 25-30 percent more energy efficient by 2009.

About Wal-Mart Stores, Inc. (NYSE: WMT)

Wal-Mart Stores, Inc. operates Wal-Mart discount stores, Supercenters, Neighborhood Markets and Sam's Club locations in the United States. The Company operates in Argentina, Brazil, Canada, China, Costa Rica, El Salvador, Guatemala, Honduras, Japan, Mexico, Nicaragua, Puerto Rico and the United Kingdom. The Company's securities are listed on the New York Stock Exchange under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartstores.com and www.walmartfacts.com. Online merchandise sales are available at www.walmart.com and www.samsclub.com.

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EXHIBIT D



Wal-Mart to Open Second Generation High-Efficiency Store

Retailer Unveils First of Four Stores That Use 25 Percent Less Energy and Significantly Reduce Greenhouse Gas Emissions

Bentonville, Ark. January 15, 2008 – Wal-Mart Stores, Inc. (NYSE: **WMT**) today announced the opening of its second generation of High-Efficiency stores (HE.2) that will use 25 percent less energy than the baseline Wal-Mart Supercenter. The first store will open in Romeoville, Ill., on January 23. The store combines what the company has learned from its successful first generation High-Efficiency stores (HE.1) with new state-of-the-art technologies. In addition to saving energy the new stores will significantly reduce greenhouse gas emissions by lowering refrigerant by 90 percent.

Leslie Dach, Wal-Mart's executive vice president of corporate affairs and government relations, made the announcement at the National Retail Federation's 97th Annual Convention & Expo in New York City.

"These stores are another solid step toward achieving our environmental commitments," said Dach. "We will continue to find new ways to build stores that have a reduced impact on the environment and ultimately reach a day when every new store is 25-30 percent more energy efficient than it was in 2005."

The improvement in energy efficiency comes from a new secondary refrigeration loop combined with an advanced water-source heating, cooling and refrigeration system. The technology was tested in Wal-Mart's Experimental Stores and uses a non-refrigerant-based solution to cool refrigerator and freezer cases, resulting in a 90 percent reduction in refrigerant. The HE.2 stores represent the first time secondary loop technology has been paired with a water-source heating, cooling and refrigeration system in the United States.

"We've learned a lot since we opened our first HE.1 store one year ago and we are excited to put what we have learned into practice with the HE.2," said Charles Zimmerman, vice president of prototype and new format development at Wal-Mart. "The secondary loop system is ideal because it not only makes the store more efficient, but also allows us to reduce greenhouse gas emissions. This is a perfect example of how Wal-Mart's culture of encouraging learning and driving innovation often yields additional environmental paybacks that can benefit the entire retail industry."

The HE.2 series will incorporate several learnings from the HE.1 stores and new technological advances, including white roofs, low-flow bathroom faucets, LED lights and an advanced daylight harvesting system. For more detailed, technical information, please visit www.walmartfacts.com.

About Wal-Mart Stores, Inc. (NYSE: **WMT**)

Wal-Mart Stores, Inc. operates Wal-Mart discount stores, Supercenters, Neighborhood Markets and Sam's Club locations in the United States. The Company operates in Argentina, Brazil, Canada, China, Costa Rica, El Salvador, Guatemala, Honduras, Japan, Mexico, Nicaragua, Puerto Rico and the United Kingdom. The Company's securities are listed on the New York Stock Exchange under the symbol **WMT**. More information about Wal-Mart can be found by visiting www.walmartstores.com and www.walmartfacts.com. Online merchandise sales are available at www.walmart.com and www.samsclub.com.



Garland Supercenter Focuses on Local Preferences

Innovative energy-efficient store anchors neighborhood revitalization

GARLAND, Texas, May 1, 2008 – Distinctive elements and special features abound throughout the new Wal-Mart Supercenter opening May 7 in Garland. Customers at the newly relocated store will find a merchandise mix created with their preferences in mind, including family-oriented departments, bold colors and popular foods. The store is also built to minimize its impact on the environment as the latest of Wal-Mart's High-Efficiency stores to open.

Located at 1801 Marketplace Dr., the store anchors the 48-acre Centerville Marketplace West shopping district near the intersections of LBJ Freeway/Interstate 635, Northwest Highway and Saturn Road. The city of Garland spearheaded the effort to replace a dilapidated apartment complex and other properties and then attract new development. The store is part of a neighborhood revitalization effort that brings new energy to a formerly declining area. Local officials and community leaders will join Wal-Mart representatives to celebrate the store's opening with a 7:30 a.m. ribbon-cutting ceremony May 7, followed by an all-day celebration.

"It's been wonderful to see this area revitalized and experience the enthusiasm surrounding our opening," said Store Manager Daryl Scoggins. He was born and raised in Garland, graduating from Garland High School in 1984. He chose to return to the area to manage the new Supercenter. "I am so excited about coming home to Garland," he said. "The city of Garland acted on its vision to replace blighted properties with a center bustling with retail, restaurants and other businesses I'm proud to be a part of."

The Garland store is the latest High-Efficiency Wal-Mart Supercenter to open. The HE.2 store is designed to greatly reduce greenhouse gas emissions and use 25 percent less energy than a typical Wal-Mart Supercenter. By incorporating some of the most innovative products in building today, the HE.2 prototype uses many of the energy improvements from the first generation High-Efficiency (HE.1) stores, such as the one in nearby Highland Village. HE.2 stores feature industry-leading advancements such as integrated heating, cooling and refrigeration systems, and lighting innovations to conserve energy. (Editors' Note: See page four for more information on High-Efficiency stores.)

Store Designed for Local Tastes

Since its original opening in 1987, the Garland store has focused on sewing the needs of the nearby community. With its relocation, the 195,912-square-foot store features a full line of groceries and several new time-saving features and services

Wal-Mart paid attention to the shopping patterns and preferences of its customers and designed the store to reflect the local community. As a result, the store will make fresh corn and flour tortillas and chips daily. The deli will also offer fresh-baked bolillo and pandulce, and the produce department will include an expanded selection of bananas, plantains, chilies and spices. Customers can pick up bulk packages of specially marinated meat, rice and beans. Near the entrance, shoppers will find a La Michajuce bar and a special shop with merchandise for the latest holiday or upcoming sporting event.

Customers will enjoy shopping with their families throughout the store, including its new youth-oriented department that displays children's furniture, bedding and home decor together. Bold colors, popular brands and the latest fashions fill the store's apparel and home décor sections. The store also has expanded its selection of children's and infant apparel and accessories. In addition to the latest electronics, the store offers a wide variety of Spanish-language music, movies, games and other entertainment choices.

The new Supercenter will have a Wal-Mart MoneyCenter to assist customers who are outside of mainstream banking with

convenient access to low-cost money services, including check cashing, money orders, bill payment and money transfers.

For added convenience, there will be a vision center, a pharmacy with two drive-through lanes, a digital photo processing center and a Wal-Mart Connect Center for wireless phone sales. Leased areas and services include a SmartStyle Family Hair Care salon, DaVi Nails salon, a Subway restaurant and a branch of First Convenience Bank.

Commitment to Community Continues with \$18,000 in Grants

As part of Wal-Mart's commitment to the communities in which they operate, the newly relocated store is continuing its support of the area by contributing \$18,000 to local charitable organizations. The Salvation Army Boys and Girls Club will receive a \$5,000 contribution to help with its after-school programs. Garland Summer Musicals will receive a \$2,500 grant to underwrite scholarships and youth-oriented productions. Garland High School will receive a \$2,500 grant to upgrade computers used in its classrooms. Other grants will provide support to the families of police officers and fire fighters who have died in the line of duty and help members of the military who have suffered spinal cord injuries.

"In addition to cash contributions, we've supported these agencies and other community charitable efforts for years by hosting fund-raisers, providing volunteers, and giving in-kind merchandise donations," Scoggins said. "We think of them as our community partners and consider it a privilege to support the good work they do."

Wal-Mart Provides Local Jobs

The store plans to employ approximately 650 associates upon opening. Due to its relocation, the Supercenter has added more than 175 jobs.

"Many associates joined because they know they have the opportunity for a long-lasting career at Wal-Mart," Scoggins said. Like three-fourths of Wal-Mart store management, Scoggins started his own career with the company as an hourly associate. He joined the company in 1994, gathering carts and stocking shelves at a store in Benton, Ark. He is one of 52 of the store's associates who have worked for Wal-Mart for more than 10 years.

Ribbon-cutting Celebration 7:30 a.m., May 7

Community and business leaders will join Wal-Mart associates for a brief ribbon-cutting ceremony at 7:30 a.m., Wednesday, May 7, and doors to the new store will open at 8 a.m. Throughout the day, activities will include numerous product samples, character appearances and giveaways.

About Wal-Mart Stores, Inc. (NYSE: WMT)

Every week, millions of customers visit Wal-Mart Stores, Supercenters, Neighborhood Markets, and Sam's Club locations across America or log on to its online store at www.walmart.com. The company and its Foundation are committed to a philosophy of giving back locally. Wal-Mart (NYSE: WMT) is proud to support the causes that are important to customers and associates right in their own neighborhoods, and last year gave more than \$296 million to local communities in the United States. To learn more, visit www.walmartstores.com, or www.walmartfoundation.org.

EDITOR'S NOTES

- An invitation-only open house for VIPs, Wal-Mart associates and their families is scheduled for Saturday, May 3, from 6 to 8 p.m. Preview tours will be provided and checks will be presented to representatives from community organizations. Reporters and photographers are welcome.
- Daryl Scoggins, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or tours. He can be reached at 972-278-8077.

STORE FACT SHEET *Garland Wal-Mart Supercenter*

Store facts

- Location: 1801 Marketplace Dr., Garland, Texas
- Originally opened in 1987 at 3159 Garland Ave.

- 195,912-square-foot Wal-Mart Supercenter
- Store opens at 8 a.m., Wednesday, May 7, after a 7:30 a.m. ribbon-cutting ceremony
- Store manager: Daryl Scoggins

Store features

- Full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products, fresh produce, beer and wine section.
- Merchandise departments include apparel and accessories, fine jewelry, lawn and garden center, health and beauty aids and a full line of electronics.
- Convenience services include a money center, vision center, digital photo processing center, Wal-Mart Connect Center and a pharmacy with **two** drive-through lanes.
- Leased areas and services include a La Michá juice bar, SmartStyle Family Hair Salon, DaVi Nail salon, a Subway restaurant and a branch of First Convenience Bank.
- Open 24 hours a day, seven days a week
- Twenty full-service and 10 express check-out lanes

Charitable giving

\$18,000 in charitable contributions to eight area organizations

- City of Garland Parks and Recreation Department
- Garland Civic Theatre
 - Garland High School
- Garland Summer Musicals
- Guns N Hoses Foundation
 - Paralyzed Veterans of America
- The Achievement Center of Texas
- The Salvation Army Boys and Girls Club

Employment

- The Supercenter plans to employ approximately 650 associates upon its opening. Due to its relocation, the store has added more than 175 associates.
 - Fifty-two of the store's associates have worked for Wal-Mart for more than 10 years.
 - Store Manager Daryl Scoggins was born and raised in Garland. He started his Wal-Mart career in 1994 as an hourly associate, working as a cart pusher at a store in Benton, Ark.
 - The average wage at Wal-Mart for full-time hourly associates in Texas is approximately \$10.55 per hour.*
 - Wal-Mart benefits – available to eligible full- and part-time associates – include healthcare insurance with no lifetime maximum. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, company performance-based bonuses, stock purchase program and life insurance.
- * Average wage taken April 2008. See www.walmartstores.com for details.**

HIGH-EFFICIENCY STORE INFORMATION

Garland Wal-Mart Supercenter

The Garland, Texas, store is the fourth Wal-Mart Supercenter classified as an HE.2 energy-efficient prototype. The stores are located in a variety of climate zones to evaluate how the systems perform and expected to use 20 percent less energy than a typical Supercenter. The stores feature industry-leading advancements such as integrated heating, cooling and refrigeration systems, and lighting innovations to conserve energy.

In July 2005, Wal-Mart opened the first of its experimental stores in nearby McKinney, Texas, followed by the opening of a similar store in Aurora, Colo., in November 2005, with the hope that successful experiments could someday be incorporated into new store prototypes. The Garland High-Efficiency store brings many of these experiments to life.

- To achieve a 25 percent overall energy reduction, the Garland store uses a 100 percent integrated water-source format heating, cooling and refrigeration system, where water is harnessed to heat and cool the building.
- The store also introduces a number of new and improved technologies, such as a state-of-the-art secondary loop refrigeration system, to gain a 5 percent improvement in energy efficiency over an HE.1 store. This improvement comes from a streamlined design of the water-source heating, cooling and refrigeration system, coupled with the new secondary refrigeration loop. This is the first time secondary loop technology has been paired with a water-source system.

Additional Energy-Efficient Store components include:

- Motion-activated light-emitting diodes (LEDs) in refrigerated and freezer cases, plus additional glass doors on deli and dairy cases
- Optimized pump package that is 50 percent smaller than the HE.1 store and uses even less copper piping
- Industry-leading daylight harvesting technology
- Reflective white membrane roof
- Recycled construction materials such as fly-ash, slag, integrally colored concrete floors, and plastic baseboards and chair rails
- A state-of-the-art Munters Dehumidification system is expected to increase overall store energy-efficiency by roughly two percent.
- Restroom sinks use sensor-activated, low-flow faucets. The low-flow faucets reduce water flow by 84 percent, while the sensors save approximately 20 percent in water usage over similar, manually-operated systems.

In 2007, Wal-Mart opened a series of HE.1 stores in Kansas City, Mo.; Rockton, Ill.; and Highland Village, Texas. In January 2008, the first HE.2 prototype store opened in Romeoville, Ill. Others have since opened in Bernalillo, N.M., and Wichita, Kan.

Wal-Mart is now introducing its next generation of energy-efficient U.S. stores, the HE.5 prototype. The first HE.5 prototype opened in Las Vegas in March 2008. These stores use up to 45 percent less energy than the baseline Supercenter. Building upon learnings from previous high efficiency stores Wal-Mart opened in 2007 and 2008, the HE.5 begins a new series of prototypes designed for specific climates.

The retailer's high efficiency series of HE.1, HE.2 and HE.5 stores build upon many years of research, experiments, partnerships and pilots, and will ultimately help Wal-Mart reach its goal to design and open a viable store prototype that is 25-30 percent more energy efficient by 2009.

Wal-Mart customers are increasingly becoming familiar with the company's energy-saving innovations as they are introduced in stores opening across the country. Many new stores now feature daylight-harvesting systems that minimize electricity usage during periods of bright sunlight, motion sensor-driven LED refrigerated and freezer case lighting and polished concrete floors that reduce the need for harsh chemical cleaning products.

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Wal-Mart Opens Second High-Efficiency Store In Northern Illinois, Using 20 Percent Less Energy

See "Related Resources" below
to download the HE-1 press kit and high resolution images

New prototype to test conditions in cooler climate; Supercenter to bring economic benefits

Rockton, Ill., March 14, 2007 – Wal-Mart Stores, Inc. today announced the opening today of its second High-Efficiency Wal-Mart Supercenter in Rockton, Ill., expected to use 20 percent less energy than a typical Supercenter. The High-Efficiency Supercenter is the second of four to open this year, located in a variety of climate zones to evaluate how the systems perform. The store features industry-leading advancements such as integrated heating, cooling and refrigeration systems, and lighting innovations to conserve energy. Wal-Mart opened its first High-Efficiency store in January in Kansas City, Mo.

"At Wal-Mart, being a good business and a good steward of the environment go hand-in-hand," said Charles Zimmerman, vice president of Prototype and New Format Design. "This series of higher-efficiency stores is an important step toward reaching one of our environmental goals -- designing and opening a prototype that is 25 to 30 percent more efficient by 2009. By incorporating these technologies into a working store, we are demonstrating that more efficient store designs can save energy, lower utility costs and reduce emissions. Those are savings that we can pass along to our customers."

In 2005, Wal-Mart opened two experimental stores in McKinney, Texas, and Aurora, Colo., with the hope that successful experiments could someday be incorporated into new store prototypes. The Rockton High-Efficiency store brings many of these experiments to life.

- To achieve a 20 percent overall energy reduction, the Rockton store uses a 100 percent integrated water-source format heating, cooling and refrigeration system, where water is harnessed to heat and cool the building
- Energy-saving motion-activated light-emitting diodes (LEDs) in refrigerator and freezer cases are expected to create a two to three percent energy reduction.
- A state-of-the-art Munters Dehumidification system is expected to increase overall store energy-efficiency by roughly 2 percent
- Many floors are made of integrally colored concrete instead of carpet or tile, reducing the need for certain harsh chemical cleaning products
- All baseboards and chair rails are made of recycled plastic
- Restroom sinks use sensor-activated, low-flow faucets. The low-flow faucets reduce water flow by 84 percent, while the sensors save approximately 20 percent in water usage over similar, manually-operated systems

"The new heating, cooling and refrigeration systems are fully integrated so that 100 percent of the excess refrigerant heat is pumped back into the HVAC," said Jim McClendon, Wal-Mart Chief Mechanical Engineer. "That means heat which would have been released into the air is reclaimed and converted into usable energy. We are actively sharing this technology and other learnings from our High-Efficiency stores with the entire commercial industry, including our competitors."

Wal-Mart is now installing motion sensor-driven LED refrigerated and freezer case lighting in its new stores, the first commercial LED installation of this magnitude in U.S. retail. LED lights have a longer life span than fluorescent bulbs, produce less heat and use significantly less energy than typical grocery case lighting. In the High-Efficiency stores, LED

lights have been installed in freezer and refrigerated cases, and doors have been added to cases in the deli and dairy sections. To save energy, the motion sensor-driven lights in these cases automatically turn off when not in use for a few seconds, then quickly turn back on when a customer approaches.

Many environmentally beneficial features of the store are nearly indiscernible to customers and associates. For example, the daylight harvesting system uses skylights to refract daylight throughout the store and light sensors to monitor the amount of natural light available. During periods of higher natural daylight, the system dims or turns off the store lights, thereby reducing energy use. Although the amount of artificial light varies, the state-of-the-art system makes the lighting changes virtually seamless.

"We are excited to open this new High-Efficiency Supercenter, bringing reliable, comfortable, convenient service to the Rockton community," said Store Manager Alicia Lawrence. "Our new store features the latest in energy-saving technologies and Wal-Mart's new interior design and most importantly provides the community with the continued value of every day low price that brings them through our doors."

New Interior Designs and **Layout** add to **One-Stop** Shopping Convenience

The Rockton Supercenter interior features earth tones, wide aisles and concrete flooring for environmentally friendly maintenance. New **signage** and lower shelves help customers quickly locate their selections in a large format store. A large home organization department features the sleek new line of exclusive SELECT edition® GE small appliances. The home department also contains a large infant section complete with a selection of baby cribs, youth furniture and infant car seats. Wal-Mart's newly expanded electronics department offers the latest DVD players, music and other electronics, including a wall display of top brands in plasma and HDN.

As a Supercenter, the store also contains a full line of grocery items, including bakery, delicatessen, meat, dairy, frozen foods, fresh produce and organic selections, as well as a complete liquor department. The store has a family apparel department highlighting Wal-Mart's new George® line, organic Baby George clothing, health and beauty aids, household needs, toys, an expanded lawn and garden center, jewelry and shoes.

For added convenience, the Supercenter has a Tire & Lube Express, a vision center, a pharmacy with two drive-through lanes, a one-hour photo lab, a family fun center, and a Wal-Mart Connect Center. Additional leased space and services include a Regal Nails Salon, a Cost Cutters Hair Salon, a Subway restaurant, and a branch of Members Alliance Credit Union. The store will be open to customers 24 hours a day, seven days a week with 18 full-service and eight express check out lanes.

More than 1,000 applications for 400 new jobs

According to store manager Alicia Lawrence, the store has received more than 1,000 applications for the 400 new positions planned at the store.

We have had many people interested in working at the store, and I think it's because they see the benefits and career opportunities Wal-Mart has provided for many of their friends and neighbors in the state," says Lawrence.

Lawrence, like more than 75 percent of Wal-Mart's store managers, started as an hourly associate in menswear sales in Ottawa. Ten of the Rockton store's associates have worked for Wal-Mart for more than 10 years.

As of February 2007, Wal-Mart employed 45,758 associates in the state of Illinois. Including the newest Wal-Mart Supercenter in Rockton, the company currently owns and operates the following facilities in the state:

- Supercenters: 59
- Discount Stores: 78
- Sam's Clubs: 28
- Distribution Centers: 4

\$25,500 in Grants to Local Organizations

According to Lawrence, as part of the new store's commitment to the community, the Rockton Wal-Mart Supercenter will announce **\$25,500** in donations to local organizations through Wal-Mart's Good Works community involvement program. Like all Wal-Mart stores, the Rockton Wal-Mart will provide grant dollars throughout the year to help its neighborhood organizations. (Editors note: For a complete list of grant recipients, please see the Fact Sheet, attached.

Area organizations interested in learning more about funding from Wal-Mart or are interested in raising money at Wal-Mart stores can contact the store for details, or go to www.walmartfoundation.org.

Grand Opening Celebration

The grand opening ceremony begins at **7 a.m.** with area dignitaries and local representatives present to share in the community celebration on March 14. Additional grand opening activities planned throughout the day include product samples, giveaways and character appearances.

About Wal-Mart Stores, Inc. (NYSE: WMT)

Every week, more than 127 million customers visit Wal-Mart Stores, Supercenters, Neighborhood Markets, and Sam's Club locations across America or log on to its online store at www.walmart.com. The company and its Foundation are committed to a philosophy of giving back locally. Wal-Mart (NYSE: WMT) is proud to support the causes that are important to customers and associates right in their own neighborhoods, and last year gave more than \$245 million to local communities in the United States. To learn more, visit www.walmartfacts.com, www.walmartstores.com, or www.walmartfoundation.org.

EDITOR'S NOTES

- *Media is welcome to attend the preview night for VIPs, Wal-Mart associates and their families before the store opens, scheduled for Mon., March 12, from 6 p.m. until 8 p.m.*
- *Preview tours will be provided. Video and photography will be allowed, as well as on Grand Opening day. Please contact Wal-Mart (800)331-0085 if planning to attend so we can add you to the guest list.*

FACT SHEET Rockton Wal-Mart Supercenter

Store Fast Facts

- Location: **4781 E. Rockton Rd.**, Rockton, Ill.
- 205,147-square-foot Wal-Mart Supercenter
- **7 a.m.** grand opening ceremony, Wednesday, March **14**; doors open at **7:15 a.m.**
- Second High Efficiency, Energy-Saving store to use 20% less energy
- Store manager: Alicia Lawrence

(See press kit at the bottom of this release for details on energy efficiency areas.)

Basic Store Features

- General merchandise departments including family apparel with an expanded infant section, a household organization department, health and beauty aids, household needs, expanded electronics department, toys and crafts, lawn and garden supplies, jewelry and shoes
- Other special features: Tire & Lube Express, a vision center, a pharmacy with two drive-through lanes, a one-hour photo lab, a Regal Nails Salon, a Cost Cutters Hair Salon, Subway restaurant, a Wal-Mart Connect Center, a Family Fun Center, a branch of Members Alliance Credit Union and a complete liquor department
- Open **24** hours a day, seven days a week

Employment

- o 400 planned new jobs, more than 1,000 applicants
- o The average wage at Wal-Mart for full-time hourly associates in Illinois is \$10.91 per hour.*
- o Lawrence, like 76 percent of other store managers, started as an hourly associate. Her first job was as a menswear sales associate in Ottawa.
- o Wal-Mart benefits – available to **full-** and part-time associates – include healthcare insurance with no **lifetime** maximum. Wal-Mart also offers a **401(k)** plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

* *Average wage taken December 2006. See www.walmartfacts.com for details.*

Charitable Giving

\$25,500 in charitable contributions to several area organizations:

- o American Legion #0332 Walter Graham **Post**
- o City of Rockton
- o City of Rockton Fire Department
- o City of Rockton Police Department
- o **C i** of Rockton-Talcott Free Public Library
- o City of Roscoe Parks Department
- o Goldie B. Floberg Center for Children
- o Harlem Roscoe Fire Protection District
- Hononegah Community High School
- o Macktown A. Living History Education Center
- o Oldstone Church **Food** Pantry
- o Rockton Chamber of Commerce
- o Rockton Lions Club Charities
- o **Roscoe** Chamber of Commerce
- o Stateline Family YMCA of **Beloit**, Inc.

Click here to learn more about Wal-Mart in Illinois

- # # # -



Wal-Mart to Open First High-Efficiency Store; Supercenter Expected to Use 20 Percent Less Energy

Wal-Mart Extends Environmental Efforts to Kansas City™ Donates \$110,000 in In-Kind and Cash Contributions to Local Community

Attention Journalists

See "Related Resources" for downloadable press kit and high resolution images of the Kansas City High-Efficiency Supercenter

Attention TV stations:

Broadcast quality video available for download

Bentonville, Ark., Jan. 18, 2007 — Wal-Mart Stores, Inc. announces it will open tomorrow in Kansas City, Mo. the first in a series of High-Efficiency stores that will use 20 percent less energy than a typical Supercenter. In addition to the cutting-edge technologies already found in Wal-Mart stores, the new High-Efficiency stores will integrate industry-leading heating, cooling and refrigeration systems to conserve energy. High-Efficiency stores will help the retailer move one step closer to achieving its environmental goals, which include using less energy and producing less waste.

"Just over a year ago, our CEO Lee Scott challenged our associates to open a store that was 25 to 30 percent more efficient by 2009," said John Menzer, vice chairman, Wal-Mart Stores. "The Kansas City High-Efficiency store is the first of its kind, and shows Wal-Mart is capable of operating stores, clubs and distribution centers in a way that saves energy, lowers utility costs, reduces emissions, and above all, provides a better shopping experience for our customers."

In 2005, Wal-Mart opened two experimental stores in McKinney, Texas, and Aurora, Colo., to test several different environmentally friendly technologies, ranging from wind power to pervious pavement, from waterless urinals to light-emitting diodes. The aim was to experiment with innovative technologies, with the intention that they could some day be incorporated into a store prototype. The Kansas City High-Efficiency store is the first store to bring some of these experiments from the preliminary testing phase to a practical trial phase. Wal-Mart plans to open the next High-Efficiency store in Rockton, Ill., this spring.

"We are learning a tremendous amount from our experimental stores," said Eric Zorn, president, Wal-Mart Realty. "Wal-Mart stores are already some of the most energy-efficient in the retail industry, but we want to take efficiency even further. This new Supercenter is where we really get to put what we've learned into practice, and we're excited to reach a 20 percent energy reduction so quickly."

To achieve the 20 percent energy reduction at the new Kansas City High-Efficiency store, the company will target two main energy-consuming units: the heating and air conditioning system (HVAC), and the refrigeration system. With the installation of special equipment, such as a water source heat pump and cooling towers, hot and cold water can be harnessed to drive new levels of efficiency. Specifically, the new HVAC and more efficient refrigeration systems are fully integrated so that 100 percent of the heat rejected by the refrigeration system is reclaimed into the HVAC. The reclaimed heat is then converted into usable energy. By incorporating a loop-piping design, the advanced refrigeration system also reduces the amount of installed copper and the total refrigerant charge required.

"For years, retailers have used air cooled equipment for air conditioning and refrigeration," Vice President of Prototype and New Format Design Charles Zimmerman said. "In recognizing that water has four times the heat carrying capacity of air, we realized it would be much more efficient as a conductor of energy in our heating, cooling and refrigeration systems. In this

High-Efficiency store, we're putting that to the test by utilizing our on-site resources to full capacity before applying secondary power sources."

Other energy-saving technologies in the High-Efficiency store include the installation of **ultra-efficient** case fans, glass doors on medium temperature grocery cases, **RollSeal®** quick response doors to seal air in areas such as the Garden Center, an a **top-of-the-line** dehumidification system, The store will also have a daylight harvesting system, which uses skylights to refract daylight throughout the store and light sensors to monitor the amount of natural light available. During periods of higher natural daylight, the system then dims or **turns** off the store lights when they aren't needed, thereby reducing energy usage.

Like many other Wal-Mart stores opening this month, the Kansas City Supercenter also features **GE's** energy-saving light-emitting diode (LED) refrigerated case lighting. LEDs have a longer life span than fluorescent bulbs, produce less heat and use significantly less energy than typical grocery case lighting. In the **High-Efficiency** store, motion sensor-driven LED lights have been installed in all freezer and **medium-temperature** refrigerated cases. When not in use for a few seconds, the light in these cases automatically turn off, and quickly turn back on when a customer approaches. This direct learning from the Aurora and **McKinney** experimental stores is expected to add a 2 to 3 percent energy reduction, and will be rolled-out in new Wal-Mart stores, Supercenters, Neighborhood Markets and Sam's Clubs beginning this month.

"We're very excited to launch this High-Efficiency concept in Kansas City, where our residents and local business leaders have shown that the environment is a key priority for them," said Dan Steele, Wal-Mart store manager. "Though most of the energy-saving technologies here are not visible to the public, we've added new **signage** to show our customers how **these** systems can help save money and keep our prices low."

Lighting the Way for Energy Savings in Kansas City

In addition to the focus on energy-efficient stores, Wal-Mart is **committed** to selling products that sustain our resources and our environment. As part of this store's grand opening events, Wal-Mart announces a partnership with Kansas City Mayor Kay Barnes to support the **city's** "A Million Lights Campaign." With its donation of 21,000 compact fluorescent light bulbs (CFLs), Wal-Mart will aid the city's campaign to distribute CFLs to low-income and senior citizen households in Kansas City Mo. The Wal-Mart gift will also help the **city** reach its goal to change one million incandescent bulbs to energy-saving CFLs by October 2007. This in-kind donation of more than \$53,000 brings this store's total grand opening donations to local charities and organizations — such as the Kansas City Weatherization Improvement Project, Bridging the Gap, and the Boy! Club of Greater Kansas City — to \$110,000.

About **Wal-Mart** Stores Inc. (NYSE: WMT)

Every week, more than 127 million customers visit Wal-Mart Stores, Supercenters, Neighborhood Markets, and Sam's Club locations across America. The company and its Foundation are committed to a philosophy of giving back locally. Wal-Mart (NYSE: WMT) is proud to support the causes that are important to customers and associates right in their own neighborhoods, and last year gave more than \$245 million to local United States communities. To **learn** more, visit www.walmartfacts.com, www.walmart.com, or www.walmartfoundation.org.

FACT SHEET *Kansas City Wal-Mart Supercenter*

Store fast facts

- o Location: 11601 E. U.S. 40 Highway, Kansas City, **Mo.**
- 197,000-square-foot Wal-Mart Supercenter
- VIP Preview night Thursday, Jan. 18.6 p.m.
- o Grand opening ceremony Friday, Jan 19; 7:30 a.m. followed by store opening at 8 a.m.
- o Store manager: Dan Steele

Other Store features

- a Full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products, fresh produce, full line of beer, wine and liquor, apparel and accessories, toys, fine jewelry, lawn and garden center, health and beauty aids, electronics, Tire & Lube Express, vision center, Subway restaurant, one-hour photo lab, pharmacy, SmartStyle hair salon, Wal-Mart Connect Center, Kansas City Chiefs and Royals sport shop and a UM8 branch.
- o Open 24 hours a day, seven days a week.
- Nineteen full-service and 12 express check-out lanes.

Employment

- a More than 1,200 applications. Store plans to employ 480 associates.
- a Thirty-two of the Kansas City store's associates have worked for Wal-Mart for more than 10 years
- The national average wage at Wal-Mart for full-time hourly associates is approximately \$10.11 per hour.*
- a Wal-Mart benefits "available to full- and part-time associates" include healthcare insurance with no lifetime maximum. Wal-Mart associates are eligible for health care benefits. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

* Average wage taken December 2005. See www.walmartfacts.com for details.

For more information

- Store manager: Dan Steele, (816) 313-1183
- Wal-Mart information online: www.walmartfacts.com; merchandise sales: www.walmart.com

Charitable Giving Fast Facts

Kansas City Supercenter Donates over \$110,000 in *In-Kind* and Cash Contributions to Local Community

- \$53,000 in product donations of 21,000 CFL light bulbs for "A Million Lights" Campaign; City will distribute 21,000 energy-efficient light bulbs to low-income and senior citizen households in Kansas City, Mo.
- \$10,000 donation to the Home Weatherization Division of the Kansas City Neighborhood and Community Services
- \$10,000 donation to Bridging the Gap to support various environmental programs and community organizations

"A Million Lights" Campaign "More than \$53,000 In in-kind light bulb donations

Wal-Mart is pleased to partner in the Kansas City, Missouri's "A Million Lights" campaign "an effort to replace one million light bulbs with compact fluorescent light bulbs to save the region over \$2 million in energy costs by October 2007. Compact fluorescent light bulbs (CFLs) consume 70 percent less energy than standard incandescent bulbs and last up to 10 times longer. Each CFL can save about \$30 over the life of the bulb and keep as much as 450 pounds of greenhouse gases from entering the atmosphere. Wal-Mart's donation of 21,000 CFLs, worth more than \$53,000, will have far-reaching impacts in the city's effort to distribute energy-efficient light bulbs to low-income and senior citizen households in Kansas City, Mo.

Kansas City Weatherization Improvement Project - \$10,000 cash contribution

In 1977, the Missouri Department of Natural Resources established the Low-Income Weatherization Assistance Program, (LIWAP) and since the program's inception more than 140,000 homes have been weatherized. The program operates year round and service providers of the program examine furnaces and ductwork, perform window and door repairs, and target general heat loss areas with caulking and weather-stripping. The Home Weatherization program income guidelines are set at 150 percent of poverty and are funded through several income sources. The Missouri Department of Natural Resources and the Federal Department of Energy serve as the largest source of funds. The program is also funded through utility providers including Kansas City Power & Light and Missouri Gas Energy.

Bridgingthe Gap = \$10,000 cash contribution

In 1991, Bridging the Gap opened Kansas City's first volunteer recycling center. A year later, the group formed a 501(3)(c) organization with the mission to encourage an understanding of local and global interconnectedness through education and action. Today, Bridging the Gap operates as an organizing hub for numerous environmental projects—from waste prevention to environmental education, from recycling to picking up litter and keeping Kansas City beautiful. The organization works closely with business, schools, governments and the community to encourage local partnerships and support sustainable decision making.

Additional Charitable Outreach = \$37,500 in charitable contributions are directed to 15 area organizations

- o Greater Kansas City Foundation for Citizens with Disabilities
- a Kansas City Metropolitan Crime Commission
- o Special Olympics Missouri
- a City of Kansas City Police Department
- a Blue Hills Community Services Corporation
- City of Independence Fire Department
- o Gillis Center Inc.
- o Kansas City Community Gardens
- Raytown Fire Department District
- o Sickle Cell Disease Associations of America – Kansas City Chapter 2301
- o Vietnam Veterans of America
- o Boys Club of Greater Kansas City
- o Police Athletic League of Kansas City
- American Cancer Society
- o City of Kansas City Police Department - Tactical Response Team

For more information

- a Wal-Mart information online: www.walmartfacts.com; merchandise sales: www.walmart.com
- a Kansas City Neighborhood and Community Services Department. Robert Jackson, director
- o Home Weatherization Division: (816) 513-3025 http://www.kcmo.org/neighborhoodandcommunityservices/web/weather_main?opendocument

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Sustainable Buildings

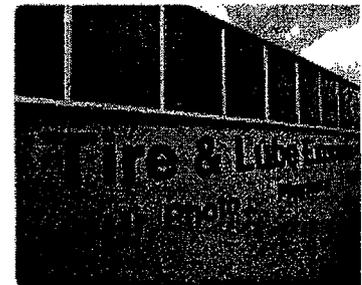
Our experimental stores were built to help us reach our three long-term environmental goals:

- To be supplied 100 percent by renewable energy
- To create zero waste
- To sell products that sustain our resources and the environment

We are also committed to designing a store prototype that is 25-30 percent more efficient by and reducing greenhouse gas emissions in existing stores by 20 percent by 2012.

Our experimental stores

We have two stores, one in McKinney, Texas, and one in Aurora, Colorado, that show how working together can help solve issues. Engineers, architects, scientists, contractors, landscape designers, and owners created functional facilities that save energy, conserve natural resources and reduce pollution. They also created a more pleasant shopping experience for our customer and a healthier work environment for our associates.



Solar panels on our McKinney, Texas experimental store

These stores are living laboratories

At these stores, we test new technologies and products that we can potentially incorporate into our stores. Some tested technologies from our experimental stores — like LED lighting — already making their way into stores across the country — at Wal-Mart stores and the facilities of our competitors.

Our high-efficiency stores

In 2007, we opened three High Efficiency stores, called HE.1s, that use 20 percent less energy than a typical Supercenter. Located in Kansas City, Missouri, Rockton Illinois, and Highland Village, Texas, these stores were constructed using recycled building materials and energy-efficient lighting methods. They operate using an environmentally-friendly, 100 percent integrated water source heating, cooling and refrigeration system. Other features of the HE.1 stores include reflective white roofs, low-flow bathroom faucets, motion-sensing LED lights and an advanced daylight harvesting system.

Our ultra high-efficiency store

In January 2008, we opened the first of four next generation High Efficiency stores (HE.2s) .

Sustainable building design focuses on reducing energy use, utilizing wind/solar/skylights/LED lighting/other technologies, all to create up to a 50% reduction in overall usage.

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Romeoville, Illinois. The store builds upon what we learned from the HE.1 and experimental by incorporating a secondary loop refrigeration system. In combination with other energy-saving and environmentally friendly building aspects, this technology allows the store to be 25 percent more energy efficient than the 2005 baseline, and reduce refrigerant use by 90 percent.

Solar Power

We are also experimenting with solar power. In 2007, we announced a solar power pilot in 2 locations throughout California and Hawaii. When fully implemented, the aggregate purchases will be one of the top 10 largest-ever solar power purchases in the United States.

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EXHIBIT E

As published in *Real Property Law Reporter*, September 2007

Analyzing Climate Change Under CEQA in a Climate of Uncertainty

Arthur Friedman, Judy Davidoff, and Miriam Montesinos

Introduction

California has long been recognized as a leader in environmental protection. In 1970, the legislature enacted the California Environmental Protection Act (CEQA) (Pub Res C §§21000–21178), which mandates that governmental agencies at all levels identify potentially significant environmental effects, and implement feasible mitigation measures or alternatives, before approving a project. Pub Res C 521002. CEQA requires that public agencies prepare a comprehensive environmental impact report (EIR) to analyze projects that may cause significant environmental effects. California courts have described the EIR's role "as an environmental alarm bell whose purpose is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *County of Inyo v Yorty* (1973) 32 CA3d 795, 810, 108 CR 377.

Yet, in the 37 years since its enactment, CEQA has not served its function as the "environmental alarm bell" on the issue of climate change. California's awareness and growing concern about this issue, which many describe as the single most important environmental issue of this and future generations, has developed outside the context of CEQA, largely in response to private action and other legislative initiatives spanning approximately 20 years. Consequently, there is no California appellate case law applying CEQA's requirements to the issue of climate change. But in the words of Bob Dylan, "The times they are a-changin'."

Since the California legislature's enactment in September 2006 of AB 32, the California Global

Warming Solutions Act of 2006 (Health & S C §§38500–38599), at least two CEQA lawsuits have been filed challenging the respective agency's alleged failure to consider a project's greenhouse gas (GHG) emissions and effects on climate change. Last December, the Center for Biological Diversity filed a challenge to the City of Banning's approval of a 1500-home development. On April 13, 2007, California Attorney General (AG) Jerry Brown, on behalf of the state, filed a lawsuit against San Bernardino County's update to its General Plan. (As we go to press, the Attorney General and San Bernardino County have settled the suit, with the county agreeing to incorporate a greenhouse gas emissions reduction plan into its General Plan, including a specific reduction target and mitigation measures. See <http://www.sbcounty.gov/pressreleases/docs/1877AGlawsuitsettlementrelease8-21-07.pdf>.)

The AG has also submitted CEQA comment letters challenging several projects throughout the state based on the project EIR's alleged failure to analyze climate change impacts, including:

- The San Diego General Plan;
- The Yuba Highlands Project;
- The Kern County Regional Transportation Plan;
- The Merced County Regional Transportation Plan;
- The San Joaquin County Regional Transportation Plan; and
- The ConocoPhillips Rodeo Refinery Expansion Project.

The sudden proliferation of CEQA challenges on the issue of climate change recently prompted the California Chamber of Commerce, along with several prominent California companies and labor unions, to

jointly submit a letter to Governor Schwarzenegger, Senate President pro tem Don Perata, and Speaker Fabian Nunez requesting legislation clarifying that "CEQA is not the appropriate vehicle for addressing climate change concerns." Their June 21, 2007, letter warns: "The potential for harm if these [CEQA] challenges are allowed to continue is staggering." (The letter can be found at www.pcl.org/newsroom/CEQAClimateChangeLetter.pdf.) The industry group's letter sparked a flurry of letters in response to the Governor from environmental groups asserting that CEQA is a vitally important legal instrument to accomplish the state's goal of reducing GHG emissions.

Given California's political and actual climate today, there is a growing consensus among CEQA practitioners that in at least some, if not most, circumstances, even in the absence of an express statutory requirement to do so, governmental agencies will expand the traditional scope of their environmental review under CEQA to consider a project's GHG emissions and potential climate change impacts.

This article discusses the regulatory background leading to California's focus on the issue of climate change. It then discusses some of the unique challenges presented by environmental review under CEQA of a project's potential effects on climate change. Finally, it discusses alternative approaches to such CEQA review.

California's Actions to Address Climate Change – Warming Up to the Threat of Warming

In 1988, the California legislature enacted AB 4420, which, among other things, directed the California Energy Commission (CEC), in consultation with California's Air Resources Board (CARB) and other agencies, to study the implications of global warming on California's environment, economy, and water supply.

Executive Order 5-3-05 and the Climate Action Team

In June 2005, the Governor signed Executive Order S-

3-05, which called for a reduction in GHG emissions to 1990 levels by 2020 and an 80-percent reduction in GHG emissions by 2050. (Executive Order S-3-05 can be found at http://www.climatechange.ca.gov/climate_action_team/index.html.) The Executive Order also directed the Secretary of the California Environmental Protection Agency (Cal/EPA) to lead an effort to evaluate the impacts of climate change on California and to recommend measures in response. The Secretary of Cal/EPA thereafter created the Climate Action Team (CAT). The CAT includes representatives from the CARB, Business, Transportation & Housing Agency, Department of Food & Agriculture, CEC, California Integrated Waste Management Board, Department of Water Resources, and the Public Utilities Commission.

The CAT released its 107-page report to the Governor in March 2006. (The report can be found on the CAT website at http://www.climatechange.ca.gov/climate_action_team/index.html.) The CAT report states that "during the 20th century, we have observed a rapid change in the climate and climate change pollutants that is attributable to human activities." Report at 6. The report continues that "[t]he climate change we are seeing today ... differs from previous climate change in both its rate and its magnitude." Report at 6-7. The report states further that "[c]ontinued climate change would have widespread impacts on California's economy, ecosystems, and the health of its citizens." Report at 37.

Finally, the report identifies several GHG emission reduction strategies, most of which are not applicable to land use development. The recommendations relating to land use include (Report at 39-65):

- Planting trees in urban and suburban areas;
- Implementation of energy efficient water and wastewater operations;
- Implementation of building energy efficiency standards;
- Implementation of energy efficient cement manufacturing techniques;
- Implementation of strategies that integrate transportation and land-use decisions (e.g., encouraging jobs/housing proximity, transit-oriented development,

and high-density residential/commercial development along transit corridors);

- Implementation of Green Building Initiatives comparable to the Governor's Green Building Executive Order, S-20-04, which sets forth specific actions state agencies are to take with state-owned and leased buildings; and
- Increased use of solar and other noncarbon sources of energy.

California's Global Warming Solutions Act of 2006

The CAT's findings provided additional impetus for the legislature to enact landmark legislation aimed at addressing global warming. In September 2006, Governor Schwarzenegger signed AB 32, the California Global Warming Solutions Act of 2006, which requires CARB, the state agency charged with regulating statewide air quality, to determine by January 1, 2008, what the statewide GHG emissions level was in 1990, and approve a statewide GHG emissions limit that is equivalent to that level, to be achieved by 2020. Health & S C 938561.

Assembly Bill 32 includes a declaration by the legislature that "[g]lobal warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California." Health & S C §38501(a). Section 38501(a) further states that

the potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human related problems.

Although the CARB has primary responsibility for reducing GHG emissions under AB 32, the Act further directs that "[n]othing in this division shall relieve any state entity of its legal obligations to comply with existing law or regulation." Health & S C §38598(b).

The AG and various environmental organizations have asserted that AB 32 implicitly has imposed a mandato-

ry duty on governmental agencies to analyze under CEQA a project's potential effects on climate change. This viewpoint gained momentum on April 27, 2007, with the Association of Environmental Professionals' (AEP) publication of its Draft White Paper on Global Climate Change (found at <http://www.califaep.org/climate%20change/default.html>). The AEP is a statewide group with over 1600 members whose primary focus is the preparation of CEQA compliance documents. AEP's Draft White Paper states (at 8):

When the legislative findings about the threats to the environment and the absence of relief from other laws are considered together, AB 32 creates compelling statutory basis for addressing significant adverse effects of GCC [Global Climate Change] in CEQA compliance.

Advocates of the AG's viewpoint contend further that CEQA is a critically important legal instrument for achieving the GHG reductions mandated by AB 32 given the severity of existing GHG levels and current trends. According to the CEC's December 2006 report on the "Inventory of Greenhouse Gas Emissions and Sinks" (found at <http://www.energy.ca.gov/publications/displayOneReport.php?pubNum=CEC-600-2006-013-SF>), California is the second largest contributor of GHG emissions in the United States (behind Texas), and the 16th largest in the world. CEC Report at 17. The major source of GHG emissions in California is transportation, contributing 41 percent, followed by electricity, contributing 22 percent. CEC Report at 8. The CEC report concurs with the CAT that urgent action is needed to reverse the trend of increasing GHG emissions. CEC's report states (at 8):

California's GHG emissions are large and growing as a result of population and economic growth and other factors. From 1990 to 2004 total gross GHG emissions rose 14.3 percent; they are expected to continue to increase in the future under "business-as-usual" unless California implements programs to reduce emissions.

On an optimistic note, however, the CEC report states that while California's economy grew 83 percent between 1990 and 2004, its GHG emissions

increased more slowly, at 12 percent, thus demonstrating "the potential for uncoupling economic trends from GHG emissions trends." CEC Report at i. The state's ongoing ability to uncouple economic growth from GHG emissions, according to the CEC, is largely dependent on its commitment to implementing energy efficiency, renewable energy, and other GHG emission reduction measures. CEC Report at i. Advocates of the AGs' viewpoint contend that CEQA is perhaps the best mechanism to ensure that GHG emission reduction measures are incorporated into future projects.

The CEC's warning against proceeding with "business as usual" is echoed in the AGs' recent CEQA comment letters. As an example, the AGs' June 11, 2007, letter to the City of San Diego regarding its proposed general plan states (at 7): "The impacts of global warming are potentially catastrophic and we cannot proceed with 'business as usual' even though some of the required changes may encounter public opposition." (The letter can be found at <http://www.sandiego.gov/cityattorney/reports/pdf/sagi070706.pdf>.)

The growing consensus favoring CEQA analysis of climate change impacts, however, has far outpaced any consensus on how to conduct this analysis during the interim period before the CARB provides regulatory guidance.

From "Business-as-Usual" to "Ad-Hoc" Rules

GHG emissions into the atmosphere are not by themselves an adverse environmental effect. The increased concentrations of GHG emissions, resulting in global climate change and its associated consequences, produce adverse environmental impacts. Although it is possible to generally estimate a project's incremental contribution of GHG emissions into the atmosphere, there is no recognized methodology for determining how an individual project's relatively small incremental contribution might translate into physical effects on the environment—particularly given the global nature of the problem.

Consequently, CEQA analysis of a project's effect on global climate change involves unique challenges.

Among other issues, there is ongoing debate among CEQA practitioners regarding how best to determine:

- A project's environmental effects, if any, on global climate change;
- The threshold for finding that a project's incremental climate change effects rise to the level of a "cumulatively considerable" impact; and
- If the project's climate change effects are cumulatively considerable, what feasible alternatives or mitigation measures, if any, can "substantially lessen" the project's effects.

Determining the Project's Effects on the Physical Environment

Among the first steps in the environmental analysis under CEQA is a determination of what physical changes to the environment, if any, will be caused by the project. *Baird v County of Contra Costa* (1995) 32 CA4th 1464, 38 CR2d 93. Lead agencies are required under CEQA to consider direct and indirect physical changes in the environment that may be caused by the project. 14 Cal Code Regs §15064(d). An indirect physical change is to be considered only if that change is a reasonably foreseeable impact; a change that is speculative or unlikely to occur is not reasonably foreseeable. 14 Cal Code Regs §15064(d)(3).

There is no established methodology for determining the impacts of a land use plan or an individual project on global climate change. The 2005 report prepared by the National Research Council, a branch of the National Academy of Science, entitled "Radiative Forcing of Climate Change: Expanding the Concept and Addressing Uncertainties," concluded that "the mechanisms involved in land-atmosphere interactions are not well understood, let alone represented in climate models." The determination of a project's effect on the physical environment resulting from climate change is further complicated by the fact that GHG emissions, unlike other air quality impacts that are linked to a localized area or region, are by definition a global issue, requiring analysis on a global scale.

The analysis of a project's effect on the environment begins with an inventory of each potential source of

GHG emissions fairly attributed to the project. CEQA defines the term "project" broadly to encompass the "whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." 14 Cal Code Regs §15378(a). Courts have held that under this broad definition, the environmental analysis should encompass not only air-borne emissions associated with project construction and operations, but also mobile emissions related to transportation to and from the project. *Kings County Farm Bureau v City of Hanford* (1990) 221 CA3d 692, 716, 270 CR 650. The latter source is a subject of some controversy. In many cases, a project will not cause "new" vehicle GHG emissions sources from a global perspective, but rather merely causes the movement of existing vehicle emission sources from one location to another.

In *Natural Resources Defense Council v Reclamation Bd.* (Sacramento Super Ct, Apr. 27, 2007, No. 06CS01228), the court rejected petitioner's claim that recent global warming legislation constituted new information triggering the need for "supplemental" environmental review under CEQA, in part because the causal link between the specific project and climate change was not established. The court stated:

As the projected effects of climate change become clearer and can be related to specific sites, there is little doubt that those effects will have to be factored into the analysis of many projects under CEQA.

The court's holding suggests that a lead agency's obligation to disclose a project's incremental impact on climate change may grow as science advances. See Bogdan, *Greenhouse Gas Emissions and Climate Change: CEQA Catches Up With Science, Celebrities, and Product Placement*, 16 California Land Use L & Policy Rep 245 (June 2007). During this interim period, lead agencies may conclude that a determination regarding the project's impact on climate change is too speculative. Bogdan, *supra*. Title 14 Cal Code Regs §15145 authorizes such a conclusion, stating that "[i]f, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the

agency should note its conclusion and terminate discussion of the impact." Under CEQA's "rule of reason," an EIR is required to evaluate impacts to the extent it is "reasonably feasible" to do so. 14 Cal Code Regs 015151; *San Francisco Ecology Ctr. v City & County of San Francisco* (1975) 48 CA3d 584, 122 CR 100. While CEQA requires lead agencies to make a good faith effort to disclose what they reasonably can, it "does not demand what is not realistically possible." *Residents Ad Hoc Stadium Comm. v Board of Trustees* (1979) 89 CA3d 274, 286, 152 CR 585.

Determining Thresholds of Significance

CEQA compels public agencies to refrain from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects. Pub Res C 021002; *Sierra Club v State Bd. of Forestry* (1994) 7 C4th 1215, 1233, 32 CR2d 19. The determination of what constitutes a "significant" impact is important under CEQA because mitigation measures are not required for effects not found to be significant. 14 Cal Code Regs § 15126.4(a)(3).

The AG has argued that anticipated GHG emissions of proposed projects will cause significant environmental effects under a "cumulative impacts" analysis. A cumulative impact consists of an impact created as a result of the combination of the project evaluated together with other projects causing related impacts. 14 Cal Code Regs §§15130(a)(1), 15355. Cumulative impact analysis involves a two-step process. The lead agency first determines whether the combined effects from both the proposed project and other projects would be cumulatively significant. If the answer is yes, the second question is whether "the proposed project's incremental effects are cumulatively considerable." *Communities for a Better Env't v California Resources Agency* (2002) 103 CA4th 98, 120, 126 CR2d 441; Thomas, Moose, Manley, *Guide to CEQA 468* (11th ed Solano Press 2006).

The AG has asserted that because the state is committed by AB 32 to a 25-percent decrease in GHG emissions, any project that produces increases in GHG emissions could be an obstacle to complying with AB 32 and

thus should be considered a significant cumulative impact. The AG argues further that this approach is consistent with 14 Cal Code Regs 515387, App G (Environmental Checklist Form), which lists as a factor (in determining whether an air quality impact is significant) consideration of whether the project conflicts with or obstructs implementation of applicable air quality plans. The logical extension of this argument, however, is that virtually all projects will require preparation of an EIR rather than a negative declaration, as the slightest incremental contribution of GHG emissions may cause significant environmental impacts.

There is minimal guidance under CEQA regarding what constitutes a cumulatively considerable impact. Courts have held that the addition of "one molecule" is not cumulatively considerable. *Communities for a Better Env't, supra*. On the other hand, "the greater the existing environmental problems are, the lower the threshold should be for treating a project's contribution to cumulative impacts as significant." *Communities for a Better Env't, supra*. The determination of whether an incremental increase in airborne contaminants greater than one molecule constitutes a cumulatively considerable impact ultimately must be made on a case-by-case basis.

There are currently no published thresholds for significance for measuring a project's impact on climate change. CARB is expected to provide regulatory guidance regarding standards of significance in January 2008. During this interim period, agencies may conclude that any determination of significance would be speculative "and terminate discussion of the impact." 14 Cal Code Regs 015145; *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1993) 6 Cal 4th 1112, 1137, 26 CR2d 231 (upholding EIR's conclusion that potential cumulative impacts of toxic air emissions are too speculative for evaluation).

The AG rejects such determinations by lead agencies. As an example, the AG's comment letter to the Contra Costa County Planning Commission regarding the ConocoPhillips Rodeo Refinery Expansion Project states:

By declining to determine that GHG emissions

from the projects could have a cumulatively considerable impact on global warming, the County has attempted to avoid CEQA's requirement to adopt all feasible alternatives and mitigation measures to reduce the project's global warming impacts. This substantially undercuts "the fundamental purpose of CEQA which is to ensure that environmental considerations play a significant role in governmental decision making."

The AG has asserted that even if no regulatory agency has established a threshold by which to measure the significance of a single project's GHG emissions, lead agencies are obligated under CEQA to make their own determinations of significance. 14 Cal Code Regs §15064.7(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.")

Critics of the AG's position counter that while agencies have considerable discretion in determining thresholds of significance, their determination should be based, to the extent possible, on scientific and factual data, which are lacking prior to CARB's issuance of regulatory standards. See 14 Cal Code Regs §15064(b). Additionally, an agency's determinations must be supported by "substantial evidence." Pub Res C §21080(c)(1). CEQA defines "substantial evidence" as facts, reasonable assumptions predicated on facts, and expert opinion supported by facts. 14 Cal Code Regs §15384(b).

The AC's critics additionally warn that, absent reliance on regulatory guidance from the CARB through the AB 32 process, rules regarding how climate change impacts are to be evaluated will likely be developed on an ad hoc basis, increasing the risk that mitigation resources will be misallocated.

Determining Feasible Mitigation Measures

CEQA requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid the otherwise significant adverse environmental effects of proposed projects. Pub Res C 521002. Mitigation measures should be capable of avoiding or substantially less-

ening the project's environmental impacts. 14 Cal Code Regs §15370. Additionally, to survive constitutional scrutiny, mitigation measures must be "roughly proportional" to the impacts of the project. 14 Cal Code Regs §15126.4(a)(4)(B).

Project modification is not required when it is infeasible or the responsibility for mitigation lies with some other agency. 14 Cal Code Regs §15091(a), (b). "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." Pub Res C 021061.1. In cases in which significant impacts are not at least "substantially lessened," the agency may nevertheless approve the project if it first adopts a "statement of overriding considerations" setting forth the specific reasons why the agency found that the project's benefits rendered acceptable its unavoidable adverse environmental effects. 14 Cal Code Regs §§15043(b), 15093.

The AG has asserted that lead agencies must make project approvals contingent on the implementation and enforcement of mandatory mitigation measures to reduce GHG emissions, which, depending on the nature of the project (*i.e.*, plan-level or site-specific), may include, but are not limited to, the following:

Transportation

- Coordinate controlled intersections so that traffic passes more efficiently through congested areas. Where signals are installed, require the use of Light Emitting Diode (LED) traffic lights.
- Set specific limits on idling time for commercial vehicles, including delivery and construction vehicles.
- Require construction vehicles to use retrofit emission control devices, such as diesel oxidation catalysts and diesel particulate filters verified by the CARB.
- Promote ride sharing programs, *e.g.*, by designating a certain percentage of parking spaces for high-occupancy vehicles, providing larger parking spaces to accommodate vans used for ride-sharing, and designating adequate passenger loading and unloading and waiting areas.
- Create car-sharing programs. Accommodations for such programs include providing parking spaces for the

car-share vehicles at convenient locations accessible by public transportation.

- Require clean alternative fuels and electric vehicles.
- Develop the necessary infrastructure to encourage the use of alternative fuel vehicles, *e.g.*, electric vehicle charging facilities and conveniently located alternative fueling stations.
- Increase the cost of driving and parking private vehicles by imposing tolls, parking fees, and residential parking permit limits.
- Develop transportation policies that give funding preference to public transit.
- Design a regional transportation center where public transportation of various modes intersect.
- Encourage the use of public transit systems by enhancing safety and cleanliness on vehicles and in and around stations.
 - Assess transportation impact fees on new development in order to facilitate and increase public transit service.
- Provide shuttle service to public transit.
- Offer public transit incentives.
- Incorporate bicycle lanes into street systems in regional transportation plans, new subdivisions, and large developments.
- Create bicycle lanes and walking paths directed to the location of schools and other logical points of destination and provide adequate bicycle parking.
- Require commercial projects to include facilities on-site to encourage employees to bicycle or walk to work.
- Provide public education and publicity about public transportation services.

Energy Efficiency and Renewable Energy

- Require energy efficient design for buildings. This may include strengthening local building codes for new construction and renovation to require a higher level of energy efficiency.
- Adopt a "Green Building Program" to promote green building standards.
- Fund and schedule energy efficiency "tune-ups" of existing buildings by checking, repairing, and readjusting heating, ventilation, air conditioning, lighting, hot water equipment, insulation, and weatherization. (Facilitating or funding the improvement of energy efficiency in existing buildings could offset in part the

global warming impacts of new development.)

- Provide individualized energy management services for large energy users.
- Require the use of energy efficient appliances and office equipment.
- Fund incentives and technical assistance for lighting efficiency.
- Require that projects use efficient lighting. (Fluorescent lighting uses approximately 75 percent less energy than incandescent lighting to deliver the same amount of light.)
- Require measures that reduce the amount of water sent to the sewer system. (Implementing this measure means less water has to be treated and pumped to the end user, thereby saving energy.)
- Incorporate on-site renewable energy production (through, e.g., participation in the California Energy Commission's New Solar Homes Partnership). Require project proponents to install solar panels, water reuse systems, and/or other systems to capture energy sources that would otherwise be wasted.
- Streamline permitting and provide public information to facilitate accelerated construction of solar and wind power.
- Fund incentives to encourage the use of energy efficient equipment and vehicles.
- Provide public education and publicity about energy efficiency programs and incentives.

Land Use Measures

- Encourage mixed-use and high density development to reduce vehicle trips, promote alternatives to vehicle travel, and promote efficient delivery of services and goods. (A city or county could promote "smart" development by reducing developer fees or granting property tax credits for qualifying projects.)
- Discourage "leapfrog" development. Enact ordinances and programs to limit sprawl.
- Incorporate public transit into project design.
- Require measures that take advantage of shade, prevailing winds, landscaping, and sun screens to reduce energy use.
- Preserve and create open space and parks. Preserve existing trees and require the planting of replacement trees for those removed in construction.
- Impose measures to address the "urban heat island"

effect by, e.g., requiring light-colored and reflective roofing materials and paint; light-colored roads and parking lots; shade trees in parking lots; and shade trees on the south and west sides of new or renovated buildings.

- Facilitate "brownfield" development. (Brownfields are more likely to be located near existing public transportation and jobs.)
- Require pedestrian-only streets and plazas within developments, and destinations that may be reached conveniently by public transportation, walking, or bicycling.

Solid Waste Measures

- Require projects to reuse and recycle construction and demolition waste.
- Implement or expand city- or county-wide recycling and composting programs for residents and businesses.
- Increase areas served by recycling programs.
- Extend the types of recycling services offered (e.g., to include food and green waste recycling).
- Establish methane recovery in local landfills and wastewater treatment plants to generate electricity.
- Provide public education and publicity about recycling services.

See Office of the California Attorney General, Global Warming Mitigation Measures (<http://ag.ca.gov/newsalerts/release.php?id=1433&>).

The AEP similarly recommends in its draft white paper that lead agencies require the implementation of all feasible and applicable emission reduction strategies contained in the CAT Report or a locally applicable GHG reduction plan if one has been adopted. The AEP concludes that compliance with such strategies would likely support a conclusion that the project would have a less than significant impact on global climate change. AEP Draft White Paper at 12-13.

Critics of this approach note that many of the CAT strategies are not applicable to land use projects. Moreover, while the GHG emission reduction strategies identified in the CAT Report are quantified statewide, there is no recognized basis for quantifying the CAT's strategies on a project-by-project basis. Thus, there is

no recognized way of quantifying whether the implementation of **GHG** emission reduction strategies avoids or substantially lessens a specific project's otherwise cumulatively considerable global climate change effects. Thus, when an agency concludes that a project's **GHG** emissions are cumulatively considerable, in the absence of irrefutable evidence that the required mitigation measures avoid or substantially lessen those impacts, lead agencies are well advised, in the exercise of caution, to adopt a statement of overriding considerations in support of the project.

Alternative Approaches to CEQA Analysis of Climate Change Impacts

CEQA documents may address **GHG** emissions and a project's potential impacts on climate change by using one of the following approaches:

- Limited discussion of the issue followed by a finding that the impact is too speculative for evaluation;
- A "qualitative" analysis that discusses the issue in more detail, but ultimately concludes that one or more elements of the analysis are too speculative for determination; or
- A "quantitative" analysis that makes determinations regarding the project's anticipated **GHG** emissions, findings of significance, and the adequacy of feasible mitigation measures.

The following checklists summarize some of the fundamental components to these varying approaches:

Alternative 1—Findings of Infeasibility or Speculation

- A discussion of the scientific knowledge regarding climate change.
- A discussion of the regulatory setting pertaining to climate change at the international, national, state, and, if applicable, regional and local levels.
- A discussion of the **GHG** emission reduction measures incorporated into the project.
- A discussion of the distinction between direct and cumulative impacts.
- A discussion of the various methodologies that are available to assess the project's anticipated **GHG** emissions and/or thresholds of significance.
- A finding that there are no accepted methodologies

or standards for measuring the project's anticipated **GHG** emissions and/or determining a threshold of significance.

- A finding that, after thorough investigation, the potential impact is too speculative for evaluation under 14 Cal Code Regs **0015145** and **15151**.

Alternative 2—A Qualitative Analysis

- A discussion of the scientific knowledge regarding climate change.
- A discussion of the regulatory setting pertaining to climate change at the international, national, state, and (if applicable) regional and local levels.
- A discussion of the project's anticipated **GHG** emissions considering the project as a whole.
- A discussion of the distinction between direct and cumulative impacts.
- A discussion of the various methodologies that are available to assess the thresholds of significance.
- A determination that a threshold for significance is too speculative.
- A discussion of the project's proposed **GHG** emission reduction measures.
- A recommendation that the project implement as mitigation measures the feasible recommendations from the **CAT** Report or other local **GHG** emission reduction plan.
- A finding that, based on the implementation of **GHG** emission reduction measures recommended by the **CAT** or some other applicable plan, the project's cumulative impacts would likely be less than significant.

Alternative 3—A Quantitative Analysis

- A discussion of the scientific knowledge regarding climate change.
- A discussion of the regulatory setting pertaining to climate change at the international, national, state, and (if applicable) regional and local levels.
- A discussion of the project's anticipated **GHG** emissions considering the project as a whole.
- A discussion of the distinction between direct and cumulative impacts.
- A discussion of the adopted threshold for significance (*i.e.*, consistency with the **GHG** emission reduction requirements of **AB 32**).

- A discussion of the project's proposed **GHG** emission reduction measures.
- If there is a finding that the proposed project's **GHG** emissions are cumulatively considerable under the adopted threshold of significance, a discussion of all feasible mitigation measures that could avoid or substantially lessen the impacts.
- A finding that, with the implementation of the proposed mitigation measures, the cumulatively considerable impacts would be substantially lessened; or, alternatively, a finding that the project, even with the implementation of all feasible mitigation measures, would result in significant and unavoidable impacts that would necessitate the adoption of a statement of overriding considerations in order to approve the project.

Conclusion

Since the legislature's enactment last fall of the Global Warming Solutions Act, the times are indeed "a-changin'" with respect to the requirements for environmental analysis of climate change impacts under CEQA. Until CARB provides some guidance regarding baseline conditions for **GHG** emissions and standards for significance, CEQA practitioners will continue to grapple with a climate of uncertainty. The words of Bob Dylan, which today seem eerily prophetic, are a fitting conclusion:

Come gather 'round people wherever you roam
And admit that the waters around you have grown
And accept it that soon you'll be drenched to the bone.
If your time to you is worth savin'
Then you better start swimmin' or you'll sink like a stone,
For the times they are a-changin'.

About the Authors

Arthur J. Friedman is a partner in the Real Estate, Land Use, Natural Resources and Environmental practice group at Sheppard, Mullin, Richter & Hampton LLP in San Francisco. Mr. Friedman litigates real estate, land use and various commercial matters. He also has significant experience practicing before the California Courts of Appeal, which resulted in a number of published decisions concerning the interpretation of CEQA and the Subdivision Map Act. He also leads the land use litigation subcommittee for the firm's Global Climate Change practice group.



Judy V. Davidoff is a partner in the Real Estate, Land Use, Natural Resources and Environmental practice group at Sheppard, Mullin, Richter & Hampton LLP in San Francisco. Ms. Davidoff focuses on state and federal land use and environmental matters, including CEQA/NEPA compliance, natural resources, air and water law, public trust and coastal matters, endangered species, cultural and historic resources, initiatives and referendums, public land permitting, and administrative proceedings and litigation.



Miriam Montesinos is an associate in the Real Estate, Land Use, Natural Resources and Environmental practice group at Sheppard, Mullin, Richter & Hampton LLP in San Francisco. Ms. Montesinos' practice emphasizes land use and environmental matters, including obtaining development entitlements, compliance with CEQA, and administrative proceedings and litigation.

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EXHIBIT F



Shop Careers

9/6/2007 16-Year Relationship Between Wal-Mart and Arizona Business Grows, Thrives

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El Centro Wal-Mart Supercenter Opens Friday; Grand Opening Celebration Tuesday, Jan. 31

El Centro Wal-Mart Supercenter Opens Friday; Grand Opening Celebration Tuesday, Jan. 31
Store's impact seen in 400 new jobs and \$14,000 in charitable donations

EL CENTRO, Calif., Jan. 20, 2006 - Creating 400 new jobs and focusing on charitable support and every day low prices, the newly relocated Wal-Mart Supercenter in El Centro will open to the public on Friday, Jan. 27, at 7 am, and celebrate its grand opening at 7:30 am. on Tuesday, Jan. 31. The store is located at 2150 N. Waterman Ave.

Store features

Originally opened in 1990 at 2050 Imperial Ave., the newly relocated store has gained more than 113,630 additional square feet. According to Store Manager Angel Sanchez, the new 207,000-square-foot Wal-Mart Supercenter now features a full line of groceries as well as a bakery, a delicatessen, a frozen food section and meat, dairy and fresh produce sections. The store has 36 general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, and a full line of electronics. It will be open to customers 24 hours a day, seven days a week and will include 12 full-service, 14 express and four self check-out lanes.

Other store features include: a Tire & Lube Express, a McDonald's, a Family fun center, a portrait studio, a one-hour photo lab, a vision center, a pharmacy, a Hair Works hair salon and a Regal nail salon. In addition, the store will have a Wal-Mart Connect Center for wireless phone sales.

Grand opening activities - Tuesday, Jan. 31

The Southwest High School marching band will perform the national anthem and representatives of the Veterans of Foreign Wars will present the colors at the grand opening ceremony. Members from the El Centro Chamber of Commerce will cut the ribbon to the new store.

In addition, El Centro Mayor Cedralia Sanders will speak at the ceremony. She also attended the 1990 grand opening ceremony of the original El Centro Wal-Mart. Sanchez and Wal-Mart associates will be present Sanders with an enlarged picture of her speaking at the grand opening event nearly 16 years ago.

Employment

The store will employ approximately 720 associates, which includes 400 jobs created by the relocation. More than 3,000 people applied for jobs at the new store, according to Sanchez. The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*

"The large number of applicants for this new store doesn't surprise me at all," said Sanchez. "Great career opportunities, fantastic benefits and lasting friendships are just a few of the positive aspects of becoming a Wal-Mart associate." Sanchez started as an hourly associate in 1992 at the El Centro store as a cashier. Seventy-seven of the El Centro store's associates have worked for Wal-Mart for more than 10 years, added Sanchez.

Charitable giving

Upon its opening, the store will announce \$14,988 in donations through Wal-Mart's Good Works community involvement program to a number of organizations. The store will also have a budget to give donations away locally throughout the year. Organizations interested in receiving funding can contact the store for details. Groups receiving donations upon the store's opening include:

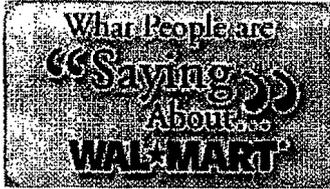
- Boys and Girls Club
- Catholic Charities: a Community Service Ministry of the Diocese
- Central Union High School
- City of El Centro Fire Department
- City of El Centro Parks and Recreation Department

- ▶ Wal-Mart Media Center
- ▶ Company Overview
- ▶ Community Benefits
- ▶ Wal-Mart on the Web

STATE BY STATE

State





- City of El Centro Police Department
- El Centro Kiwanis Club Foundation
- El Centro Polke Athletic League
- Hidalgo Elementary school
- Imperial County Sheriffs Department
- Imperial Valley Association for the Retarded
- Southwest High School Band
- United Way of Imperial County
- Volunteers of America Inc.
- Washington Elementary School

In 2004, Wal-Mart Stores and SAMS CLUB gave \$8,625,303 to local causes and organizations in the communities they serve in the state of California. In addition, many charities and organizations received in-kind donations and additional funds raised through stores, CLUBS and distribution centers in the amount of \$3,201,084, for a grand total of \$11,826,387 contributed through Wal-Mart's presence across the state.

Wal-Mart in California

EDITOR'S NOTE: See www.walmartfacts.com for more information about Wal-Mart in California.

As of December 2005, Wal-Mart employed 73,787 associates and owned and operated the following facilities in the state of California as of October 2005:

- Supercenters: 7
- Discount Stores: 150
- SAMS CLUBS: 34
- Distribution Centers: 9

In 2004, Wal-Mart collected on behalf of the state of California more than \$719.9 million in sales taxes and paid more than \$99.7 million in state and local taxes.

About Wal-Mart Stores

Wal-Mart Stores, Inc. operates Wal-Mart Stores, Supercenters, Neighborhood Markets and SAMS CLUB locations in the United States. Internationally, the company operates in Argentina, Brazil, Canada, China, Germany, Japan, Mexico, Puerto Rico, South Korea and the United Kingdom. The company's securities are listed on the New York and Pacific stock exchanges under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartfacts.com for more information about Wal-Mart in California.

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EDITOR'S NOTES

- Wal-Mart store employees are called associates.
- Angel Sanchez, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or preview tours. He can be contacted at 760-353-2512 (new store) or 760-337-1600 (old store).

* Average wage taken yearly (December 2005). See www.walmartfacts.com for more details.

FACT SHEET

El Centro Wal-Mart Supercenter

store fast facts

- New Location: **2150 N. Waterman Ave., El Centro, Calif.**
- Originally opened in **1990** at **2050 Imperial Ave.**
- **207,000-square-foot** Wal-Mart Supercenter, **gaining** an additional **113,630** square feet
- Store opening Friday, Jan. **27**, at **7 a.m.**; Grand Opening event Tuesday, Jan. **31**, at **7:30 a.m.**
- Store manager: Angel Sanchez

Store features

• Full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products and fresh produce, apparel and accessories, fine jewelry, lawn and garden center, health and beauty aids, full line of electronics, Tire & Lube Express, vision center, McDonald's restaurant, portrait studio, one-hour photo lab, pharmacy, Hair Works hair salon, Regal nail salon, family fun center and a Wal-Mart Connect Center.

- Open 24 hours a day, seven days a week
- **12 full-service, 14 express** and four self check-out lanes

Employment

- Total employment is **720**, including **400** new jobs; **3,000** applicants
- The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*
- Store Manager Angel Sanchez started as an hourly associate in **1992** as a cashier at the El Centro store.

* Average wage taken December 2005. See www.walmartfacts.com for more details.

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Charitable giving

\$14,988 in charitable contributions to **15** area organizations

- o Boys and Girls Club
- o Catholic Charities: a Community Service Ministry of the Diocese
- o Central Union High School
- o City of El Centro Fire Department

- o City of El Centro Parks and Recreation Department
- o City of El Centro Police Department
- o El Centro Kiwanis Club Foundation
- o El Centro Police Athletic League
- o Hidalgo Elementary School
- o Imperial County Sheriff's Department
- o Imperial Valley Association for the Retarded
- o Southwest High School Band
- o United Way of Imperial County
- o Volunteers of America Inc.
- o Washington Elementary School

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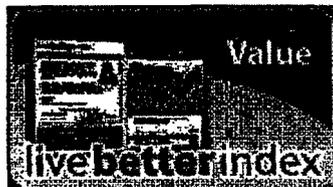
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STATE BY STATE

State 



Gilroy Wal-Mart Supercenter Celebrates Grand Opening

Gilroy **Wal-Mart Supercenter** Celebrates Grand Opening
First Supercenter in the Bay Area *offers* groceries and traditional retail

GILROY, Calif., Sept. 22, 2005 - Creating 450 new jobs and focusing on charitable support and every day low prices, the new Wal-Mart Supercenter in Gilroy -- the first Supercenter in the Bay Area -- will celebrate its grand opening at 7 a.m. on Wednesday, Sept. 28. Doors will open to shoppers at 7:30 a.m. The store is located at 7150 Camino Arroyo.

Store features

Originally opened as a traditional Wal-Mart Store in 1993 at 7900 Arroyo Circle, the newly relocated store has gained more than 93,613 additional square feet. According to Store Manager Ken Higgins, the new 219,570-sqawfoot Wal-Mart Supercenter now features 36 general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, and a full line of electronics. In addition, the store offers a bakery, a delicatessen, a frozen food section and meat, dairy and fresh produce sections. It will be open to customers 24 hours a day, seven days a week and will include 30 full-service, eight express and three self check-out lanes.

Other store features include: a Tire & Lube Express, a McDonald's restaurant, a portrait studio, a one-hour photo lab, a vision center, a pharmacy, a Hair Works hair salon and a Regal Nail Salon. In addition, the store will have a Wal-Mart Connect Center for cellular phone sales and a Hearing Aid Center.

Grand opening activities

The 7 a.m. grand opening ceremony will begin with Rose Mane Arbizu, a Wal-Mart associate, performing the national anthem. Members of the Veterans of Foreign Wars will present the colors, and Higgins will cut the ribbon to the new store. In addition, there will be costumed character appearances, product samples and give-aways during the grand opening celebration.

Employment

The store will employ approximately 650 associates, which includes 450 new jobs created by the relocation. Two-hundred associates from the original Store have relocated to work at the new Supercenter. More than 1,500 people applied for jobs at the new store, most of which will be full-time, according to Higgins. The average wage at Wal-Mart for full-time hourly associates in the Bay Area is \$10.82 per hour.*

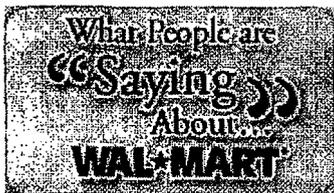
"We were thrilled with the large pool of applicants we had for our jobs," said Higgins. "It makes me proud to work for this company where there truly are unlimited opportunities." More than 20 of the Gilroy store's associates have worked for Wal-Mart for more than 10 years, added Higgins.

Charitable giving

Upon its opening, the store will announce \$18,000 in donations through Wal-Mart's Good Works community involvement program to a number of organizations. The store will also have a budget to give donations away locally throughout the year. Organizations interested in receiving funding can contact the store for details. Groups receiving donations upon the store's opening include:

- City of Gilroy Fire Department
- City of Gilroy Police Department
- City Team Ministries (Back To School Clothing Program)
- Gilroy High School
- GUSD Middle School Performing Arts Program
- National Exchange Club
- Ronald McDonald House at Stanford
- St. Joseph's Family Center
- United Way of Silicon Valley

More donations will be announced during the grand opening event.



In **2004**, Wal-Mart Stores and SAMS CLUB gave **\$8,625,303** to local causes and organizations in the communities they serve in the state of California. In addition, many **charities** and organizations received in-kind donations and additional funds raised through stores, CLUBS and distribution centers in the amount of **\$3,201,084**, for a grand total of **\$11,826,387** contributed through Wal-Mart's presence across the state.

Wal-Mart in California

EDITOR'S NOTE: See www.walmartfacts.com for more information about Wal-Mart in California.

As of August **2005**, Wal-Mart employed **66,582** associates and owned and operated the following facilities in the state of California:

- Supercenters: **5**
- Discount Stores: **149**
- SAMS CLUBS: **34**
- Distribution Centers: **9**

In 2004, Wal-Mart collected on behalf of the state of California more than **\$719.9** million in sales taxes and paid more than \$99.7 million in state and local taxes.

Wal-Mart benefits

Wal-Mart benefits - available to full- and part-time associates - include healthcare insurance with no lifetime maximum. Associate premiums begin at **less** than **\$40** per month for an individual and less than \$155 per month for a family, **no** matter how large. Wal-Mart also offers a **401(k)** plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

Wal-Mart Stores, Inc. operates Wal-Mart Stores, Supercenters, Neighborhood Markets and SAMS CLUB locations in the United States. Internationally, the company operates in Argentina, Brazil, Canada, China, Germany, Japan, Mexico, Puerto Rico, South Korea and the United Kingdom. The company's securities are listed on the New York and Pacific stock exchanges under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartfacts.com for more information about Wal-Mart in California.

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EDITOR'S NOTES

- Wal-Mart store employees are called associates.
- Ken Higgins, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or preview tours. He can be contacted at **408/848-8161**.
- A special Invitation-only open house for VIPs, Wal-Mart associates and their families is scheduled for Monday, Sept. 26, at **6:30 p.m.** Preview tours will be provided. Checks will be presented to

representatives of the community organizations this evening.

*Average wages taken yearly (October 2004). See www.walmartfacts.com for more details.

FACT SHEET

Gilroy Wal-Mart Supercenter

store fast facts

- New location as a Supercenter: 7150 Camino Arroyo, Gilroy, Calif.
- Originally **opened** as a Discount Store in 1993 at 7900 Arroyo Circle
- 219,570-square-foot Wal-Mart Supercenter, gaining an additional 93,613 square feet
- Store opening 7:30 a.m., Wednesday, Sept. 28; 7 a.m. grand opening ceremony
- **Store** manager: Ken Higgins

Store features

- Full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products and fresh produce, a Tire & Lube Express, a McDonald's, a portrait studio, a one-hour photo lab, a vision center, a pharmacy, a Hair Works hair salon, a Regal Nail Salon, a Hearing Aid Center and a Wal-Mart Connect Center
- Open 24 hours a day, seven days a week
- 30 full-service, eight express and three self check-out lanes

Employment

- Total employment is 650, including 450 new jobs; 1,500 applicants
 - Majority of jobs are full-time
 - The average wage at Wal-Mart for full-time hourly associates in the Bay Area is \$10.82 per hour.*
 - **Wal-Mart** benefits - available to full- and part-time associates - include healthcare insurance with no lifetime maximum. Associate premiums begin at less than \$40 per month for an individual and less than \$155 per month for a family, no matter how large. Wal-Mart also offers a **401(k)** plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.
 - Approximately 76 percent of Wal-Mart store managers started as hourly associates.
- * Average wage taken October 2004. See www.walmartfacts.com for more details.

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Store features

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 - Approximately 76 percent of Wal-Mart store managers started as hourly associates.
- * Average wage taken October 2004. See www.walmartfacts.com for details.

Charitable giving

- \$18,000 in charitable contributions to nine area organizations:

- o City of Gilroy Fire Department
- o City of Gilroy Police Department
- o City Team Ministries (Back To School Clothing Program)
- o Gilroy High School
- o GUSD Middle School Performing Arts Program
- o National Exchange Club
- o Ronald McDonald **House** at Stanford
- o **St. Joseph's** Family Center
- o United Way of Silicon Valley

- # # # -

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Yuba City Wal-Mart Supercenter Celebrates Grand Opening

Yuba City Wal-Mart Supercenter Celebrates Grand Opening
Store's impact seen in 300 new jobs and \$17,000 in charitable donations

YUBA CITY, Calif., Jan. 24, 2006 - Creating 300 new jobs and focusing on charitable support and every day low prices, the newly relocated Wal-Mart Supercenter in Yuba City will celebrate its grand opening at 7:30 a.m. on Tuesday, Jan. 31. Doors will open at 8 a.m. The store is located at 1150 Harter Road.

Store features

Originally opened in 1990 at 935 Tharp Road, the newly relocated store has gained more than 78,829 additional square feet. According to Store Manager Paul Kovacs, the new 204,000 Wal-Mart Supercenter now features a full line of groceries as well as a bakery, a delicatessen, a frozen food section and meat, dairy and fresh produce sections. The store has 36 general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, and a full line of electronics. It will be open to customers 24 hours a day, seven days a week and will include 22 full-service, six express and four self check-out lanes.

Other store features include: a Tire & Lube Express, a McDonald's restaurant, a portrait studio, a one-hour photo lab, a vision center, a pharmacy and a Hair Works hair salon. In addition, the store will have a Tri-County Bank branch and a Wal-Mart Connect Center for wireless phone sales.

Employment

The store will employ approximately 630 associates, which includes 300 jobs created by the relocation. More than 1,000 people applied for jobs at the new store. The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*

"The large number of applicants for this new store doesn't surprise me at all," said Kovacs. "Great career opportunities, fantastic benefits and lasting friendships are just a few of the positive aspects of becoming a Wal-Mart associate." Kovacs started as an hourly associate in 1995 at a store in Mobile, Ala., as a truck unloader. Forty-five of the Yuba City store's associates have worked for Wal-Mart for more than 10 years, added Kovacs.

Charitable giving

Upon its opening, the store will announce \$17,000 in donations through Wal-Mart's Good Works community involvement program to a number of organizations. The store will also have a budget to give donations away locally throughout the year. Organizations interested in receiving funding can contact the store for details. Groups receiving donations upon the store's opening include:

- City of Yuba City Fire Department
- City of Yuba City Police Department
- Kiwanis International
- Ronald McDonald House
- Rotary International
- United Way

In 2004, Wal-Mart Stores and SAMS CLUB gave \$8,625,303 to local causes and organizations in the communities they serve in the state of California. In addition, many charities and organizations received in-kind donations and additional funds raised through stores, CLUBS and distribution centers in the amount of \$3,201,084, for a grand total of \$11,826,387 contributed through Wal-Mart's presence across the state.

Wal-Mart in California

EDITOR'S NOTE: See www.walmartfacts.com for more information about Wal-Mart in California.

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Wal-Mart Media Center

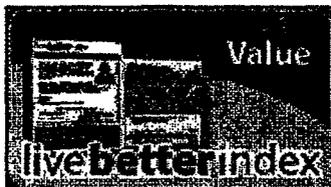
Company Overview

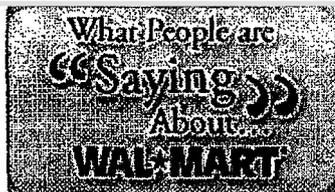
Community Benefits

Wal-Mart on the Web

STATE BY STATE

State





As of December 2005, Wal-Mart employed 73,787 associates and owned and operated the following facilities in the state of California as of October 2005:

- Supercenters: 7
- Discount Stores: 150
- SAMS CLUBS: 34
- Distribution Centers: 9

In 2004, Wal-Mart collected on behalf of the state of California more than \$719.9 million in sales taxes and paid more than \$99.7 million in state and local taxes.

About Wal-Mart Stores

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EDITOR'S NOTES

- Wal-Mart store employees are called associates.
- Paul Kovacs, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or preview tours. He can be contacted at 530-751-0130.

*Average wage taken yearly (December 2005). See www.walmartfacts.com for more details.

www.walmartfacts.com for more details.

FACT SHEET

Yuba City Wal-Mart Supercenter

store fast facts

- New Location: 1150 Harter Road, Yuba City, Call.
- Originally opened In 1990 at 935 Tharp Road
- 204,000-square-foot Wal-Mart Supercenter, gaining an additional 78,829 square feet
- Store opening 8 a.m., Tuesday, Jan. 31; 7:30 a.m. grand opening ceremony
- Store manager: Paul Kovacs

Store features

- Full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products and fresh produce, apparel and accessories, fine jewelry, lawn and garden center, health and beauty aids, full line of electronics, Tire & Lube Express, vision center, McDonald's restaurant, portrait studio, one-hour photo lab, pharmacy, Hair Works hair salon, Tri-County Bank branch and a Wal-Mart Connect Center.
- Open 24 hours a day, seven days a week
- 22 full-service, six express and four self check-out lanes

Employment

- Total employment is 630, including 300 new jobs; 1,000 applicants
 - The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*
 - Kovacs started as an hourly associate in 1995 at a store in Mobile, Ala., as a truck unloader.
- * Average wage taken December 2005. See www.walmartfacts.com for details.

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Charitable giving

- \$17,000 in charitable contributions to six area organizations
 - o City of Yuba City Fire Department
 - o City of Yuba City Police Department
 - o Kiwanis International
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 - o Rotary International
 - o United Way

- # # # -

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STATE BY STATE

State



Wal-Mart Supercenter in Beaumont Celebrates Grand Opening as 2000th Supercenter Nationwide; Offers New Wal-Mart Features

BEAUMONT, Calif., March 22, 2006 — The grand opening of the new Wal-Mart Supercenter in Beaumont, Calif., today is a milestone for the U.S. company, marking 2,000 Wal-Mart Supercenters officially open across the country. Before the store opened its doors today, it held a pre-opening celebration, Saturday, March 18 to thank customers, associates and suppliers for their patronage and partnership.

"We are very excited to be a growing part of the California community," said Henry Jordan, California regional general manager, Wal-Mart. "We are creating new jobs and helping working families to save money, and that's worth celebrating with Californians who have continued to be a part of that effort."

Ryan Cabrera Hits the Wal-Mart Stage

Hundreds of residents turned out for the store's community event, which included a live concert from rising recording artist Ryan Cabrera to kick-off the week's festivities. Surrounded by tents, booths and inflatables, participants were able to freely join in festivities surrounding the stage, as well as show their support for America's Second Harvest Food Bank, which held a silent auction of autographed music items from well-known artists such as Alabama, George Strait and Lonestar.

Beaumont Wal-Mart Supercenter Features

Located at 1540 E. Second St., the new 216,000-square-foot store boasts many of the latest merchandise features coming to Wal-Mart Supercenters across the U.S., including wider aisles, concrete and hardwood floors throughout the store, an expanded Garden Center, and its popular exclusive apparel line **George®**. The new Supercenter also includes an expanded selection of organic food items in its grocery. In addition, customers will find new features in the electronics section that showcase the latest in computers, iPods and hi-definition televisions and a do-it-yourself paint center.

The new 24-hour Supercenter offers a one-stop shopping experience for customers, including a bakery, delicatessen, frozen food section and meat, dairy and fresh produce sections and 36 general merchandise departments which include apparel and accessories, fine jewelry, a lawn and garden center, toys, automotive and health and beauty aids. Other store features include a Tire & Lube Express, a Subway restaurant, a portrait studio, a one-hour photo lab, a vision center, a pharmacy, a Hair Works hair salon, and a Banco Popular community bank branch.

More Than 3,400 Applicants for 600 New Jobs

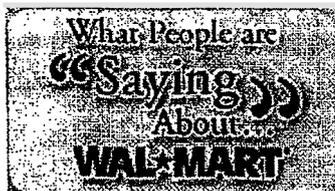
The store will employ approximately 600 associates, most of which will be full-time. More than 3,400 people applied for jobs at the new store, according to Store Manager Rodney Colyott.

"The large number of applicants for this new store doesn't surprise me at all," said Colyott. "Great career opportunities, fantastic benefits and lasting friendships are just a few of the positive aspects of becoming a Wal-Mart associate." Some of the Beaumont store's associates have worked for Wal-Mart for more than 10 years, added Colyott. The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*

\$34,000 in Additional Charitable Support

The store also announced \$34,000 in direct grant donations to local organizations as a part of Wal-Mart's Good Works community involvement program. The Beaumont Library District received \$5,000 to provide repairs and renovation to an elevator and the upper level of its building; the Second Harvest Food Bank of Riverside and San Bernardino Counties also received \$5,000; and Child Help USA, which serves abused and neglected children, received a \$5,250 grant. Other groups receiving donations in celebration of the grand opening include:

- o American Cancer Society
- o Veterans of Foreign Wars



- o Renu Hope Foundation
- o City of Riverside Fire Department Explorer Post 566
- o City of Beaumont Police Department Citizen Volunteer Patrol Program
- o Carol's Kitchen Food Pantry

As with any Wal-Mart store, organizations can contact their local Wal-Mart to inquire about local grant opportunities to raise dollars outside store locations throughout the year.

Wal-Mart Economic Impact in California

EDITORS NOTE: See www.walmartfacts.com for the latest information about Wal-Mart in California.

As of January 15, 2006, Wal-Mart employed 70,412 associates and owned and operated the following facilities in the state of California:

- Supercenters: 13
- Discount Stores: 146
- SAMS CLUBS: 35
- Distribution Centers: 9

In 2004, Wal-Mart collected on behalf of the state of California more than \$719.9 million in sales taxes and paid more than \$99.7 million in state and local taxes.

Wal-Mart benefits - available to full- and part-time associates - include healthcare insurance with no lifetime maximum. Wal-Mart offers a choice of as many as 18 health plans that cost as little as \$11 a month in some areas. Both full and part-time Wal-Mart associates are eligible for health care benefits. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

About Wal-Mart Stores

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* Average wage taken yearly (December 2005). See www.walmartfacts.com for more details.

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FACT SHEET
Beaumont Wal-Mart Supercenter

Store fast facts

- Location: **1540 E. Second St.**, Beaumont, Calif.
- **2,000th** Wal-Mart Supercenter to open
- 216,000-square-foot Wal-Mart Supercenter
- Store opening Wednesday, March 22, at **8 a.m.; 7:30 a.m.** grand opening celebration
- Store manager: Rodney Colyott

Charitable giving totals **\$34,000** in grants

- **\$5,000** charitable donation to Second Harvest Food Bank of Riverside and San Bernardino Counties
- **\$5,000** charitable donation to the Beaumont Library District for elevator repairs and upper level building renovation
- **\$5,250** donation to Child Help USA serving abused and neglected children
- **\$15,000** in charitable contributions to six other area organizations
 - o American Cancer Society
 - o Veterans of Foreign Wars
 - o Renu Hope Foundation
 - o City of Riverside Fire Department Explorer
 - o City of Beaumont Police Department Citizen Volunteer Patrol Program
 - o Carol's Kitchen Food Pantry

Employment

- 600 new jobs; 3,400 applicants
- The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*
- Approximately **76** percent of Wal-Mart store managers started as hourly associates.
- * Average wage taken December 2005. See www.walmartfacts.com for details.

Store features

- Wider aisles, a new home trends display, concrete and hardwood floors throughout the store, and an expanded selection of organic food items in its grocery line. In addition, customers will find new features in its electronics section that showcase the latest in computers, iPods and hi-definition televisions. Overall, the store contains a full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products and fresh produce, apparel and accessories, fine jewelry, lawn and garden center, health and beauty aids, full line of electronics, Tire & Lube Express, vision center, Subway restaurant, portrait studio, one-hour photo lab, pharmacy, Hair Works hair salon and a Banco Popular community bank branch.
- Open **24** hours a day, seven days a week
- **18** full-service, **10** express and four self check-out lanes

For more information

- Store manager: Rodney Colyott, **951-845-1529**
- Media contact: Amy Juaristi, **310-633-9428**, www.walmartfacts.com for details.

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- Open **24 hours** a day, seven days a week
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For more information

- Store manager: Rodney Colyott, **951-845-1529**
- Media Contact: Amy Juaristi, **310-633-9428**, ajuaristi@HilandKnowlton.com
- Wal-Mart Home Office spokesperson: Melissa O'Brien, Wal-Mart corporate communications, **479-273-4314**, option **1**, melissa.obrien@wal-mart.com
- Wal-Mart information online: www.walmartfacts.com; merchandise sales: www.walmart.com

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Wal-Mart Opens Second Local Supercenter This Month

Store benefits local suppliers; Wal-Mart contributes \$46,000 to local groups

HANFORD, Calif, May 17, 2006 - The newly relocated Wal-Mart in Hanford will celebrate its grand opening as a Supercenter on Wednesday, May 17, with a focus on supporting the local community. The grand opening of the new store, second closest to Fresno, adds an additional \$46,000 in donations to local organizations through grants and associate contributions at Wal-Mart. The grand opening ceremony starts at 7:30 a.m., and doors open at 8 a.m. The store's new location is 250 S. 12th St.

Originally opened in 1991 at 1750 W. Lacy, the relocated Wal-Mart Supercenter has added 84,860 square feet. According to Store Manager Cornel Andrei, the new 209,860-square-foot Supercenter now features a full line of grocery items, including a new bakery, a delicatessen, meat, dairy and fresh produce sections as well as a full liquor department and a frozen food section.

Boasting many of the latest store features introduced by most new Wal-Mart stores this year including wider aisles as well as concrete and wood floors, the Hanford Supercenter offers customers 36 general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, and a full line of electronics. It will be open to customers 24 hours a day, seven days a week and will include 22 full-service and 10 express check-out lanes.

Other store features include a Tire & Lube Express, a McDonald's, a family fun center, a one-hour photo lab, a vision center, a pharmacy, a portrait studio, a Regal Nails salon, a Hair Works hair salon, a Kerry's Medical Center as well as a Wal-Mart Connect Center for wireless phone sales.

Fifteen Year Partnership with Community Suppliers

With its vision to be the "store of the community," the Hanford Wal-Mart Supercenter also will feature products throughout the store from local Fresno-area and California suppliers including Rain Creek Baking Company Inc., Pappy's Meat Company and La Tapatia Tortilleria Inc. Customers visiting the store during the grand opening celebration will be able to sample chocolate milk and orange juice from Berkley Farms and quesadillas and cheese from Maquez Brothers' El Mexicano.

"We recognize the value of being able to provide our customers with locally produced products," said Andrei. "During the last 15 years, we have been proud of our collaborative partnerships with our suppliers and this grand opening marks the continuation of our commitment." There are more than 50 suppliers servicing Wal-Mart in the Fresno area.

In 2005, Wal-Mart Stores Inc. spent \$20 billion for merchandise and services with suppliers in the state of California. As a result of Wal-Mart's relationship with these suppliers, Wal-Mart supports 248,000 supplier jobs in the state.

More than \$46,000 in Total Donations to Help Area Organizations

An additional \$25,000 was provided through Wal-Mart for this particular store opening, in light of matching grants contributed through the efforts of Wal-Mart associates in California through Wal-Mart's Good Works community involvement program. In addition, the store is providing \$21,000 in grants, totaling \$46,000 to local organizations this week.

As with all Wal-Mart stores, the Hanford Wal-Mart Supercenter will have a budget to support community organizations throughout the year. Organizations Interested In receiving funding or learning about matching grants can contact the store for details.

Groups receiving donations upon the store's opening Include:

- Big Brothers Big Sisters Foundation
- Church of the Savior "Hanford Soup Kitchen"

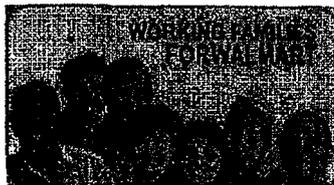
Wal-Mart Media Center

- + Company Overview
- + community Benefits
- + Wal-Mart on the Web

STATE BY STATE

State





- City of Hanford Fire Department
- City of Hanford
- City of Hanford Police Department
- City of Hanford Recreation Department
- Corcoran Emergency Aid
- Hanford Conference and Visitor Agency
- Kings Co. Commission on Aging
- United Cerebral Palsy Association
- Visalia YMCA

Grand Opening Celebration Details

Associate Raesanne Smith will perform the national anthem and members of the Lemoore Naval Air Station Color Guard will present the colors during the 7:30 a.m. grand opening ceremony. Eighteen associates, who have worked at the Hanford store since its original grand opening in 1991, will cut the ribbon to the new store. Hanford City Manager Jan Reynolds, Hanford Fire Chief Timothy Ieronimo, Chief of Police Carlos Metas, members of the Hanford Visitors Center and the Hanford City Council, along with other local dignitaries, will attend the ceremony. Numerous activities are scheduled for the grand opening event including an autograph signing and appearance by Ultimate Fighter Chuck Uddel, a NASCAR simulator and character appearances by Chester Cheetah, the Coca-Cola Polar Bear and the McDonald's Hamburgler. Product samples from Frito Lay, Coca-Cola, Pepsi, Pepperidge Farm and Nabisco will be available as well as several give-aways.

275 New Jobs

More than 3,500 people applied for the 275 new positions available, bringing the total number employed to 600 associates at the store. The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*

"We were thrilled with the opportunity to provide additional jobs in our community," said Andrei. "Our associates are proud to serve our customers and look forward to strengthening our great relationship with the city of Hanford." Andrei started as an hourly associate in 1992 as a toy department sales associate in Fresno. Fifty-five of the Hanford store's associates have worked for Wal-Mart for more than 10 years, and 18 associates have been employed at the store since the original grand opening, added Andrei.

Wal-Mart in California

EDITORS NOTE: See www.walmartfacts.com for more information about Wal-Mart in California.

As of March 2006, Wal-Mart employed 69,221 associates and owned and operated the following facilities in the state of California:

- Supercenters: 14
- Discount Stores: 146
- SAMS CLUBS: 35
- Distribution Centers: 9

In 2005, Wal-Mart collected on behalf of the state of California more than \$783.4 million in sales taxes and paid more than \$139.7 million in state and local taxes.

About Wal-Mart stores

Wal-Mart Stores Inc. operates Wal-Mart Stores, Supercenters, Neighborhood Markets and SAMS CLUB locations in the United States. Internationally, the company operates in Argentina, Brazil, Canada, China, Germany, Japan, Mexico, Puerto Rico, South Korea and the United Kingdom. The company's securities are listed on the New York and Pacific stock exchanges under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartfacts.com. Online merchandise sales are available at www.walmart.com.

EDITORS NOTES

- An invitation-only open house for VIPs, Wal-Mart associates and their families is scheduled for Tuesday, May 16, from 7 p.m. until 9 p.m. Preview tours will be provided. Checks will be presented to representatives of the community organizations this evening.
- Wal-Mart store employees are called associates.

- Cornel **Andrei**, store manager, *can* provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or preview **tours**. He can be contacted at 559-589-6701. Statements and quotes on **behalf of** Wal-Mart should not be obtained from or attributed to agency employees.

*Average wages taken yearly (December 2005). See www.walmartfacts.com for more details.

FACT SHEET
Hanford Wal-Mart Supercenter

Store Fast Facts

- Location: 250 S. 12th St., Hanford, Calif.
- 209,860-square-foot Wal-Mart Supercenter; gained additional 84,860 square feet
- **7:30 a.m.** grand opening ceremony, Wednesday, May 17; store opening **8 a.m.**
- Store manager: Cornel Andrei

Store Features

- Features **36** general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, full line of electronics, **Tire & Lube Express**, McDonald's, **one-hour** photo lab, Regal Nail salon, **Hair Works** hair salon, portrait studio, vision center, pharmacy, Family fun center, **Kerry's Medical Center**, Wal-Mart Connect Center
- Open 24 hours a day, seven days a week
- 22 Full-service, 10 express check-out lanes

Employment

- **275** new jobs; 600 total associates; 3,500 applicants
- The average wage at Wai-Mart for full-time hourly associates in California is \$10.50 per hour.*
- Wal-Mart benefits - available to full- and part-time associates - include healthcare insurance with no lifetime maximum. Associate premiums begin at less than \$40 per month for an individual and less than \$155 per month for a family, no matter how large. Wal-Mart also offers a **401(k)** plan and profit **sharing** contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.
- Store Manager Cornel **Andrei** started as an hourly associate in **1992** at a store in **Fresno** as a toy sales associate.

*Average wage taken December 2005. See www.walmartfacts.com for details.

Charitable Giving

- **\$46,000** in total charitable contributions to **11** area organizations, including:
 - * Big Brothers Big Sisters Foundation
 - * Church of the Savior "Hanford Soup Kitchen"
 - * **City of Hanford** Fire Department
 - * **City of Hanford**
 - * City of **Hanford Police** Department
 - * **City of Hanford Recreation** Department
 - * **Corcoran** Emergency Aid
 - * Hanford Conference and Visitor **Agency Kings Co.** Commission on Aging
 - * United **Cerebral Palsy** Association
 - * **Visalia** YMCA

For More Information

- Store manager: Cornel Andrei, 559-589-6701
- Wal-Mart Information online: www.walmartfacts.com; merchandise sales: www.walmart.com

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Wal-Mart Opens Closest Supercenter to Sacramento

"Holy Cow! It's Grand Opening!" Celebrates Local Dairy Producers, Area Suppliers and 655 New Jobs

ANTELOPE, Calif., May 17, 2006 –The more than 655 associates at the Wal-Mart Supercenter opening this Wednesday, May 17, in Antelope are moving product into position and gearing up for the excitement of their grand opening. Celebrating the store's support of local businesses and dairy products, "Holy Cow" will be evident theme of this grand opening, complete with give-aways and costume cow characters! The ceremony begins just after sunrise at 7:30 am, and the doors open to the public at 8 a.m. The store is located at 5821 Antelope N. Road.

Wal-Mart has more than 12 stores in the Sacramento metro-area, but this will be the closest Supercenter to the city center.

Local Economic Impact Already Evident

According to Store Manager Marvin Raps, the store will bring 655 new jobs to the area, which is above average for a new Wal-Mart store. The Antelope Supercenter holds more than 207,000 square feet of general merchandise and grocery departments.

"We know that residents have been anticipating this opening, and our associates have worked hard to impress the community with a terrific new store," said Store Manager Marvin Raps. "While all Wal-Mart stores feature products from local suppliers, we really wanted to emphasize how important area suppliers are to this Supercenter. We want customers to know that they are supporting California businesses while they shop at our store."

Local California suppliers will be a large part of the celebration, from Berkeley Farms to Crystal dairy products. Because it goes great with milk, an Oreo cookie stacking contest by Nabisco will be just one of the fun activities for customers of all ages. Free local and dairy-themed product samples, inflatables, character appearances and other activities will also be at the event.

Berkeley Farms out of the Bay-Area will have their "chug mobile" on the scene handing out more than 2,000 samples of chocolate milk and orange juice, hard to miss next to their 15-foot inflatable "Kool Cow." "We're proud to be a supplier of many businesses in this area and are excited to see our relationship continue to grow with Wal-Mart, as this is our 75th Wal-Mart store to service," said Berkeley Farms General Manager Mike Lasky. "It has been a pleasure working with the management team for many weeks to pull together a fun event for Sacramento that really celebrates with the community."

"Holy Cow" is a cleaning product started by area business owners Bob and Joni Hilton in Rocklin and will be among the sampling of local business products at the grand opening. The product is currently sold in 125 Wal-Mart stores across the state. "We're excited to be working with the store on this grand opening," said Bob Hilton. "It's a fun way to bring local businesses together, and we think the 'Holy Cow' theme is, of course, quite clever!"

There are more than 130 suppliers to Wal-Mart based just in the Sacramento area, so the impact indirectly through the retailer has been growing even before the arrival of this new Supercenter. In its last fiscal year, Wal-Mart spent more than \$20 billion with suppliers located in the state of California, indirectly supporting more than 248,000 jobs with these California businesses.

One-Stop Shopping Conveniences and New Features

Boasting many of the latest store features being introduced by new Wal-Mart stores this year including wider aisles and concrete and wood floors, the Supercenter offers 36 general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, and a full line of electronics. The store also has a full-line of grocery items, including a bakery, a delicatessen, meat,

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- + Community Benefits
- + Wal-Mart on the Web

STATE BY STATE

State





dairy and fresh produce sections and a frozen food section. It will be open to customers 24 hours a day, seven days a week and will include 22 full-service and 12 express check-out lanes.

Other convenience services include a Tire & Lube Express, a pharmacy, a vision center, a portrait studio, a one-hour photo lab, a McDonald's, a Hair Works hair salon, a branch of Tri-County Bank and a Wal-Mart Connect Center for cellular phone sales.

\$29,000 Donated to Help Area Organizations

With the goal of giving back locally, the new Antelope Wal-Mart Supercenter will provide donations through Wal-Mart's Good Works community involvement program in celebration of their grand opening, announcing \$29,000 in donations to support local community initiatives. "As the newest partner in the Antelope community, we have a responsibility and a desire to help make a positive impact," said Raps.

The store will also have a budget to give donations away locally throughout the year. Organizations interested in receiving funding can contact the store for details.

Groups receiving donations upon the store's opening include:

- American Cancer Society
- Citrus Heights Elementary School
- Citrus Heights Women's Center
- Rio Linda Union School District
- Rotary International
- Sacramento County Metropolitan Fire District
- Sacramento County Sheriff's Department
- Sacramento Medical Foundation
- Sacramento Public Library Foundation
- Veterans of Foreign Wars

Additional Grand Opening Celebration Details

Sacramento Metro Fire Department Chaplain Ward Cockerton will lead the invocation at the 7:30 a.m. grand opening ceremony. Assistant Manager Amy Felton and her daughter Emily Kraus will perform the national anthem and Keith Weber of the Antelope Chamber of Commerce will cut the ribbon to the new store. Members of the Veterans of Foreign Wars will present the colors. Other activities planned during the grand opening event include a performance by Center High School band member Duane Anderson as well as product samples, character appearances and giveaways.

Wal-Mart in California

As of March 2006, Wal-Mart employed 69,221 associates and owned and operated the following facilities in the state of California:

- Supercenters: 14
- Discount Stores: 146
- SAMS CLUBS: 35
- Distribution Centers: 9

In 2005, Wal-Mart collected on behalf of the state of California more than \$783.4 million in sales taxes and paid more than \$139.7 million in state and local taxes.

EDITOR'S NOTE: See www.walmartfacts.com for more information about Wal-Mart in California.

About Wal-Mart Stores

Wal-Mart Stores Inc. operates Wal-Mart Stores, Supercenters, Neighborhood Markets and SAMS CLUB locations in the United States. Internationally, the company operates in Argentina, Brazil, Canada, China, Germany, Japan, Mexico, Puerto Rico, South Korea and the United Kingdom. The company's securities are listed on the New York and Pacific stock exchanges under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartfacts.com. Online merchandise sales are available at www.walmart.com.

EDITORS NOES

- An invitation-only open house for VIPs, Wal-Mart associates and their families is scheduled for Monday, May 15, from 6 p.m. until 8 p.m. Preview tours will be provided. Checks will be presented to

representatives of the community organizations *this* evening. *Reporters* and photographers are *welcome*.

- Wal-Mart store employees are *called associates*.
- Marvin Raps, store manager, can *provide* details about the grand opening, offer quotes for interviews and

arrange for photo opportunities or preview tours. He can be contacted at 916-729-6162.

*Average wages taken *yearly* (December 2005). See www.walmartfacts.com For more details.

FACT SHEET *Antelope Wal-Mart Supercenter*

store Fast Facts

- Location: 5821 Antelope N. Road, Antelope, Calif.
- 207,000-square-foot Wal-Mart Supercenter
- 7:30 a.m. grand opening ceremony, Wednesday, May 17; store opening 8 a.m.
- Store manager: Marvin Raps

Store Features

- Features 36 general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, full line of electronics, Tire & Lube Express, pharmacy, vision center, portrait studio, one-hour photo lab, McDonald's, Hair Works hair salon, Tri-County Bank branch, Wal-Mart Connect Center
- Open 24 hours a day, seven days a week
- 22 full-service, 12 express check-out lanes

Employment

- 655 new jobs; more than 1,100 applicants
- The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*
- Approximately 76 percent of Wal-Mart store managers started as hourly associates.
- Wal-Mart benefits " available to full- and part-time associates " include healthcare insurance with no lifetime maximum. Wal-Mart offers a choice of as many as 18 health plans that cost as little as \$11 a month in some areas. Both full and part-time Wal-Mart associates are eligible for health care benefits. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

*Average wage taken December 2005. See www.walmartfacts.com for details.

Charitable Giving

- \$29,000 in charitable contributions to 10 area organizations, including:
 - * American Cancer Society
 - * Citrus Heights Elementary School
 - * Citrus Heights Women's Center
 - * Rio Linda Union School District
 - * Rotary International
 - * Sacramento County Metropolitan Fire District
 - * Sacramento County Sheriff's Department
 - * Sacramento Medical Foundation
 - * Sacramento Public Library Foundation
 - * Veterans of Foreign Wars

For More Information

- Store manager: Marvin Raps, 916-729-6162
- Wal-Mart information online: www.walmartfacts.com; merchandise sales: www.walmart.com

- # # # -

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STATE BY STATE

State

West Sacramento Supercenter Caters to Culturally Diverse Community

Store provides 650 new jobs; supports teens and education with \$28,000 in initial community donations

WEST SACRAMENTO, Calif., June 5 2007 - California's largest Wal-Mart Supercenter will bring more than new shopping opportunities to the residents of West Sacramento. At the Wednesday, **June 13**, grand opening ceremony, community members can also celebrate the estimated 650 new jobs planned for the store. The Supercenter merchandise will reflect the diverse shopping needs of area residents, as the floor plan will include expanded shelf space for Hispanic, Asian and Eastern European food sections. During the grand opening festivities, associates of the West Sacramento Supercenter along with local dignitaries will share what the store means to community, including an initial **\$28,000** in donations to local organizations with several large grants given to help support local teenagers and education. The grand opening ceremony begins at **7:30 a.m.** and doors open at **8 a.m.** The store is located **755 River Point Court** near the intersection of Interstate 80 at **Reed Ave.**

Job Impact in California

According to Store Manager David Pressly, the new Supercenter has received a great response from area residents who have applied and has received nearly **2,400** applications.

"We were pleased with the number of applications we have received," Pressly said. "Our associates are excited to serve our customers and we are happy to offer our associates good jobs and opportunities to advance." Seventy-six percent of store managers began their careers as hourly associates. Twelve associates have worked for Wal-Mart for more than 10 years, added Pressly.

The average wage for full-time hourly associates at Wal-Mart in California is **\$10.77** per hour.* As of April 2007, Wal-Mart employed **71,023** associates in the state of California. Including the newest Wal-Mart Supercenter In West Sacramento, the company currently owns and operates the following facilities in the state:

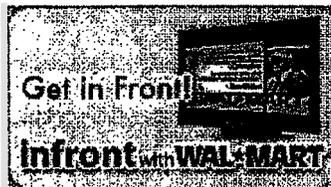
- Supercenters: 24
- Discount Stores: 144
- Sam's Clubs: 37
- Distribution Centers: 9

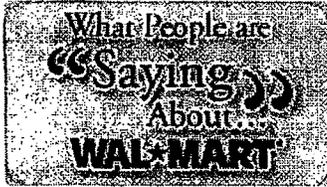
Store Debuts Latest in Wal-Mart Features

The **237,000** square-foot West Sacramento Supercenter was artfully designed with a modern, unique exterior. Created from a combination of stainless steel and "wooden-look" concrete planks, the façade features towers, steel sculptures over entrance walkways and extensive landscaping with an abundance of newly planted trees. As a store of the community, approximately 20 languages are spoken by store associates, there is navigational signage to guide shoppers easily through the merchandise departments and expanded shelf space for Eastern European, Hispanic and Asian food offerings throughout the store.

For one-stop shopping convenience, the West Sacramento Wal-Mart Supercenter has nearly 80,000 square feet devoted to grocery items, including a bakery, a delicatessen, meat, dairy and fresh produce sections, an assortment of organic selections, and a frozen food section. In addition, shoppers will find an expanded electronics department stocked with the latest MP3 players, DVD players and other popular items such as high-definition and plasma televisions. Family apparel departments will offer Wal-Mart's popular George® clothing line and shoppers will also enjoy the wide selection of health and beauty aids, household needs, toys, fine jewelry, shoes and an expanded lawn and garden center.

Customers will also appreciate the Supercenter's wide aisles, low shelving displays, concrete flooring for environmentally-friendly, maintenance, energy-efficient freezer and refrigerator dairy cases that keep foods colder and use less energy, LED lighting, daylight harvesting skylights. In addition to Wal-Mart's many





products and services, customers will enjoy the convenience of the store's shopping hours - the new Supercenter will be open 24 hours a day, seven days a week and will include 27 full-service check-out lanes, of which eight are express.

Other store features include a Tire & Lube Express, a vision center, a pharmacy, a one-hour photo lab and a Wal-Mart Connect Center for wireless phone sales. Additional leased space and services include a DaVi nail salon, a Hair Works hair salon, a Blimpie restaurant, a branch of Tri Counties bank.

A Commitment to Community - \$28,000 in Initial Grants to Support Local Organizations

With the goal of giving back locally, the West Sacramento Wal-Mart Supercenter will announce a total of \$28,000 in donations through Wal-Mart's community involvement program to a number of organizations. Pressly says that as part of the grand opening celebration, a special \$10,000 grant will be given to the Collins Sacramento Teen Center, which will use the donation to help with its graduation night festivities as well as to help fund the creation of a virtual reality database that teaches students life and financial skills. In addition, an \$8,000 grant will be given to the Washington Unified School District which plans to create two recreational rooms in the local junior high schools.

"As the newest member of the West Sacramento community, we are proud to provide financial support to organizations that are making a positive difference," said Pressly. (Editors note: For a complete list of grant recipients, please see page 3 of this release.)

Like all Wal-Mart stores, the West Sacramento Supercenter will provide grant dollars throughout the year to help local groups. Organizations interested in learning more about receiving funding from Wal-Mart or fundraising at Wal-Mart can contact the store for details or go to www.walmartfoundation.org.

Grand Opening Celebration Details

Local dignitaries including members of the City Council will attend the 7:30 a.m. grand opening ceremony. Store associates will perform the national anthem during the event and Chamber of Commerce representatives will cut the ribbon to the new Supercenter. Other activities for the grand opening include product samples and giveaways.

About Wal-Mart Stores

Every week, more than 127 million customers visit Wal-Mart Stores, Supercenters, Neighborhood Markets, and Sam's Club locations across America or log on to its online store at www.walmart.com. The company and its Foundation are committed to a philosophy of giving back locally. Wal-Mart (NYSE: WMT) is proud to support the causes that are important to customers and associates right in their own neighborhoods, and last year gave more than \$270 million to local communities in the United States. To learn more, visit www.walmartfacts.com, www.walmartstores.com, or www.walmartfoundation.org.

EDITOR'S NOTES

- A special invitation-only open house for VIPs, Wal-Mart associates and their families is scheduled for Monday, June 11, from 6 - 8 p.m. Preview tours will be provided. Reporters and photographers are welcome.

FACT SHEET

West Sacramento Wal-Mart Supercenter

Store Fast Facts

- Location: 755 River Point Court, West Sacramento, Calif.
- 237,000-square-foot Wal-Mart Supercenter
- 7:30 a.m. grand opening ceremony, Wednesday, June 13; doors open at 8 a.m.
- Store manager: David Pressly

Store Features

- General merchandise departments include family apparel with an expanded infant section, a household organization department, health and beauty aids, household needs, expanded electronics department, toys, jewelry and shoes.
- Other special features: Tire & Lube Express, a vision center, a pharmacy, a one-hour photo lab and a Wal-Mart Connect Center for wireless phone sales. Additional leased space and services include a Quick Health Clinic, DaVi nail salon, a Hair Works hair salon, a Blimpie restaurant, a branch of Tri Counties bank.

- Open 24 hours a day, seven days a week
- Nineteen full-service, eight express check-out lanes

Employment

- 650 total associates, 2,400 applications
- **The** average wage at Wal-Mart for full-time hourly associates in California is \$10.77 per hour.*
- Wal-Mart benefits - available to eligible full- and part-time associates - include healthcare insurance with no lifetime maximum. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, **store** discount cards, performance-based bonuses, discounted stock purchase program and **life** insurance.

* Average **wage** taken December 2006. **See** www.walmartfacts.com **For details.**

Charitable Giving

\$28,000 In charitable contributions to six area organizations:

- **Collings** West Sacramento Teen Center- Campus Life Connection
- Explorit Science Center
- Friends of Meals on Wheels
- Washington Unified Public School District
- West Sacramento Friends of the Library
- West Sacramento Historical Society

For More Information

- David Pressly, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or preview tours. **He can** be contacted at 916-373-2200 ,
- Wal-Mart information online: www.walmartfacts.com; merchandise sales: www.walmart.com

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EXHIBIT G

Wal-Mart eyes new store site in Galt

By Chris Nichols
News-Sentinel Staff Writer

The city may have found its **first** test case for its proposed "big box ordinance": **Wal-Mart**.

The retail giant applied last week to build a 132,000 square-foot store at Twin Cities Road and Fermoy Way.

It's the second Galt site Wal-Mart has eyed in the past two years.

They had previously looked at a spot near Boessow Road and Highway 99.

Community Development Director Curt **Campion** said Thursday night **any** big **box** rules — if eventually approved by the **City** Council — will likely apply to Wal-Mart's new application.

"I believe it will," he said during a break at the Galt Planning Commission meeting.

Commissioners delayed their review of the proposed ordinance, which would ban stores larger than 140,000 square feet that include more than 10 percent of their retail space to non-taxable goods.

The proposed rules would require stores from 100,000 to 139,999 square feet to obtain **a** conditional use permit. Studies on the project's effect on crime, urban decay, the economy and its general compatibility within a neighborhood would be required before a vote **on** the permit.

Commissioners wanted more time for themselves and the public to review the rules,

They'll consider them **again** at their Sept. 27 meeting **at** 9 a.m.

The City Council will vote on the ordinance later this fall.

Commissioners and several members of the public were mixed on whether to limit future big **box** **stores**.

For Donna Healey, having a Wal-Mart nearby would be a big help.

"I think with the right planning, it could be a very big benefit to the community," said Healey, a Galt resident and **mother** of two young daughters,

Galt's proposed big box rules at a glance

- Would ban stores larger than **140,000** square feet that include more than 10 percent of their retail space to non-taxable **goods**.
- Would require stores from 100,000 to 139,999 square feet to obtain a conditional use permit. Studies on the project's effect **on** crime, urban decay, the economy and its general compatibility within a neighborhood would be required before

She added that it's difficult driving out of **town** every time **she** needs a new pair of socks for her **kids**.

"We **take** all of **our** money somewhere else, **except for groceries**," **she** added.

Wal-Mart spokesman **Aaron Rios** told commissioners the **store** would create

a vote on the permit.
Source: City of Galt.

450 jobs, at an average wage of **\$11.30** per hour.

He noted workers would be eligible for benefits, bonuses, vacation time, childcare discounts and other **perks**.

"These are great jobs," he added.

Commissioner Eugene Davenport, who has previously formed a committee to stop big **box** stores, said **Galt** isn't prepared for this kind of retail growth.

"Those roads are not ready for **this** and the **community** is not ready for **this**," he said.

He said Galt retail **stores** should be limited to less than 100,000 square feet.

Commissioner Lori Heuer said she realizes many residents want big **box** stores, but **also** feels they should **be** evaluated carefully.

"I **think** we do need to look at **the** effect retail establishments have," she said.

EXHIBIT H

**DRAFT
ENVIRONMENTAL IMPACT REPORT**

**FOR CITY CENTER 11 MIXED-USE PROJECT
SCH No. 2006051146**

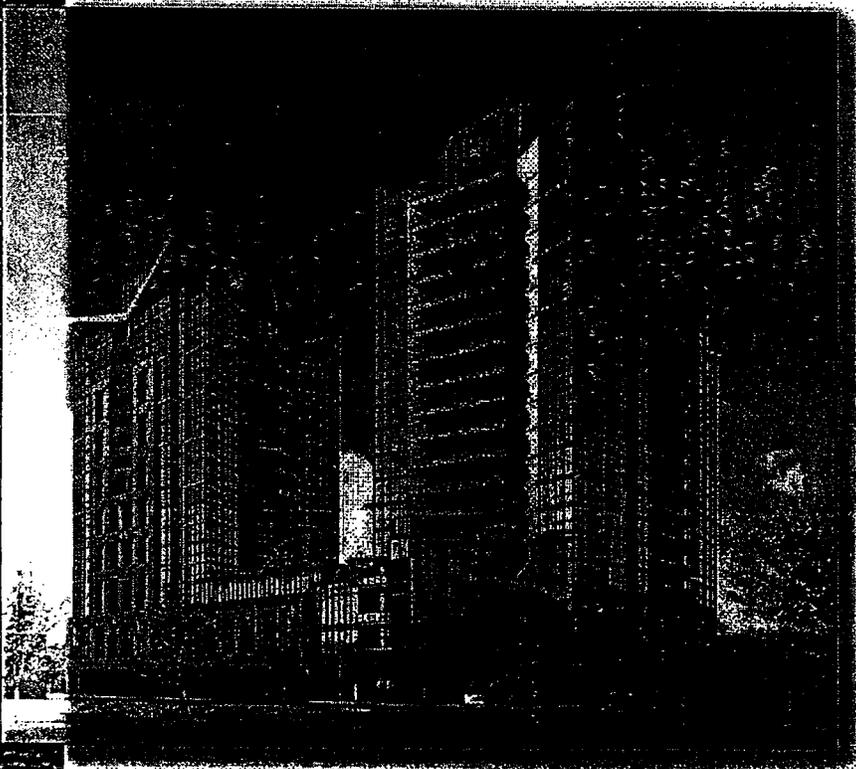
VOLUME I

Prepared for:

Glendale Redevelopment Agency
633 East Broadway, Room 201
Glendale, California 91206-4387

Prepared by:

Impact Sciences, Inc.
803 Camarillo Springs Road, Suite A
Camarillo, California 93012



SEPTEMBER 2007

**DRAFT
ENVIRONMENTAL IMPACT REPORT
FOR
CITY CENTER II MIXED-USE PROJECT
Sch#2006051146**

Volume I

Prepared for:

**Glendale Redevelopment Agency
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Prepared by:

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September 2007

TABLE OF CONTENTS

Section	Page
VOLUME I	
1.0 INTRODUCTION	1.0-1
2.0 SUMMARY.....	2.0-1
3.0 PROJECT DESCRIPTION.....	3.0-1
4.0 ENVIRONMENTAL IMPACT ANALYSIS	4.0-1
4.1 Land Use and Planning.....	4.1-1
4.2 Population and Housing.....	4.2-1
4.3 Aesthetics.....	4.3-1
4.4 Traffic, Circulation and Parking	4.4-1
4.5 Air Quality	4.5-1
4.6 Noise.....	4.6-1
4.7 Hazards and Hazardous Materials	4.7-1
4.8 Hydrology and Water Quality	4.8-1
4.9 Public Services.....	4.9-1
4.9.1 Fire Protection and Emergency Medical Services	4.9.1-1
4.9.2 Police Protection.....	4.9.2-1
4.9.3 Schools	4.9.3-1
4.10 Utilities and Service Systems	4.10-1
4.10.1 Water Service	4.10.1-1
4.10.2 Sewer.....	4.10.2-1
4.10.3 Solid Waste.....	4.10.3-1
4.11 Recreation	4.11-1
5.0 SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES	5.0-1
6.0 GROWTH INDUCEMENT	6.0-1
7.0 ALTERNATIVES	7.0-1
8.0 LIST OF EIR PREPARERS.....	8.0-1
9.0 REFERENCES AND PERSONS CONSULTED	9.0-1

4.2 POPULATION AND HOUSING

INTRODUCTION

This section analyzes the potential population and housing impacts of the Project on the City of Glendale. Information used in this section was obtained from the Southern California Association of Governments (SCAG).

ENVIRONMENTAL SETTING

As discussed in Section 4.1, Land Use and Planning, the City of Glendale is located within the planning area of SCAG, the lead planning agency for the Southern California region. SCAG consists of local governments from Los Angeles, Ventura, Orange, San Bernardino, Riverside, and Imperial counties. To facilitate regional planning efforts, the planning area of SCAG is further divided into 13 subregions. Glendale is located in the Arroyo-Verdugo Subregion, which also includes the cities of Burbank, La Canada-Flintridge, and the unincorporated communities of La Crescenta and Montrose.

One of SCAG's primary functions is to forecast population, housing, and employment growth for each region, subregion, and city. The latest forecast was completed in 2004 as part of the 2004 Regional Transportation Plan (RTP) update. As indicated in Table 4.2-1, SCAG Demographic Projections, both the Arroyo-Verdugo Subregion and the City of Glendale are predicted to undergo sustained growth through the year 2030. Population in the subregion is predicted to increase by 62,130 persons, while the housing stock is projected to increase by 23,109 units. Employment opportunities are also predicted to increase by 69,389 jobs. The City is predicted to increase by 26,908 persons, while the housing stock is projected to increase by 9,568 units. Employment opportunities are also predicted to increase by 27,527 jobs.

Table 4.2-1
SCAG Demographic Projections

	2000	2005	2010	2015	2020	2025	2030	2000-2030 (%)
Arroyo-Verdugo Subregion								
Population	335,438	352,677	360,042	369,816	379,461	388,706	397,568	62,130 (19%)
Housing	127,481	129,327	133,127	137,454	141,860	146,230	150,590	23,109 (18%)
Employment	210,848	203,652	222,135	235,640	248,534	260,336	271,237	69,389 (34%)
City of Glendale								
Population	195,781	204,435	207,182	211,220	215,207	219,028	222,689	26,908 (14%)
Housing	71,806	72,620	74,095	75,896	77,738	79,569	81,404	9,568 (13%)
Employment	85,715	86,136	90,471	96,573	102,469	108,004	113,242	27,527 (32%)

Source: Southern California Association of Governments, Regional Transportation Plan, April 2004.

REGULATORY FRAMEWORK

A number of goals and policies set forth by Glendale's General Plan relate to population and housing growth. An analysis of the consistency of these applicable goals and policies with the Project is provided in Section 4.1, Land Use and Planning. As discussed in Section 4.1, the Project does not conflict with applicable General Plan goals and policies related to population and housing growth.

ENVIRONMENTAL IMPACTS

Thresholds of Significance

The following thresholds for determining the significance of impacts related to population and housing are contained in the environmental checklist form contained in Appendix G of the most recent update of the *California Environmental Quality Act (CEQA) Guidelines*. Impacts related to population and housing are considered significant if the project would:

- Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through the extension of roads or other infrastructure).
- Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere (issue is addressed within Appendix 1.0(a) of this Draft EIR).
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere (issue is addressed within Appendix 1.0(a) of this Draft EIR).

Impact Analysis

Each applicable threshold of significance is listed below followed by analysis of the significance of any potential impacts and the identification of mitigation measures that would lessen or avoid potential impacts. Finally, the significance of potential impacts after implementation of all identified mitigation measures is presented.

Threshold: Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through the extension of roads or other infrastructure).

Impact Analysis: As proposed, the Project would include 184 residential units, a 172-room hotel, and 4,089 square feet of retail commercial space. Based on a mix of 67 one-bedroom and 117 two-bedroom units and an average household size of 1.5 persons per one-bedroom unit and 2.5 persons per two-

4.2 Population and Housing

bedroom unit¹, the residential component of the Project would most likely generate approximately 393 residents (67 units x 1.5 persons per household + 117 units x 2.5 persons per household). Based on 3.0 employees per 1,000 square feet of commercial space and 0.8 employees for every hotel room, the direct employment growth of the Project would be 150 employees (4,089 square feet x 3.0 employees/1,000 square feet + 172 hotel rooms x 0.8 employees). Applying a 24 percent ratio (which is the percent of existing employees that work and reside in the City of Glendale),² the employment positions would result in 36 of these new employees residing in the City of Glendale. If it is conservatively assumed that each of the new employees forms a single household in the City, these households could indirectly add approximately 101 additional residents to the City (36 households x 2.8 persons per household)³. Overall, the increase in population of 393 people that would be associated with the proposed residential units and the possible additional increase in population of 101 people associated with employment opportunities provided by the Project would result in a total population increase of 494 new residents to the City.

When the population increase from the Project is added to the 2007 Arroyo-Verdugo Subregional population of 355,623, the resulting population for the year 2010 is approximately 356,234 persons. In addition, when housing and employment estimates associated with development of the Project are added to 2007 Arroyo-Verdugo Subregional housing and employment figures, the resulting housing and employment figures are 131,134 housing units and 211,054 jobs. All of these demographic increases are well within 2010 Arroyo-Verdugo Subregional projections.

The 2007 State Department of Finance January population estimate for Glendale is 207,1574. When the estimated population increase from the Project is added to the January 2007 population estimate for the City of Glendale, the resulting total population for the City is 207,768 residents. In addition, when the

¹ Population generation rates for units were provided by the applicant and represent a more conservative population estimate than if generation rates were used from the Glendale Downtown Specific Plan.

² The Project would generate 134 employment positions. Based on the existing residence characteristics of the work force in Glendale, it is estimated that approximately one-quarter of these employees could relocate to Glendale. Travel time-to-work data collected by the 2000 U.S. Census indicates that approximately 21,800 workers in Glendale aged 16 and over commute less than 15 minutes to their places of employment or work from home. It can be assumed that these workers are employed within the City limits, since it would conceivably take longer than 15 minutes to commute to jobs located outside Glendale. In 2000, the City of Glendale had 91,000 employees based on the number of resident and non-resident employees reported to the State of California Employment Development Division by firms located in Glendale. In 2000, therefore, approximately 21,800 of the 91,000 employees working in Glendale resided in the City, which equates to approximately 24 percent of the worker population.

³ Based on average Citywide household population rate per unit from California State Department of Finance, E-5 City/County Population and Housing Estimates, January 1, 2007, May 2007.

⁴ Based on average Citywide household population rate per unit from California State Department of Finance, E-5 City/County Population and Housing Estimates, January 1, 2007, May 2007.

4.2 Population and Housing

Project's housing and employment increases **are** added to the **2007** SCAG housing and employment projections for the City of Glendale, the resulting housing and employment figures are **73,497** housing units and **87,879** jobs. While the housing and employment estimates are well within **SCAG** 2010 projections of **74,095** housing units and 90,471 jobs for the City of Glendale, the population figure exceeds the SCAG 2010 population projection of **207,182** persons.

Despite exceeding the SCAG projection, the population increase associated with the Project is not considered substantial, **as** the increase would amount to less than a 1 percent increase in population growth. In addition, the population growth and related demand on public services associated with the Project have been assessed in Section **4.9**, Public Services, of **this** EIR. In **this** manner, the projected population increase already has been **assessed** and the increase in population is not considered substantial. Importantly, the growth associated with the Project is also accounted for in the Downtown Specific Plan (adopted November **2006**). **To** ensure consistency between the Downtown Specific Plan and the City of Glendale General Plan, the General Plan would be amended to include new population projections as part of the proposed adoption of the Downtown Specific Plan. The City will now submit the new growth projections to **SCAG** for incorporation into its new population projections, resulting **in** revisions **to** the RTP, which is to be updated in **2007**. In other words, the demographic projections contained within the RTP are based on a "bottom-up" approach in which local agencies generate the projections that provide the basic framework for SCAG analysis. The Project's population generation would **be** consistent with the City's General Plan, upon which the SCAG population forecast **is** based. Therefore, after demographic projections **are** updated, the Project would be even further below future **SCAG** projections. As a result, impacts associated with population growth would be less than significant.

Level of Significance Before Mitigation: **Less** than significant.

Mitigation Measures: None are required.

Level of Significance After Mitigation: **Less than** significant.

Cumulative Impacts

The **following** cumulative analysis evaluates the impact of the Project and related projects on population in the City of Glendale. The applicable **threshold** is **listed** below in bold, followed by **an** analysis of the cumulative impact of the Project and related projects **and** their potential significance.

Threshold: Induce substantial population **growth** in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through the extension of roads or other infrastructure).

Impact *Analysis:* Related projects would result in development of an additional **2,641** residential units consisting of one, **two**, and three bedroom units. Based on an average Citywide household size of **2.8 persons**,⁵ these units would directly add **7,395** people to the population of City of Glendale. Related projects would also generate **4,507** employment positions. The number of employment positions generated by related projects is listed in Table 4.2-2, Employment Generation of Citywide Projects. The Project, together with related projects, would directly add **7,788** people to the population of the City. The Project and related projects would also generate **4,657** employment positions. Applying a **24** percent ratio (which is the percent of existing employee that work and reside in the City of Glendale), the employment positions would result in **1,118** of these new employees residing in Glendale. If it is conservatively assumed that each of the new employees forms a single household in the City, **these** households could indirectly add approximately **3,130** additional residents to the City (**1,118** households x **2.8** persons per household). Overall, the increase in population of **7,788** people that would be associated with the proposed residential units and related projects and the possible additional increase in population of **3,130** people associated with employment opportunities provided by the Project and related projects would result in a total population increase of **10,918** new residents to the City.

Table 4.2-2
Employment Generation of Citywide Projects

	Unit	Factor	Unit/ksf	Employment
Retail	631,649 sf	3.0	Employees/ksf	1,895
Office	349,146 sf	4.44	Employees/ksf	1,550
Hotel	870 rooms	0.8	Employees/room	696
Banquet Hall	55,500 sf	2.02	Employees/ksf	111
cinema	70,000 sf	2.8	Employees/ksf	140
Medical	38,900 sf	2.01	Employees/ksf	78
Industrial	5,308 sf	3.0	Employees/ksf	16
Community Center	10,600 sf	2.8	Employeesksf	21
Total				4,507

Source: Impact Sciences, Inc.

¹ Employment Factors based on based on Southern California Association of Governments' Forecast and Los Angeles Central Business District Database.

² General Employment Factor

sf = square feet; ksf = thousand/kilo square feet

⁵ California State Department of Finance, E-5 City/County Population and Housing Estimates, January 1, 2007, May 2007.

4.2 Population and Housing

According to SCAG's regional growth forecasts, Glendale's population is projected to increase by approximately 1,650 between 2007 and 2010. The Project, together with related projects, could increase the City's population by approximately 10,918 residents. The population growth associated with the Project and related projects is considered substantial, as the amount of growth projected for the City would be exceeded, and is considered to be significant.

To ensure consistency between the related projects and the General Plan, the General Plan would be amended to include newly proposed population projections. After the General Plan is amended, new growth projections would be formulated by the City and submitted to SCAG for incorporation into new population projections. This would result in revisions to the RTP, which is to be updated in 2007. In other words, the demographic projections contained within the RTP are based on a "bottom-up" approach in which local agencies generate the projections that provide the basic framework for SCAG analysis. In this manner, the related project and the Project's population projections would eventually be consistent with the City's General Plan, upon which the SCAG population forecast is based. In the interim, the Project's contribution to this impact would be cumulatively considerable and result in a significant impact due to increasing growth over the SCAG projections.

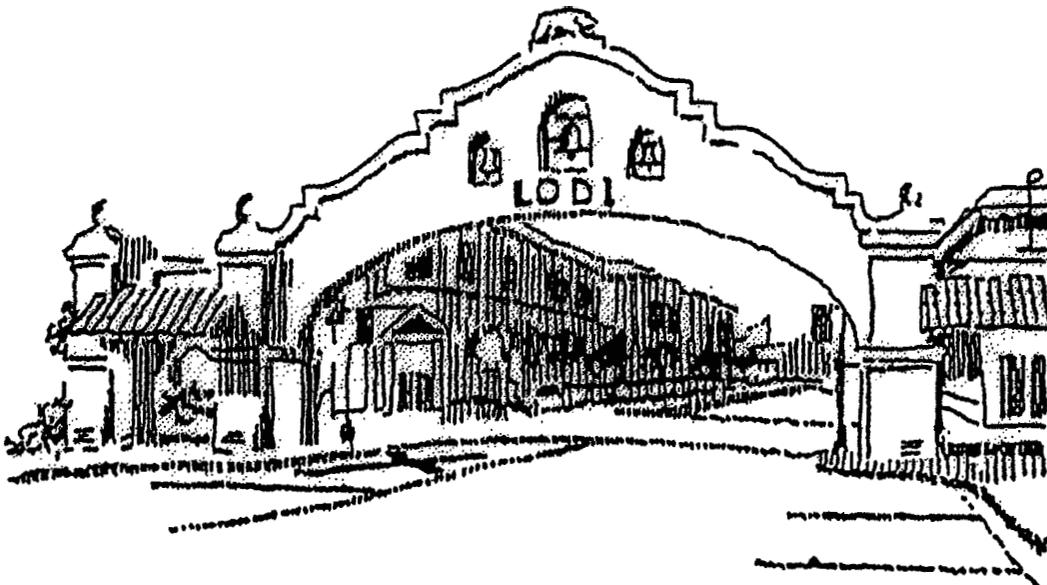
Level of Significance Before Mitigation: Significant.

Mitigation Measures: No feasible mitigation exists.

Level of Significance after Mitigation: Significant and unavoidable.

EXHIBIT I

City of Lodi
Draft General Plan



DRAFT
ENVIRONMENTAL IMPACT REPORT

SCH #89020206

**City of Lodi
Draft General Plan
Draft Environmental Impact Report**

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April 1990

PROPOSED GENERAL PLAN (2007): IMPACTS AND MITIGATION MEASURES

Water Supply

Increased Groundwater Pumping and Overdraft

Impact. Development provided for by the Proposed GP would create demand for approximately 7.8 MGD of municipal water, or about 67 percent more than current usage. Currently, the City of Lodi uses groundwater as a municipal supply. Because overdraft of the aquifer already exists in the GP area (resulting in lowering the water table at a rate of between 0.5 and 1.75 feet per year), it is unlikely that future water demands can be met without increased overdraft and saltwater intrusion, unless projected growth occurs in agricultural areas where groundwater pumping is occurring at a rate greater than that required for domestic use. Domestic water demand, however, is estimated to exceed agricultural uses by 2.5 times based on daily evapotranspiration rates (University of California Cooperative Extension 1987) and crop coefficients (University of California Agricultural Experiment Station 1985) for grapes. It was assumed that grapes are currently grown on 100 percent of the agricultural land to be developed; this percentage is overstated, but was used to account for leaks in the irrigation system, leaching if required, and variations in crop management. Based on these assumptions, the crop water demand was calculated to equal 2636 inches per year per crop and total water demand was calculated to equal 1,115 million gallons per year. Projected municipal demand is estimated at 2,847 million gallons per year or 2.55 times the agricultural demand.

The 1978 California Water Atlas contains data indicating that the water demand from grapes is 35 acre-feet per acre. Based on these data, the crop water demand was calculated to equal 42 inches per year per crop, and total water demand was calculated to equal 1,733 million gallons per year. Projected municipal demand is estimated at 1.61 times the agricultural demand.

The following policies from the Proposed GP Conservation Element reduce the impacts of an inadequate water supply, but not to less than significant:

- o **Policy A-4:** The City shall explore the potential development of surface water sources to augment the City's groundwater supply.
- o Policy A-7, as identified above.
- o **Policy E1:** The City shall require water conservation in both City operations and private development to minimize the need for the development of new water sources and facilities.
- o **Policy B-2:** The City shall meter all new residential developments.
- o **Policy B-3:** The City shall develop a program for metering all existing residential uses.

- o **Policy B-4:** The City shall require water-conserving landscaping practices in City projects and private developments, such as the use of drought-tolerant plants and irrigation techniques.
- o **Implementation Program 3:** The City shall explore the potential use of surface water to augment the City's water supply.
- o **Implementation Program 5:** The City shall adopt a resolution establishing a program for metering all new residential uses.
- o **Implementation Program 6:** The City shall evaluate the feasibility of retrofitting existing residential uses with water meters.

This impact is considered to be significantly adverse.

Mitigation Measures

- o The City should add the following policy to the Proposed GP Policy Document:
 - The City shall provide for an adequate high-quality water supply prior to approving future development.

Implementation of this measure would reduce this impact to less than significant.

Water Quality

Establishment of Mechanisms to Partially Reduce the Potential for Surface Water Quality Degradation Caused by Increased Runoff, Effluent Discharge, and Recreational Use of Lodi Lake and the Mokelumne River

Impact. Surface water quality could be degraded by increased urban runoff, increased discharge of treated effluent, and increased recreational use of Lodi Lake and the Mokelumne River.

The paving of land surfaces as provided for by the development allowed under the Proposed GP would increase urban runoff to the Mokelumne River and the WID Canal. Urban runoff is normally contaminated with hydrocarbons (oil, gasoline, diesel), heavy metals (lead, cadmium, nickel), fertilizers, and other inorganic and organic chemicals. Temporary increases in sediment load would also occur as a result of erosion related to construction.

The increased population levels provided for by the Proposed GP would increase discharge of secondary treated effluent from the White Slough Water Pollution Control Facility to Dredger Cut, a tributary to White Slough and the San Joaquin Delta.

City shall also monitor the presence of pollutants and other variables that could cause harm to fish, wildlife, and plant species in the Mokelumne River and Lodi Lake. The City shall participate in implementing remedial action as feasible.

See also Chapter 14, "Biological Resources," since this same measure is addressed in this chapter also.

Implementation of these measures would reduce this impact to less than significant.

Minor Reduction in Groundwater Contamination from Agricultural Practices

Impact. Development of the GP area with urbanized uses would reduce contamination of groundwater by agricultural practices. The agricultural practice of leaching is the cause of many of the groundwater quality problems in Lodi. Leaching is the process of applying irrigation water to wash accumulated salts from the root zone. As a result of leaching, large quantities of nitrate (fertilizer) and organic chemicals (such as DBCP, a pesticide) also have to be washed from the root zone contaminating the aquifers that are the source of Lodi's municipal water supply. Conversion of agricultural lands in the GP area to urban uses would decrease leaching of these contaminants to the aquifer. Although urban and industrial pollution may introduce different contaminants to the soils, the greatly reduced infiltration rates would eliminate a major source of groundwater degradation in the GP area. On a regional context, this reduction is relatively small since the amount of land being converted is minor compared to the surrounding agricultural land. This may be considered a net-beneficial impact.

Mitigation Measures

- o None are required.

Potential for Increased Saltwater Intrusion

Impact. The overdraft of groundwater has caused the infiltration of saltwater from the San Joaquin Delta. Although salt-contaminated groundwater is not present in the GP area, it can be found a few miles west. Currently, the City relies on groundwater for municipal supplies. Increases in municipal demand caused by development allowed under the Proposed GP would cause continued overdraft. Continued overdraft of groundwater resulting in saltwater intrusion is a significant adverse impact.

The following policies from the Proposed GP Conservation Element reduce the impacts to groundwater quality, but not to less than significant:

- o Policies A-4, A-7, B-1, B-2, B-3, and B-4, as identified above
- o Policy A-5: The City shall regularly monitor water quality in municipal wells for evidence of contamination from DBCP, saltwater intrusion, and other toxic substances that could pose a health hazard to the domestic water supply.

- o **Policy A-6:** The City shall close or treat **municipal** wells that **exceed** the action level for **DBCP**.
- o **Implementation Program 2:** The City shall monitor water quality in **City wells** for **evidence of DBCP, saltwater intrusion, and other contaminants, and** take remedial action as **necessary**.
- o Implementation Programs 1, 3, 4, 5, and 6, as identified above

Mitigation Measures

- o The City should add the following policy to the Proposed GP Policy Document:
 - **The City shall provide for an adequate high-quality water supply prior to approving future development.**

Implementation of this measure would reduce this impact to less than significant.

No Development Subject to 100-Year Flood Hazards

Impact. The overcovering of soils resulting from development would reduce infiltration rates, thereby increasing runoff rates. Increased runoff and the nearly level topography of the GP area could lead to localized flooding.

The population prodded for by the Proposed GP would not be subject to the 100-year flood, and some would not be subject to any flooding. Most areas would be subject to the 500-year flood.

The following policies from the Proposed GP Health and Safety Element would reduce the impacts of flooding to less than significant:

- o **Policy A-1:** The City shall continue to participate in the National Flood Insurance Program and ensure that local regulations are in full compliance with standards adopted by FEMA.
- o **Policy A-2:** The City shall ensure that storm drainage facilities are constructed to serve new development adequate to store runoff generated by a 100-year storm.
- o **Policy A-3:** The City shall ensure that storm drainage facilities are provided for all new development to make certain that all surface runoff generated by the development is adequately handled.
- o **Policy A-4:** The City shall evaluate the degree of flood protection afforded to currently developed areas compared to standards for new development.

EXHIBIT J



City of Lodi 2005 Urban Water Management Plan

Final Report

Prepared by:
RMC
Water and Environment

March, 2006

Chapter 3 Water Supply

3.1 Current Water Supply

3.1.1 Background

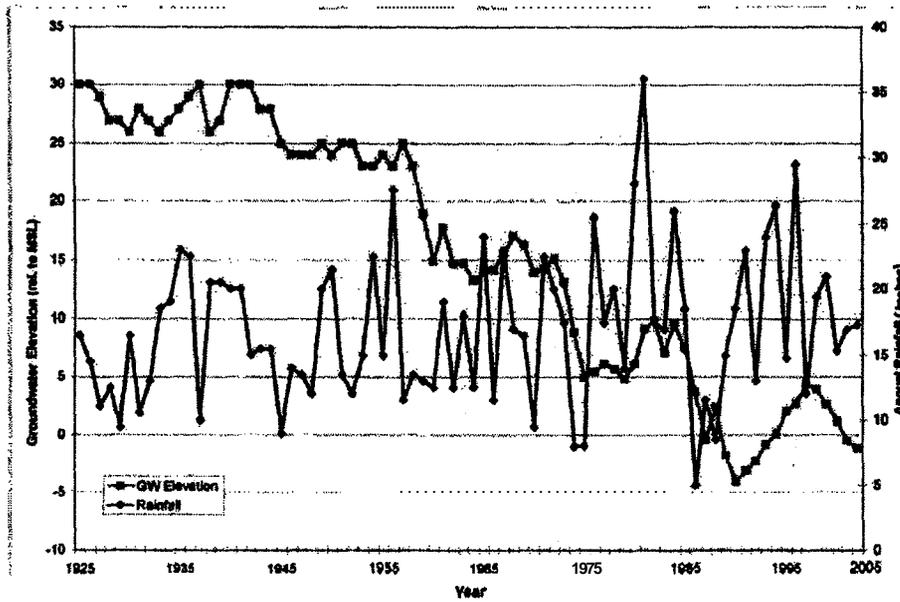
The City currently uses groundwater as its sole source of supply. The City overlies a portion of the San Joaquin Valley groundwater basin, which is not currently adjudicated. The groundwater in the Lodi area exists under unconfined and semi-confined conditions. The Mehrten Formation is the most productive fresh water-bearing unit.

The City is located within the geomorphic province known as the Central Valley, which is divided into the Sacramento Valley and the San Joaquin Valley. The Central Valley is a large, northwestward-trending, asymmetric structural trough that has been filled with several miles of thick sediment (USGS 1986). The City lies within the San Joaquin Hydrologic Basin (DWR, Bulletin 118) which straddles portions of both the Sacramento and San Joaquin Valleys. Sediments of the San Joaquin Valley consist of interlayered gravel, sand, silt, and clay derived from the adjacent mountains and deposited in alluvial-fan, floodplain, flood-basin, lacustrine, and marsh environments. Hydrogeologic units in the San Joaquin Basin include both consolidated rocks and unconsolidated deposits. The consolidated rocks include 1) the Victor Formation, 2) the Laguna Formation, and 3) the Mehrten Formation. The consolidated rocks generally yield small quantities of water to wells except for the Mehrten Formation, which is an important aquifer (DWR). The unconsolidated deposits include continental deposits, 2) lacustrine and marsh deposits, 3) older alluvium, 4) younger alluvium, and 5) flood-basin deposits. The continental deposits and older alluvium are the main water-yielding units in the unconsolidated deposits.

Groundwater flow direction is generally toward the south in agreement with the regional groundwater flow gradient but may vary from south-southwest to south-southeast with local gradients likely influenced by pumping from municipal supply wells. Pumping tests on municipal wells indicate that they possess a large capture zone, and thus have a large influence upon groundwater flow. Pumping of municipal supply wells in the City is performed between 100 and 500 feet below ground surface (Geomatrix, 2006).

DWR has declared that the groundwater basin underlying Eastern San Joaquin County is overdrafted, and groundwater levels in the County and the City are generally decreasing. The groundwater levels also fluctuate over time depending on precipitation, aquifer recharge, and pumping demands. Groundwater elevations relative to mean sea level (MSL), and the corresponding annual precipitation from 1927 through 2004 are shown in Figure 3-1. Overall, the average annual decrease in groundwater levels from 1927 to 2004 has been 0.39 feet per year. Generally, groundwater elevations have decreased with the increase in population and water production. However, annual rainfall also influences groundwater elevation. The groundwater level increase from 1981 to 1984 can be partially attributed to the increase in annual rainfall from 1981 to 1983. Groundwater elevations for the years 1927 to 1961 were obtained from East Bay Municipal Utilities District (EBMUD) for the City's 12 square mile area. Groundwater elevation data from 1962 to the present were obtained from the City's Public Works Department for Well No. 2, one of the oldest production wells in the City.

Figure 3-1: Historical Groundwater Elevation

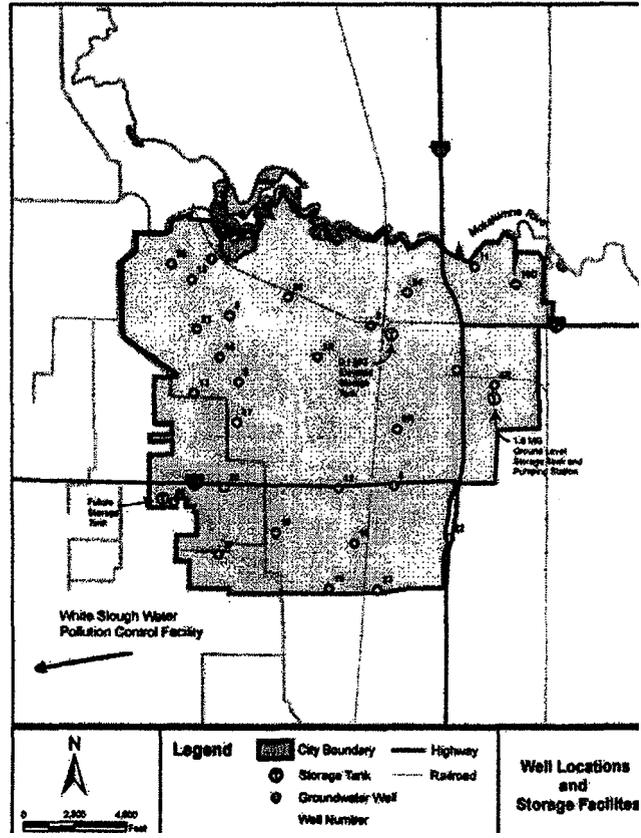


Source: City of Lodi Public Works Department

3.1.2 Water Supply Facilities

The Utility operates 26 groundwater production wells. The locations of the wells are presented in Figure 3-2 and discussed in further detail below.

Figure 3-2: Well Locations and Storage Facilities



3.1.3 Current Groundwater Supply

The 26 wells that currently provide water to the City have a combined capacity of 35,210 gallons per minute (gpm), or 50.7 million gallons per day (mgd). The wells operate automatically on water pressure demand and pump directly into the distribution system. All wells are equipped to provide emergency chlorination as needed. Historically, water has not required chlorination. Six wells are equipped with granular activated carbon (GAC) for the removal of dibromochloropropane (DBCP). Capacity information for the existing wells is summarized in Table 3-1.

Table 3-1: Groundwater Well Capacity

Well Number	Well Capacity, gpm ^b	Well Capacity, mgd ^c
1R	1,130	1.6
2	820	1.2
3R	820	1.2
4R ^a	1,960	2.8
5	1,180	1.7
6R	1,580	2.3
7	1,160	1.7
8	800	1.2
9	900	1.3
10C	1,300	1.9
11R	1,320	1.9
12	800	1.2
13	1,150	1.7
14	1,670	2.4
15	1,500	2.2
16 ^a	1,110	1.6
17	1,800	2.6
18 ^a	1,800	2.6
19	1,110	1.6
20 ^a	2,070	3.0
21	2,050	3.0
22 ^a	1,400	2.0
23 ^a	1,410	2.0
24	1,420	2.0
	1,580	
26	1,370	2.0
Total	35,210	507

Footnotes:
a. Wells equipped with GAC
b. gpm = gallons per minute
c. mgd = million gallons per day

Table 3-2 presents the amounts of groundwater extracted by the City between 1970 and 2004.

Table 3-2: Historical Groundwater Production (Guidebook Table 5)^a

Year	Groundwater Production, AF	Percent of Total Water Supply
1970	11,462	100%
1971	12,303	100%
1972	11,686	100%
1973	12,204	100%
1974	12,002	100%
1975	12,294	100%
1976	13,607	100%
1977	10,578	100%
1978	11,477	100%
1979	12,349	100%
1980	12,312	100%
1981	12,487	100%
1982	11,560	100%
1983	11,539	100%
1984	13,997	100%
1985	14,813	100%
1986	15,080	100%
1987	15,304	100%
1988	15,359	100%
1989	14,653	100%
1990	15,387	100%
1991	13,313	100%
1992	13,985	100%
1993	14,013	100%
1994	14,301	100%
1995	14,390	100%
1996	15,102	100%
1997	16,330	100%
1998	14,461	100%
1999	16,588	100%
2000	16,724	100%
2001	17,108	100%
2002	16,641	100%
2003	16,185	100%
2004	17,011	100%

Footnotes:

- a. The term "Guidebook X" refers to the table in the *Guidebook to Assist Water Suppliers in the Preparation of a 2005 Urban Water Management Plan* by DWR.

3.1.4 Current Surface Water Supply

In May 2003, the City entered into an agreement with Woodbridge Irrigation District (WID) to purchase 6,000 acre-feet per year (AFY) of surface water for a period of 40 years. However, at the time this UWMP was prepared, the City had not yet begun using water from this supply. A copy of the City's agreement with WID is included in Appendix D.

3.1.5 Current Recycled Water Supply

The City's wastewater discharge permit requires an agronomic application rate. According to discussions with City staff, approximately 2,500 AFY of secondary treated recycled water is currently used, primarily for irrigation in the area surrounding WSWPCF. This represents approximately 35 percent of the total treated wastewater produced at WSWPCF. The City discharges the non-irrigation water, treated to Title 22 tertiary standards, to the Delta. The Utility currently lacks the necessary infrastructure to distribute additional recycled water to more of its customers.

For a more detailed discussion of the City's recycled water supply, as well as the processes by which it is treated, refer to Chapter 8.

3.1.6 Water Distribution System

The City of Lodi's distribution system consists of a 100,000 gallon elevated storage tank, a 1 million gallon (MG) storage facility and pumping station, and the piping system. The 1 MG storage tank, located east of Highway 99 on Thurman Street, stores groundwater from an onsite well to meet peak hour demands and fire flows. The 100,000 gallon elevated storage tank is located on North Main Street. The storage facilities and their capacities are presented in Table 3-3. Their locations are shown in Figure 3-2.

Table 3-3: Water Storage Facilities

Storage Facility	Storage Volume, MG
Elevated storage tank	0.10
Ground level storage tank	1.00
Total	1.10

Distribution mains in the City's piping system range from 14 inches to 2 inches in diameter, and the entire distribution system consists of approximately 225 miles of pipe. The City is in the process of replacing the 2-inch and 3-inch diameter mains as well as other deficient pipes.

A summary of the City's current and planned water supplies is presented in Table 3-5.

3.2 Future Water Supply

3.2.1 Constraints on Existing Supplies

The City's current water supply system is constrained by 1) the pumping capacity of its currently active wells, and 2) a longer-term reduction in supply due to the overdrafting currently taking place in the City's groundwater basin. Although the declining groundwater basin is a result of groundwater extraction by all groundwater pumpers in the area, including other cities, agriculture, private well owners, and the City itself, the City plans to reduce its groundwater pumping in the long term as part of what will have to be a regional effort to stabilize the groundwater basin. A copy of the GBA Groundwater Management Plan is included in Appendix F.

As discussed in Section 3.1.5, the City currently treats approximately 7,200 AFY of wastewater at WSWPCF, of which 2,500 AFY is recycled in the vicinity of WSWPCF. WSWPCF has adequate capacity to treat all wastewater flows to Title 22 standards. The City is in the process of developing a Recycled Water Master Plan (RWMP) that will outline additional distribution of this supply to the Utility's customers. For the purposes of this UWMR, all treated wastewater produced at WSWPCF has been treated as recycled water supply and is included in Table 3-5 below. The amount of recycled water available for reclamation will also increase. For a more detailed discussion of recycled water supply projections, refer to Section 8.6

3.2.4 Future Recycled Water Supply

As discussed in Section 3.1.4, in May 2003 the City entered into a 40-year agreement with WID for 6,000 AFY of surface water from the Mokelumne River. The diversion point has not yet been determined. The City is considering options for implementing this source before 2010. Therefore, 6,000 AFY of treated surface water is included in the supply projections presented in Table 3-5 below. The City is also considering the possibility of obtaining additional surface water supplies from WID; these supplies are not included in Table 3-5, however, as they are not yet considered "firm" supplies.

3.2.3 Future Surface Water Supply

a. Refers to the total supplies shown in Table 3-5.

Footnote:

Year	2005	2010	2015	2020	2025	2030
Annual Volume, AF ^a	17,300	15,000	15,000	15,000	15,000	15,000
Percent of Total Available Supply ^a	57%	52%	51%	50%	49%	48%

Table 3-4: Projected Groundwater Pumping (Guidebook Table 7)

The continuing decline of groundwater levels in the aquifer underlying the City means that the sustainable annual groundwater supply available to the City is something less than what is currently extracted. As a member agency of GBA, the City is participating in the development of policies and programs, including groundwater recharge and conjunctive use programs, intended to help eliminate the eastern San Joaquin County groundwater basin overdraft condition. Additionally, the City plans to reduce its overall groundwater pumping in the future. A safe yield of approximately 15,000 AFY (Treadwell and Rollo, 2005) has been estimated for the aquifer serving Lodi based on water balance calculations (see Appendix C) performed primarily from the Eastern San Joaquin Groundwater Management Plan (Appendix F). This safe yield estimate reflects an acreage-based relationship. Therefore, as the City's land use increases, the estimated safe yield of the underlying aquifer will likely increase. The safe yield estimate will be revised in the 2010 UWMR update. For the purposes of this UWMR, 15,000 AFY has been assumed as the amount of groundwater available during all future (post-2005) years. Although rigorous scientific analyses have not been performed, the City projects that some recharge of the groundwater basin will occur as the amount of groundwater pumped annually decreases. This result, however, is contingent on the cooperative efforts of all groundwater users within the basin, including other cities, agriculture, and private well owners, to reduce groundwater extraction. The City does not expect development of cones of depression, significant changes in direction or amount of groundwater flow, changes in the movement or levels of contaminants, or changes in salinity and/or total dissolved solids (TDS) concentrations. The amount of groundwater that is projected to be pumped over the next twenty-five years is presented in Table 3-4.

3.2.2 Future Groundwater Supply

Comment [ANS1]: Inserted March 13, 2006 per conversation with Carrie Bivinsky.

Table 3-5: Current and Planned Water Supplies (Guidebook Table 4)

Water Supply Source	2005	2010	2015	2020	2025	2030
Groundwater ^a , AFY	17,300	15,000	15,000	15,000	15,000	15,000
WID Surface Water, AFY	6,000	6,000	6,000	6,000	6,000	6,000
Recycled Water ^b , AFY	7,200	7,700	8,300	8,940	9,630	10,380
Total ^c, AFY	30,500	28,704	29,300	29,900	30,600	31,400

Footnotes:

- Refer to Section 3.2.2 for more information.
- Based on the amount of wastewater treated during 2004, according to City staff. Future recycled water supplies are extrapolated from the 2004 amount. Assumes that the permitted capacity of WSWPCF will be increased as necessary.
- Rounded to nearest hundred.

3.2.5 Planned Water Supply Projects

At the present time the City does not have approved plans for any additional water supply projects. The City has participated in the Mokelumne River Regional Water Storage and Conjunctive Use (MORE WATER) Feasibility Analysis. The MORE WATER project, if approved, would capture unappropriated flows from the Mokelumne River for storage and beneficial use.

3.3 Exchange or Transfer Opportunities

The City does not currently have any approved plans to pursue exchange or transfer opportunities.

3.4 Desalinated Water

At the present time the City does not foresee any opportunities for the use of desalinated water, which includes ocean water, brackish ocean water, and brackish groundwater, as long-term supplies.

3.5 Wholesale Supplies

Since surface water will be purchased from WID, WID is considered a wholesale water supplier by DWR. As such, the City has provided demand projections to WID for the next 25 years. Similarly, the City has received availability projections from WID for the same time period. These demand and availability projections are presented in Table 3-6 and Table 3-7 below. As discussed previously, the City has not yet begun to use this water supply. As stated in the City's contract with WID, any water not taken by the City during the first three years of the contract (May 2003 to May 2006) may be "banked" and delivered to the City in subsequent years, provided WID has sufficient water available. The banked supply may not exceed 18,000 AF. To date, over 16,000 AF of water has been banked. The City has not made any formal plans at this time to use any of its banked supply, in addition to the normal 6,000 AFY, for any of the years shown in the tables below. However, the projected supplies and demands shown below may increase if and when the City decides to use its banked supply. The magnitude and availability of banked supply to be delivered will be discussed with WID at an appropriate time(s) in the future.

Table 3-6: Demand Projections for Wholesale Supply

Wholesale Supply	Projected Demand ^a					
	2005	2010	2015	2020	2025	2030
WID Surface Water, AFY	0	6,000	6,000	6,000	6,000	6,000

Footnotes:

- a. Subject to change with WID and City approval. Although the City may take water deliveries in excess of 6,000 AFY from its "banked" supply, no formal plans to do so have been developed at this time.

Table 3-7: Availability Projections from Wholesale Supplier

Wholesale Supply	Projected Availability ^a					
	2005	2010	2015	2020	2025	2030
WID Surface Water, AFY	6,000	6,000	6,000	6,000	6,000	6,000

Footnotes:

- a. Subject to change with WID and City approval. Although the City may take water deliveries in excess of 6,000 AFY from its "banked" supply, no formal plans to do so have been developed at this time.
- b. Reliability of WID supply is indicated in the City's contract with WID in Appendix D.

Wholesale supply reliability is presented in Chapter 6. Although changes in deliverable volumes of water for future hydrologic scenarios have not been formally predicted at this time, Chapter 6 presents the most restrictive possible cases for the future.

EXHIBIT K



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Receive Background Information on Implementing Woodbridge Irrigation District Surface Water Program

MEETING DATE: March 1, 2006

PREPARED BY: Public Works Director

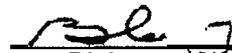
RECOMMENDED ACTION: That the City Council receive background information on implementing the surface water treatment program utilizing the Woodbridge Irrigation District (WID) 6,000 acre-foot contractual allotment. This material is being provided in advance of the March 15, 2006 Council meeting at which staff will request preliminary approvals as described.

BACKGROUND INFORMATION: On several past occasions, the Council has received information regarding the acquisition and usage of 6,000 acre-feet per year of Mokelumne River water from Woodbridge Irrigation District. In May 2003, the City contracted with WID to provide untreated surface water to Lodi for 40 years. At the September 21, 2004 Shirtsleeve meeting, the Water Supply Options Report was presented to the Council. At the April 19, 2005 Shirtsleeve meeting, staff again presented alternatives for implementing the 6,000 acre-feet per year surface water supply. On April 20, 2005, Council approved hiring a consultant to further study and develop a recommendation for full implementation of the WID surface water supply. On June 9, 2005, Council was given a copy of the WID Surface Water Implementation Study. On November 1, 2005, Council received a presentation from the consultant and the recommendation that the City go to a conjunctive use water supply system "one that utilizes both groundwater and treated surface water to serve the demands of Lodi's customers."

Over the course of the past three years, a number of alternatives have been considered with the most feasible options being "treat and drink" and "groundwater recharge". Some of the other alternatives studied include: 1) injection well recharge, 2) raw water irrigation of parks and schools, 3) recharge ponds within the City limits, 4) recharge ponds using North San Joaquin Water Conservation District facilities, 5) East Bay Municipal Utility District banking, and 6) interim supply to Stockton recharge ponds. These alternatives were ruled out primarily due to high costs and regulatory uncertainties.

At the regional level, City of Lodi has been participating in several water supply activities that will, hopefully, bring additional water supplies to the City and the other agencies in the region. Examples include the Mokelumne River Water and Power Authority MORE Project that seeks to capture unappropriated peak flows in the Mokelumne River. Also, Lodi is collaborating with Stockton East Water District, North San Joaquin Water Conservation District and WID on a pilot-scale recharge project near Mickle Grove Park. North San Joaquin Water Conservation District recently passed a groundwater recharge assessment for their groundwater recharge and is evaluating multiple sites in its district. Note that a large part of the City (generally, the area east of Mills Avenue) is within the District and pays this nominal assessment.

APPROVED


Blair King, City Manager

The recently-completed 2005 Urban Water Management Plan concisely presents the City's existing and future water supply vs. demand outlook (see Exhibit A). As shown on Exhibit A, the safe long-term yield of the groundwater basin underlying the City is estimated at 15,000 acre-feet annually (afa). At present, the City is using 17,300 afa to meet the demands of existing customers, reflecting a current need for additional water supply and/or conservation.

The UWMP anticipates that through a combination of conservation (the on-going City-wide installation of water meters is expected to conserve approximately 2,400 afa upon completion) and adding 6,000 afa of WID treated surface water, the City's sustainable water supply will meet or exceed the projected water demands up to the year 2029.

The City Council will be asked to support staff's recommendation to pursue the "treat and drink" alternative on the basis it is the "highest and best use" of the WID water given a number of factors that are compared below.

cost

The estimated construction cost for a surface water treatment facility and associated facilities is estimated to be up to \$29.5 million. These costs are inclusive of site acquisition, surface water diversion piping, ultrafiltration (without pretreatment) using membrane technology, chlorine disinfection, transmission piping, and storage tanks. This alternative does eliminate the need to construct additional wells to serve future demands.

The construction cost for a groundwater recharge program is estimated to be \$30.3 million. This assumes a recharge field 88 acres in size adjacent to the WID canal at \$300,000 per acre, including site improvements and pipe appurtenances. Construction of five new wells is included in the estimate.

These costs are different from other numbers that have been discussed in the past. A comparison of former and current estimates is provided in Exhibit B.

In either scenario, new development is expected to fund the capital improvements. Operating and maintenance costs are considerably higher for the "treat and drink" alternative, when compared to the recharge option. The change to current rates would be an increase of approximately 15% (very rough estimate), if the burden was shared City-wide.

Benefit

Criteria to evaluate benefits to the City of Lodi and the region include: 1) direct benefit to the groundwater resource, 2) long-term water quality, 3) sharing the regional burden, and 4) time of use. Each is discussed below.

Benefit to the Groundwater Resource

In the context that the water demands of existing Lodi are matched by the safe yield of the groundwater resource, the "treat and drink" alternative eliminates further mining of the groundwater and, thereby, results in the highest direct benefit to the groundwater basin currently serving the City.

Groundwater recharge programs have a number of inherent losses including evaporation, uptake by plant materials, and capture within the soil column. These losses can be as high as 30 percent, meaning

the process is about 70% efficient. In addition, the recharge water, once it reaches the groundwater, moves away from the Lodi point of use and toward the **central/eastern-County** groundwater depression. A map of the County groundwater contours is provided in Exhibit C.

Long-Term Water Quality

Lodi has long enjoyed a high quality of water that is pumped from the ground through wells that are clustered in relatively close proximity to the Mokelumne River. Not only has the quality of water been excellent, but the yield from each well has been relatively high, with an average yield of approximately 1,400 gallons per minute. Based upon experience and water quality information for areas southerly and westerly of the City, new wells in these areas are expected to have a higher salinity level and lower yields.

For the "treat and drink" alternative, the salinity levels in the treated surface water will be lower than levels currently found in the groundwater. Combining these **two sources** for potable use will result in a lowering of salinity levels in both our drinking water and our wastewater. This provides a long-term tangible benefit to the City as the State is expected to impose limits on salinity for discharges to the Delta. Lowering the salinity of our "source water" will help avoid very costly improvements to remove salinity at the wastewater end of the use cycle.

A groundwater recharge program will essentially not alter the water quality characteristics of the *C i s* groundwater resource.

The "treat and drink" alternative will result in chlorination of the entire City water system as is required by State regulation. Most in the industry agree that chlorination requirements will also be imposed upon all groundwater users in the foreseeable future.

Sharing the Regional Burden

On a regional basis, the various cities and agencies are collaboratively working to enhance the supply side of the region's groundwater resource. The groundwater basin Lodi shares with other agencies and individual property owners is being mined by over 150,000 afa. This results in declining water levels in wells, which reduces yield, increases pumping costs, and impacts water quality as more saline water is drawn into the basin, rendering wells unfit for use. 150,000 afa and more is needed to meet the goal to reverse and stabilize this problem. On a conceptual level, the principal strategies to achieve this goal include: 1) securing additional surface water resources, 2) elimination or deferral of further groundwater pumping, 3) banking through recharge or deferral of pumping, and 4) regional recharge. The MORE project was described above. The Stockton Delta Water Supply Project includes a treatment plant that will begin treating 56,000 afa within three years. Lodi's water treatment plant can begin producing 6,000 afa of treated drinking water within 45 years. A recharge program would provide somewhat less regional benefit by virtue of the losses described above.

Time of Use

Water demands within the City are highest in the spring, summer and fall. Conversely, the lowest demands are in the winter. Our WID water is available from March 1 through October 15, and this perfectly matches our highest demand period. Lodi has secured high quality surface water deliveries that meet demands, both in quantity and in time. To store such water in the ground during periods of peak demands does not make a lot of sense.

March 1, 2006

Page 4

As is the strategy of many of the regional recharge programs, excess water, that usually becomes available in the winter months, is diverted to fallow fields for percolation. Often times, this water is sediment laden and well suited for groundwater recharge. The City of Lodi could pursue a similar strategy by diverting storm drainage water to recharge areas and/or by altering designs for new developments to incorporate recharge facilities.

Staff Recommendation

At the March 15 meeting, staff will be requesting City Council approval to move forward with the "treat and drink" alternative and that the City Council authorize staff to solicit proposals for Preliminary Water Treatment Master Planning work required to prepare preliminary design alternatives and further recommendations. Design alternatives could include partnerships with other agencies.

Among the tasks to be done are:

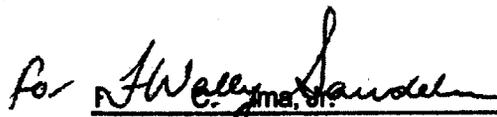
1. Watershed Assessment
2. Process Evaluation and Pilot Testing
3. Alternative Site Evaluations
4. Cost Estimates
5. Financing Alternatives
6. Environmental and Regulatory Considerations

Staff recognizes that this recommendation is not what we anticipated when the WID water purchase agreement was made. Since then, a number of factors have made groundwater recharge a less desirable alternative. Regulatory requirements on recharge projects have increased in the last few years and, most recently, water rights and underground storage permit requirements are making recharge projects more uncertain in the long-run. However, as noted earlier, recharge may be a viable alternative for the irregular peak flows associated with local storms and high river runoff events.

Due to the design complexity, regulatory requirements and cost of projects of this nature, major design decisions today are no longer made unilaterally by a project team. Instead, a consensus is reached only after participation by members of the design team and individuals outside the team, including owners, operators, regulatory agencies and the general public. Therefore, a process of measured steps, of which this is the first, is our recommendation.

FISCAL IMPACT: Information only. None at this time.

FUNDING AVAILABLE: Not applicable

for 
Richard C. Pfima, Jr.
Public Works Director

Prepared by Richard Pfima, Public Works Director and F. Wally Sandelin, City Engineer

RCP/FWS/pmf

Attachments

EXHIBIT 9

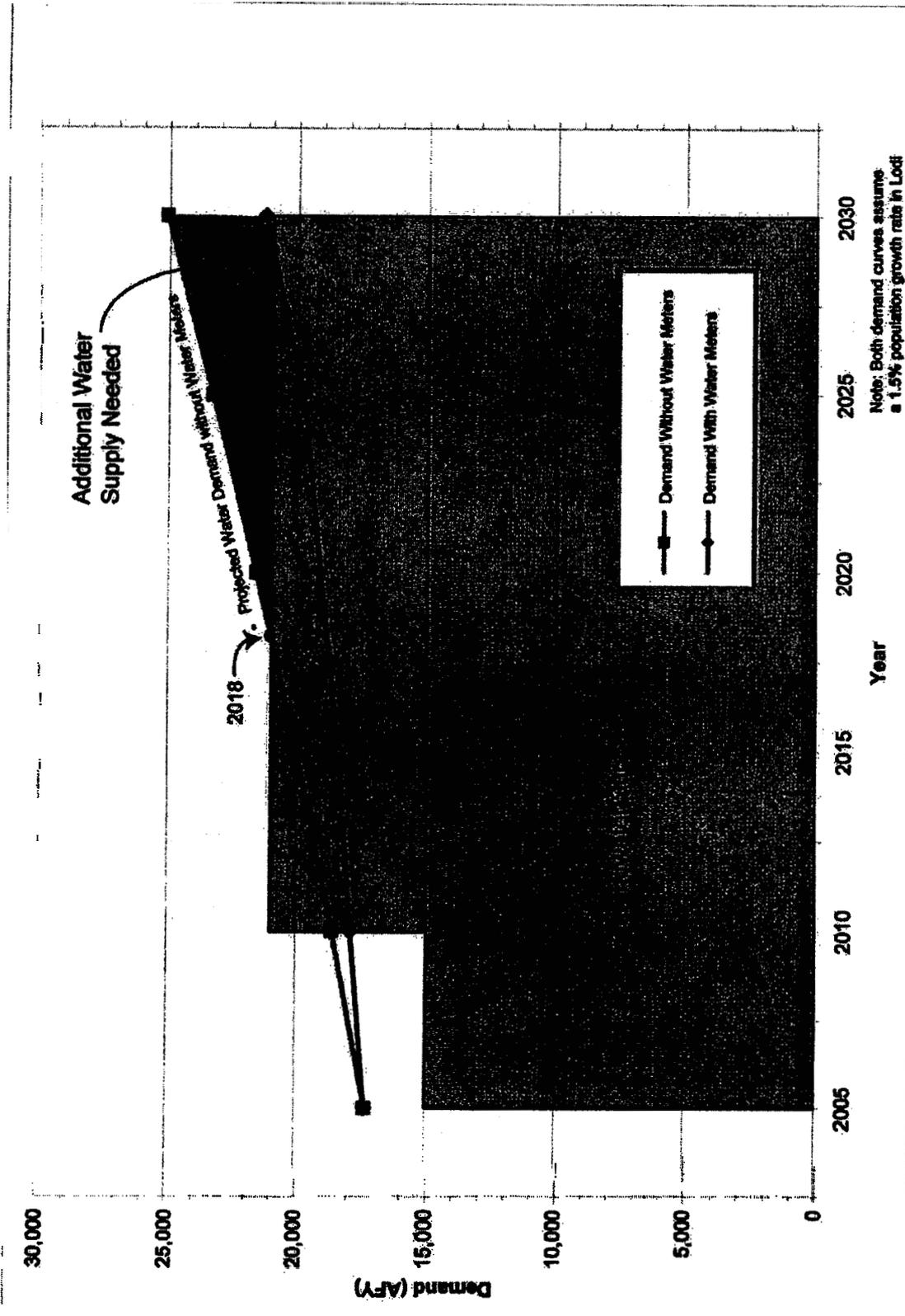


EXHIBIT B

Comparison of Planning Cost Estimates

Recharge Basin

	2005	2006
Construction of Recharge Basin	\$593,000	\$593,000
Construction Contingency (20%)	\$119,000	\$119,000
Engineering and Other Fees (15%)	\$89,000	\$89,000
Subtotal	\$801,000	\$801,000
Purchase Land for Basin	\$17,600,000	\$26,400,000 ⁽¹⁾
CEQA/NEPA	\$100,000	\$100,000
Water Wells		\$3,000,000 ⁽²⁾
Total	\$18,501,000	\$30,301,000

	2005	2006
Surface Water Treatment Plant and Associated Transmission Facilities	\$25,700,000	\$20,000,000 ⁽³⁾
Construction Contingency (20%)	\$5,100,000	\$4,000,000
Engineering and Other Fees (15%)	\$3,900,000	\$3,000,000
Subtotal	\$34,700,000	\$27,000,000
Purchase Land for Plant	\$1,000,000	\$1,500,000 ⁽⁴⁾
CEQA/NEPA	\$1,000,000	\$1,000,000
Total	\$36,700,000	\$29,500,000

Eastern San Joaquin Groundwater Basin Groundwater Management Plan

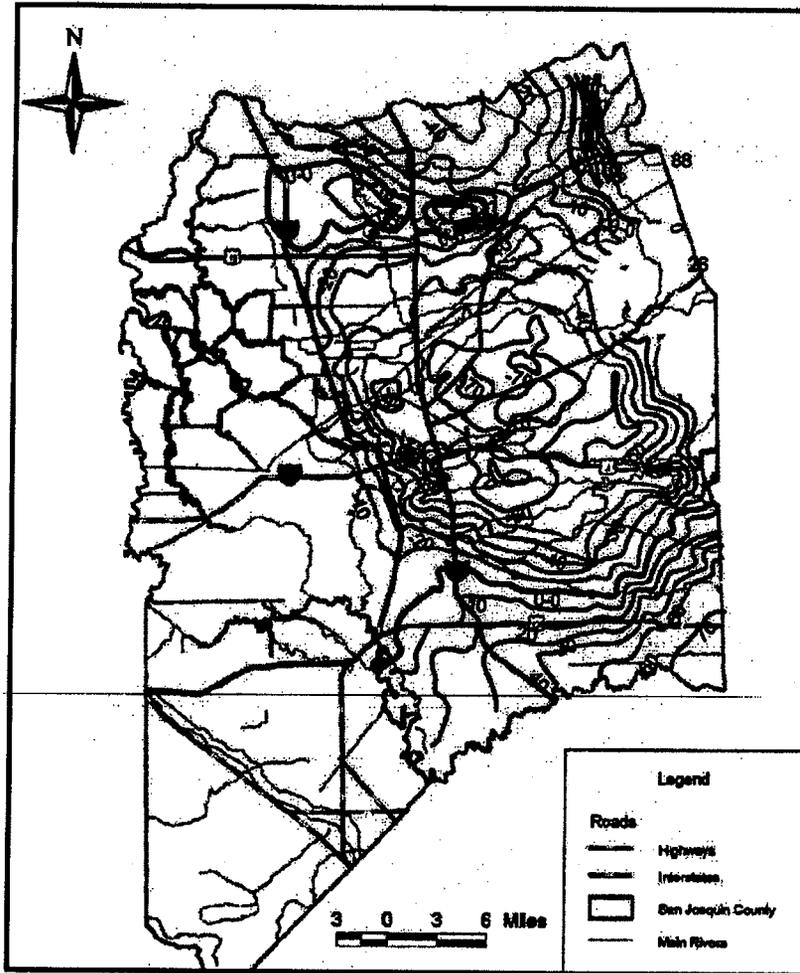


Figure ES-2 Fall 1993 Groundwater Contours
Source: Camp Dresser & McKee Inc.

EXHIBIT L

**ASSOCIATION FOR SENSIBLE
AND INFORMED PLANNING
V.
CITY OF CLOVIS, CLOVIS CITY COUNCIL,
PAYNTER REALTY, ET AL.**

**FRESNO COUNTY SUPERIOR COURT
CASE NO. 03 CE CG 01576
(Lead Case consolidated with No. 07 CECG 03817)**

**SECOND SUPPLEMENTAL ADMINISTRATIVE RECORD
ON RETURN TO WRIT OF MANDATE FOLLOWING
THE PREPARATION OF AN EIR**

(CLOVIS-HERNDON SHOPPING CENTER PROJECT)

March 4, 2008

VOLUME 1

Nos. IN-CAM 000001 to IN-CAM 000289

From: David Wolfe
To: Montesinos, Miriam
Date: 11/30/2006 11:45 AM
Subject: RE: Clovis: EIR status

CC: Fey, David
Hi Miriam, I hope you had a wonderful Thanksgiving as well.

We met yesterday with Tom Skinner and made it up to the Alternatives section. We are meeting tomorrow to review that section.

Tom read the latest comment letter you sent to us from September 06 and he is familiar with the issues.

Some of the issues we discussed were the fact that there is no project specific noise study, no energy consumption study, and no health risk assessment. Nor has global warming been discussed as you mentioned.

We can try and deal with all of those issues now, or simply make the document as strong as possible with what we have, wait for the comment letters to arrive, and build in the possibility of having to do additional studies and possibly recirculating all or a portion of the Draft EIR if the comment letters make an adequate record to warrant such.

What are your thoughts?

Also, we had a frank discussion with Tom and I think the reality is we (City staff) are going to have to play a major role in completing this document, responses to comments, and any additional studies. So any canned language or model studies, reports, etc you have, would be great. Please send anything directly to me.

Thanks,

Have a great day.

David

David J. Wolfe
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>>> "Montesinos, Miriam" <MMontesinos@steefel.com> 11/29/2006 11:46 AM >>>

Hi David -

A couple of additional thoughts re: issues to discuss in the DEIR given recent opposition:

1) Global warming - I know this seems far fetched but it has become a topic of discussion as of late, and we anticipate it will start being raised by opposition forces. We therefore are encouraging EIR

IN-CAM 000152

consultants to include a discussion re: how the project would not have significant impacts on global warming, at least so that the issue is discussed and then it can be expanded upon as necessary in the FEIR if comments are made on that issue. (Otherwise, the opposition might state it is new information in the FEIR)

2) CO hot spot - This issue has been raised previously by opposition forces in various projects. I can try to dig up some prior EIR discussion on the issue if you think that would be helpful, but Tom might be familiar enough with the issue to have the necessary info for a short discussion.

I think that's all for now, but will let you know if I think of any additional issues based upon prior experiences. Up to now, the big ones they typically hit are traffic, economics, and noise; therefore, he needs to be certain that he has VERY good discussions on those issues. Hopefully, he has reviewed the opposition materials we have provided to date and is incorporating discussions as appropriate based upon those documents.

Thank you as always, and I hope you had a great Thanksgiving!
Miriam

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--original Message--

From: David Wolfe [<mailto:DWOLFE@lozanosmith.com>]
Sent: Tuesday, November 21, 2006 1:47 PM
To: David E. AICP Fey; Montesinos, Miriam
Cc: Dave Paynter; Davidoff, Judy V.
Subject: Re: Clovis: EIR status

Miriam,

We met today and started page by page review. We made it through Chapter 2 Air Pollution and will pick up again on Wednesday November 29th. We blocked out that entire day. Tom will work on revisions reviewed to date prior to the November 29th meeting.

David

David J. Wolfe
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IN-CAM 000153

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>>> "Montesinos, Miriam" <MMontesinos@steeffel.com> 11/21/2006 12:07 PM
>>> >>>

Hi Fey and Wolfe (too many Davids!) -

Just wondering if you'd have a chance to speak with Skinner and, if so, if he gave you a sense for timing re: turning around the next version - which hopefully will be the Screencheck and will be very close to being ready for public release.

Thank you!
Miriam

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From: "Montesinos, Miriam" <MMontesinos@steefel.com>
To: "David Wolfe" <DWOLFE@lozanosmith.com>
Date: 11/30/2006 3:00 PM
Subject: RE: Clovis: EIR status
Attachments: PDF File - 3_7_20Utilities_pdf, PDF File - Wal-Mart_20FEIR_20Sept_2006_pdf,
PDF File - Wal-Mart_20FEIR_20Sept_2006_pdf

CC: "Davidoff, Judy V." <JDavidoff@steefel.com,

Hi David-

Thanks so much for your hard work **with Tom**. We truly do appreciate it as we realize it has turned out to be much harder than it should!

With respect to whether to include information in the EIR now or wait to see if it is raised in **the** DEIR comments and recirculate if necessary, we should include as much **information** as possible at this point justifying why a project-specific analysis was not necessary and, **therefore**, not required; that way, in **the** FEIR all we need to do is restate that, and not have to worry about providing new information (**hopefully**).

To that end, I believe we've previously provided possible language to include re: energy - specifically, why a project-specific analysis was not required per the CEQA Guidelines and therefore is not provided, **but** nonetheless the **following** information is included... Just in **case**, I am attaching **some** examples of energy discussions in EIRs.

Regarding global warming, similar to energy, at least some **discussion** re: the issue and why a project-specific analysis is not being included should **be** provided. I'll try to work on something but would like for Tom to take a first stab.

With respect to noise, I guess I don't understand why he didn't do a project-specific noise analysis - and am sorry I didn't catch that before. **Given** he hasn't done one, though, my initial reaction is that he should clearly state in the DEIR why he didn't do a project specific analysis - what was his reason for not doing **one**. A question for Tom is does he think he can address all **the** types of issues raised by **the** opposition - such as in Santa Rosa - **without** needing to do a project-specific analysis? Short of having the analysis, we would need to have information in there addressing why the noise sources they typically bring up (**trucks**, loud speakers, forklifts, etc.), **don't** create significant noise impacts. Also, what **did** he do for Hanford and is there anyway to incorporate some of that information into this DEIR by way of analogy **short** of having to do a new analysis for this project?

As for the health risk assessment, we also need to include a clear discussion as to why a **quantitative** health risk assessment was not conducted, and in the discussion **include as** much **qualitative** information as possible. (**I can't** recall off the top what information he has in there about health risks at this point.) As with **noise**, what did he do for Hanford? **How** can he address issues raised by **the opposition** for other projects without needing to do a project-specific quantitative analysis?

Sorry that this is going to turn out to be so much work on the C i s end, David. Unfortunately, there really seems to be no way around it given Tom's performance to date, though. We are obviously happy to help in any way we can, including providing discussions in prior EIRs, etc. (To that end, I'll try to get something to you by early next week on health risk assessment and noise, as well as global warming - although the latter is such a new issue that finding canned language will be a challenge.)

Thank you,
Miriam

Miriam Montesinos
Attorney At Law
Steeffel, Levitt & Weiss
A Professional Corporation
One Embarcadero Center, 30th Floor
San Francisco, California 94111
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—Original Message—

From: David Wolfe [mailto:DWOLFE@lozanosmith.cm]
Sent Thursday, November 30, 2006 11:45 AM
To: Montesinos, Miriam
Cc: David Fey
Subject: RE: Clovis: EIR status

Hi Miriam, I hope you had a wonderful Thanksgiving as well.

We met yesterday with Tom Skinner and made it up to the Alternatives section. We are meeting tomorrow to review that section.

Tom read the latest comment letter you sent to us from September 06 and he is familiar with the issues.

Some of the issues we discussed were the fact that there is no project specific noise study, no energy consumption study, and no health risk assessment. Nor has global warming been discussed as you mentioned.

We can try and deal with all of those issues now, or simply make the document as strong as possible with what we have, wait for the comment letters to arrive, and build in the possibility of having to do additional studies and possibly recirculating all or a portion of the

Draft EIR if the comment letters **make** an adequate **record** to warrant such.

What are your thoughts?

Also, we had a frank discussion with Tom and I think the **reality** is **we** (City staff) **are** going to have to play a **major role** in completing this document, **responses** to comments, and any additional **studies**. So any canned **language** or model studies, **reports, etc you have, would be great**. Please send anything directly to me.

Thanks,

Have a great day.

David

David J. Wolfe
LOZANO SMITH
Attorneys at Law
7404 N. Spalding Avenue
Fresno, CA 93720-3370
559-431-5600, Ext. 123
dwolfe@lozanosmith.com

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>>> "Montesinos, Miriam" <MMontesinos@steefel.com> 11/29/2006 11:46 AM
>>>

Hi David -

A couple of additional thoughts re: issues to **discuss** in the DEIR given recent **opposition**:

1) **Global warming** - I know this **seems far fetched** but it has **become** a topic of discussion as of late, and **we** anticipate it will start being raised by opposition forces. **We** therefore ate encouraging **EIR** consultants to include a discussion re: how the project **would not** have significant impacts on **global warming, at least so that the** issue is discussed and then it **can** be expanded upon as necessary in **the FEIR** if comments are made on that issue. (Otherwise, the opposition might state it is new information in the **FEIR**.)

2) CO hot spot - This issue has been raised previously by opposition forces in various projects. I can try to dig up some prior EIR discussion on the issue if you think that would be helpful, but Tom might be familiar enough with the issue to have the necessary info for a short discussion.

I think that's all for now, but will let you know if I think of any additional issues based upon prior experiences. Up to now, the big ones they typically hit are traffic, economics, and noise; therefore, he needs to be certain that he has VERY good discussions on those issues. Hopefully, he has reviewed the opposition materials we have provided to date and is incorporating discussions as appropriate based upon those documents.

Thank you as always, and I hope you had a great Thanksgiving!
Miriam

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-----Original Message-----

From: David Wolfe [mailto:DWOLFE@lozanosmith.com]
Sent Tuesday, November 21, 2006 1:47 PM
To: David E. AICP Fey; Montesinos, Miriam
Cc: Dave Paynter; Davidoff, Judy V.
Subject: Re: Clovis: EIR status

Miriam,

We met today and started page by page review. We made it through Chapter 2 Air Pollution and will pick up again on Wednesday November 29th. We blocked out that entire day. Tom will work on revisions reviewed to date prior to the November 29th meeting.

David

David J. Wolfe
LOZANO SMITH
Attorneys at Law
7404 N. Spalding Avenue

Fresno, CA 93720-3370
559-431-5600, Ext. 123
dwolfe@lozanosmith.com

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>>> "Montesinos, Miriam" <MMontesinos@steefel.com> 11/21/2006 12:07 PM

>>> >>>

Hi Fey and Wolfe (too many Davids!) -

Just wondering if you'd have a chance to speak with Skinner and, if so, if he gave you a sense for timing re: turning around the next version - which hopefully will be the Screencheck and will be very close to being ready for public release.

Thank you!
Miriam

Miriam Montesinos
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Information Provided at or
after the Public Hearing on
12/10/08

Randi Johl

From: Randi Johl
Sent: Friday, December 12, 2008 5:17 PM
To: 'george'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: ATT; BOB JOHNSON & COUNCIL MEMBERS

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: george [mailto:marlyne_marlyne@sbcglobal.net]
Sent: Friday, December 12, 2008 11:47 AM
To: Randi Johl
Subject: ATT; BOB JOHNSON & COUNCIL MEMBERS

MR JOHNSON I DON'T CARE EITHER WAY AWAY WALLMART, AND I'M SORRY TO SAY I DID NOT VOTE FOR YOU AND I WOULD LIKE TO THANK YOU FOR YOUR COURAGE IN DOING WHAT YOU THOUGHT BEST, THERE ARE AT LEAST 2 SIDES TO A STORY AND YOU HAVE MY VOTE NEXT TIME IF YOU DECIDE TO RUN. THANK YOU GEORGE DE COTA

"Yesterday is history, tomorrow is a mystery, and today is a gift; that's why they call it the present"
Eleanor Roosevelt (1884-1962)

Randi Johl

From: Randi Johl
Sent: Friday, December 12, 2008 9:28 AM
To: 'Michael Doan'
Subject: RE: Lodi Wal-Mart article

Thank you for your email Michael. The City Council on December 10th voted 3-2 to certify the Environmental Impact Report (EIR). The project has not yet been approved, only the EIR was certified. The minutes will likely be approved at the meeting of January 7th. The agenda packet and meeting itself are available for viewing online at www.lodi.gov.

Randi Johl, City Clerk

From: Michael Doan [mailto:MDoan@kiplinger.com]
Sent: Friday, December 12, 2008 7:52 AM
To: Randi Johl
Subject: Lodi Wal-Mart article

Can you confirm that the city council has approved the **Wal-Mart Supercenter**? Do you have any more written info on that, such as the minutes? Thank you.

Michael Doan
Kiplinger California Letter

Randi Johl

From: Randi Johl
Sent: Friday, December 12, 2008 10:58 AM
To: 'mjanaforian@sbcglobal.net'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlarn
Subject: RE: What a farce

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Mark Anaforian [mailto:mjanaforian@sbcglobal.net]
Sent: Thursday, December 11, 2008 12:30 PM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katakian; Larry Hansen
Subject: What a farce

Dear Lodi City Council,

I would like to express my extreme displeasure at the City Council meeting held Wednesday, December 10, 2008.

My first complaint is with the accommodations that were afforded to such a volatile issue. Having been at the Planning Commission meeting to discuss this issue, and seeing that meeting with standing room only seating, I would have thought that the council would understand the need for a bigger venue. And when a council member brought up the idea of postponing the meeting and relocating at another venue, the only reasoning for not doing so was that Comcast could not broadcast from a different site. That is not a legitimate excuse. Those people who showed up should have access to the meeting before the hand full of people watching at home.

Another complaint I have is with the general attitude of some of the council members. Some seemed annoyed to be there. As an elected official it is your job to be there and to listen to your constituents. I was also dismayed at the comments from one council member. When discussing the citizens outside in the cold, this member said "it was cold for the Light Parade". This condescending attitude is unacceptable. I went to the Light Parade for my 9 and 11 year old sons. It was important to them and I went to it knowing I would be outside. I did not go to the Council meeting expecting to have to stand out in the cold for over 3 hours! It should also be noted that at least 50 people had left the outside location before the public comments portion of your meeting even started. So much for everyone of your constituents having equal access to this important meeting.

And finally I would like to add that I feel that this "public forum" was a farce. I say this because 30 minutes into the meeting I told my wife that the vote would be 3-2. The council had already made up their minds before stepping foot in the building. If this is the case why even ask our opinion?

So shame on you city council. I, for one, do not feel like my elected leaders care about what I have to say. And that cuts to the core of what a democracy is suppose to represent.

Thank you for your time,
Mark Anaforian

Randi Johl

From: Randi Johl
Sent: Thursday, December 11, 2008 11:33AM
To: 'Gerry'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Why Would opening WALMART hurt my business.

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Gerry [mailto:gsalvacr@gmail.com]
Sent: Thursday, December 11, 2008 10:06 AM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen
Subject: Why Would opening WALMART hurt my business.

Dear City Council Members,

I am very disappointed in the decision to approve the project for the WALMART super center. My business is located in the same plaza where WALMART is situated. Just like most of the businesses around me, **our** business is driven by the foot traffic coming **from** WALMART and all other businesses in the area. According to the property management, they would lease out the space to be vacated by WALMART to another retailer. In this economy, which retailer will be able to move to a big warehouse left by WALMART? Granted WALMART will be able to add more employees, but most of this employees do not live in Lodi. I'm afraid that all the businesses in our area will go belly **up**, one after another.

It would have been nice if the City Council would have taken the time to ask all the business owners what our opinion was about opening a super center.

--
Jose Cruz
Sr. Software Engineer
Mobile: 4083103522

Randi Johl

From: Randi Johl
Sent: Thursday, December 11, 2008 12:12 PM
To: 'Gail'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Lodi does not need a SuperWalmart.....

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Gail [<mailto:gailteague@sbcglobal.net>]
Sent: Wednesday, December 10, 2008 9:19 PM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen
Subject: Lodi does not need a SuperWalmart.....

Please listen to your voters who feel that Walmart is sufficient as it is. Lodi does not need a SuperWalmart. Let's continue to support downtown, our wineries, and that hometown feeling and experience that Lodi exudes so well and that makes our town so great and special. Don't sell out, Lodi is on the right track, as is, just the way the things are going.

Most Sincerely, Happy Lodi Citizens:

Gail Teague	Allan J. Petersen
1732 Cape Cod Circle	1732 Cape Cod Circle
Lodi, CA 95242	Lodi, CA 95242
209-365-1726	



"Life is Good!!"

Randi Johl

From: Randi Johl
Sent: Thursday, December 11, 2008 12:13 PM
To: 'Treacy Elliott'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad **Bartlam**
Subject: RE: WalMart

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Treacy Elliott [<mailto:lazylab@sbcglobal.net>]
Sent: Wednesday, December 10, 2008 3:38 PM
To: City Council
Subject: WalMart

In order to save time at the meeting tonight, I would like to provide my input:

I would ask the council to not approve this project for the following reason:

With the recently approved Reynolds Ranch additional retail space, which is equivalent in size to this project, the impact as described in the EIR is no longer valid. Failure to send the EIR back for revision on this topic will surely result in another prolonged lawsuit and process. It is only fair to both the proponents and opponents to get this project settled as quickly as possible, approval will not shorten the process. We already learned this lesson once.

As most of you know, I have been opposed to the project, specifically it's anchor, since the very beginning. I doubt that the perceived value will ever materialize. I truly believe that we can do better by bringing in an anchor that will add value to our city, not take it away. Whatever your vote is tonight, I will respect your decision. See you there.

Thank you,
Treacy Elliott
1712 W. Lockeford Street
Lodi, CA 95242

Randi Johl

From: Randi Johl
Sent: Wednesday, December 10, 2008 11:48 AM
To: 'Michael Scanlan'
Cc: Steve Schwabauer; Blair King
Subject: RE: Wal-Mart hearing

Mr. Scanlan,

Please rest assure that every member of the public wanting to provide public comment will have an opportunity to do so regardless of their time of arrival. Entrance into the building will be on a first come, first serve basis.

Randi Johl, City Clerk

From: Michael Scanlan [mailto:mscanlan1@gmail.com]
Sent: Tuesday, December 09, 2008 9:11 PM
To: Randi Johl
Subject: Wal-Mart hearing

Hi,

I heard a rumor that everyone who wants to attend tomorrow night's hearing has to show up at City Hall at 4:30 PM and get a ticket. Is this true? **Also, if** folks want to speak, they also have to arrive at 4:30 and **fill** out a speakers card.

What happens to folks who can't be down there at 4:30 to sign up for a ticket or to **fill** out a speakers card? What about folks who have no idea and will show up at 6:30 PM expecting to get in?

I hope this is just a rumor. Please let me know.

Thanks!

Mike

A.5.1 The following minimum scale of wages shall be paid, except in Zone B as set forth in Appendix A5.4 hereof:

ZONE A - WAGE RATES

	EFFECTIVE				
		10/05/08	10/04/09	10/03/10	
Managing Clerks	20.420	21.16	21.58	21.95	22.32
Senior Head Clerks and Senior Produce Clerks	19.880	20.73	21.15	21.51	21.87
Head Clerks	19.770	20.63	21.04	21.40	21.76
Senior Clerks					
Experienced	19.334	20.03	20.43	20.78	21.13
6th 1040 hours		19.30	19.90	20.25	20.60
5th 1040 hours		18.70	19.20	19.75	20.25
4th 1040 hours	17.50	18.20	18.60	19.25	19.85
3rd 1040 hours	16.50	17.20	17.60	18.25	18.85
2nd 1040 hours	15.50	16.20	16.60	17.25	17.85
1st 1040 hours	14.50	15.20	15.60	16.25	16.85
Combo Bakery/Deli Mgr.	15.36	16.06	16.66	17.26	17.86
Department Head Clerk (optional)	14.36	14.96	15.56	16.16	16.76
Clerks					
Experienced				15.76	16.36
10th Step (10th 1040 hours)			15.16	15.16	15.16
9th Step (9th 1040 hours)	13.960	14.56	14.56	14.56	14.56
8th Step (8th 1040 hours)		13.96	13.96	13.96	13.96
7th Step (7th 1040 hours)	11.3496	11.70	11.70	11.85	12.00
6th Step (8th 1040 hours)	10.906	11.30	11.30	11.35	11.50
5th Step (5th 1040 hours)	10.4623	10.80	10.80	10.90	11.05
4th Step (4th 1040 hours)	10.0186	10.25	10.40	10.55	10.70
3rd Step (3rd 1040 hours)	9.67	10.00	10.15	10.30	10.45
2nd Step (2nd 1040 hours)	9.54	9.75	9.90	10.05	10.20
1st Step (1st 1040 hours)	9.30	9.50	9.65	9.80	9.95
Fuel Station					
Experienced	11.80	12.15	12.40	12.65	12.90
6th Step (1040 hours)	11.00	11.20	11.35	11.50	11.65
5th Step (1040 hours)	10.50	10.70	10.85	11.00	11.15
4th Step (1040 hours)	10.00	10.25	10.40	10.55	10.70
3rd Step (1040 hours)	9.50	9.80	10.00	10.20	10.40
2nd Step (1040 hours)	9.00	9.30	9.50	9.70	9.90
1st Step (1040 hours)	8.70	9.00	9.20	9.40	9.60
Courtesy Clerks					
Experienced	8.70	9.00	9.20	9.40	9.60
1st 1040 hours	8.20	8.50	8.70	8.90	9.10

X A -WAGE RATES

Minimum wages, employees now receiving a higher wage for a particular classification of work performed shall not have the effect of this Agreement.

Wages shall be maintained by the parties hereto during the period of this Agreement. The Employer hereby agrees to pay wages in compliance therewith.

Employees shall be eligible for any non-contractual benefit including, but not limited to, health insurance. This provision does not apply to over-scale employees.

Employees, except Courtesy Clerks, shall receive extra pay for overtime hereinafter set forth, of sixty-five cent (65¢) per hour for hours worked between 10 p.m. and 6 a.m.

The Employer has the right, but no obligation, to offer a buyout program to employees. The Employer may make such an offer during the term of this Agreement. If an employer chooses to implement such a program, they shall negotiate the terms thereof.

Notes:

A41 The following minimum scale of wages shall be paid, except in Zone B as set forth in Appendix A.4.2 hereof

ZONE A					
CLASSIFICATION	Current	10/07/07	10/05/08	10/04/09	10/03/10
Managing Clerk	20.418	21.118	21.518	21.868	22.218
Senior Head Clerk	19.877	20.577	20.977	21.327	21.677
Head Clerk	19.763	20.463	20.863	21.213	21.563
Food Clerk					
Thereafter	19.334	20.034	20.434	20.784	21.134
1040 hours	17.000	17.500	17.500	18.000	18.000
1040 hours	15.000	15.500	15.500	16.000	16.000
1040 hours	13.500	14.000	14.000	14.500	14.500
1040 hours	11.750	12.200	12.200	12.700	12.700
1040 hours	10.000	10.400	10.400	10.900	11.010
1040 hours	9.500	9.750	9.750	10.250	10.380
520 hours	9.000	9.250	9.250	9.750	9.850
520 hours	8.700	9.000	9.000	9.500	9.700
520 hours	8.500	8.750	8.750	9.250	9.500
GM Clerk (including grandfathered Journeyman, E-Commerce)					
GM Head Clerk	13.855	14.405	14.905	15.405	15.905
Thereafter	13.455	14.005	14.505	15.005	15.505
1040 hours	11.750	12.250	12.250	12.750	12.750
1040 hours	10.800	11.000	11.000	11.500	11.500
1040 hours	10.100	10.500	10.500	11.000	11.000
1040 hours	9.400	9.750	9.750	10.250	10.250
1040 hours	8.900	9.250	9.250	9.750	10.000
1040 hours	8.600	9.000	9.000	9.500	9.750
520/1040 hours (new hire)	8.400	8.750	8.750	9.250	9.500
520/1040 hours (new hire)	8.200	8.500	8.500	9.000	9.250
520 hours	8.000	8.250	8.250	8.750	9.000
Courtesy Clerk					
Thereafter	8.395	8.750	9.000	9.150	9.300
1040 hours	8.000	8.500	8.500	8.750	9.000
520 hours	7.500/7.750	8.250	8.250	8.500	8.750
Upon promotion, Courtesy Clerks will be paid the next highest rate in the new classification that produces at least a 10¢ per hour increase.					
Courtesy Clerk hired prior to 05/03/83	9.412	9.750	10.000	10.150	10.300
Fuel Station/Safeway.com Clerk					
Lead Selector	12.250	12.600	12.850	13.100	13.350
Thereafter	11.850	12.200	12.450	12.700	12.950
1040 hours	10.800	11.150	11.150	11.400	11.400
1040 hours	10.200	10.500	10.500	10.750	10.750
1040 hours	9.600	9.850	9.850	10.100	10.250
1040 hours	9.000	9.250	9.250	9.500	10.000
1040 hours	8.600	9.000	9.000	9.250	9.750
1040 hours	8.200	8.750	8.750	9.000	9.500
520 hours	7.900	8.550	8.550	8.800	9.250
520 hours	7.700	8.400	8.400	8.650	9.000
520 hours	7.500	8.250	8.250	8.500	8.750
Demonstrator	12.000	12.750			
Premium Employees: Modify as discussed to provide combination of wage increases and/or equivalent bonus payments to bring non-Department Managers to the appropriate contract rates, over the term of the Agreement.					

6 mos - 2 yrs

2 yrs - 7y

MEDICAL PLAN			
	PLAN C/STANDARD - PPO PLAN		PLAN B/ULTRA
COVERED SERVICES	PPO/OUT-OF-AREA	NON-PPO	PPO/OUT-OF-AREA
Lifetime Maximum ¹	\$2,000,000 per person		\$2,000,000
Deductible			
Per Person	\$600	\$800	5400
Family Maximum	\$1,800	\$2,400	\$1,200
Out-&-Pocket Maximum			
Per Person	\$7,500	\$20,000	\$2,000
Family Maximum	\$15,000	\$40,000	\$6,000
Plan Coinsurance	70% after deductible	50% after deductible	75% after deductible
Plan Hospital Coinsurance	70% after deductible	50% after deductible	75% after deductible
Emergency Room Services (facility only) for true emergencies	100% after \$100 copay, waived if admitted no deductible	100% after \$100 copay, waived if admitted no deductible	100% after \$75 copay, waived if admitted no deductible
Physician Office Visits	100% after \$35 copay, no deductible	50% after deductible	100% after \$25 copay, no deductible
Chiropractic/Acupuncture Treatment			
Office Visit	100% after \$35 copay, no deductible	50% after deductible	100% after \$25 copay, no deductible
X-Ray and Lab	70%	50% after deductible	75%
Calendar Year Maximum (combined PPO/non-PPO)	\$500	\$500	\$500
Annual Physical Exam	100% after \$35 copay, no deductible Plan pays up to \$75 for exam and \$100 for lab/x-ray per year; one exam per year; combined with non-PPO.	50% after deductible Plan pays up to \$75 for exam and \$100 for lab/x-ray per year; one exam per year; combined with PPO.	100%, no deductible
Mammogram ²	70% after deductible Plan pays up to \$200 per screening	50% after deductible Plan pays up to \$200 per screening	100%, no deductible
Well Baby Care	100%, no deductible	50% after deductible	100%, no deductible
Mental Health/ Chemical Dependency (Detoxification paid under medical as any other illness.)	Covered under the Employee Member Assistance Program (EMAP)	Covered under the Employee Member Assistance Program (EMAP)	Covered under the Employee Member Assistance Program (EMAP)

¹ Lifetime maximum applies to all covered medical services provided under the UFCW & Employers Benefit Trust, including coverage under the Plan A/Standard, Plan B/Ultra and Plan A/Premier Plans combined.

² Includes Mobile Screening.

2 yrs - 7 yrs

7 yrs →

BENEFITS SUMMARY

PPO PLAN	PLAN A/PREMIER - PPO PLAN		PLAN A/PREMIER - HMO PLAN
	NON-PPO	PPO/OUT-OF-AREA	NON-PPO
per person	\$2,000,000 per person		No maximum
\$600 \$1,800	\$200 \$600	\$400 \$1,200	No deductibles
\$10,000 \$30,000	\$1,000 \$3,000	\$5,000 \$15,000	Varies with HMO
50% after deductible	85% after deductible	50% after deductible	100%
50% after deductible	85% after deductible	50% after deductible	100% after \$100 copay per admission
100% after \$75 copay, waived if admitted no deductible	100% after \$75 copay, waived if admitted no deductible	100% after \$75 copay, waived if admitted no deductible	100% after \$75 copay, waived if admitted no deductible
50% after deductible	100% after \$12 copay, no deductible	50% after deductible	100% after \$25 copay
50% after deductible	100% after \$12 copay, no deductible	50% after deductible	(self-funded benefit) 100% after \$25 copay
50% after deductible \$500	85% \$500	50% after deductible \$500	80% \$500
50% after deductible	100%. no deductible	50% after deductible	100% after \$25 copay
50% after deductible	100%. no deductible	50% after deductible	100% (no copay)
50% after deductible	100%. no deductible	50% after deductible	100% after applicable copay
Covered under the Employee Member Assistance Program (EMAP)	Covered under the Employee Member Assistance Program (EMAP)	Covered under the Employee Member Assistance Program (EMAP)	Covered under HMO Employee Member Assistance Program (EMAP)

This booklet contains only highlights of certain features of the UFCW & Employers Benefit Trust. Not all provisions, limitations and exclusions, which may vary from plan to plan, have been included. Full details are contained in the Summary Plan Descriptions (SPD) and/or the Evidence of Coverage and Disclosure Form (if your coverage is provided through an HMO), subsequent Plan notices and Plan Documents that establish the Plan provisions. If there is a discrepancy between the wording here and the documents that establish the Plan, the legal Plan Documents or HMO agreements will govern. The Trustees reserve the right to amend, modify or terminate the Plan at any time.



1620 S. ACKERMAN DRIVE LODI, CA 95240
(209) 369-0592 OR (800) 359-8592 FAX (209) 369-8681

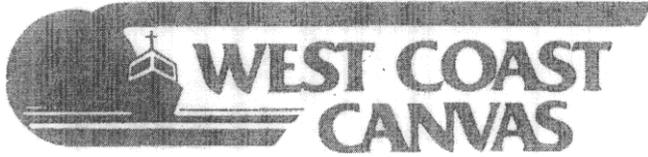
December 10, 2008

To: Lodi **City** Council
Re: Super Walmart

My name is **Gary** Markle and I **am** the **owner** of **Gary's Signs &** Screen Printing. I'm **writing this letter** regarding the **Browman Development Company** and the Super Walmart. I've done **business** with the **Browman Dev. Co.** for **several years** and **they** have **always** been a **pleasure** to work with. The **centers that** are owned **and maintained** by them have always kept a **good appearance and** noticeably do **not** have **vacancies** for very **long**. The Super Walmart vacancy I know **is an** issue for some but I believe **Bowman's past** has - - - - - shown a **good track** record of keeping vacancies to a minimum. A Super Walmart would **bring** more **business to** Lodi. **Construction** would be beneficial in **creating** jobs during production of the facility as well **as an** increase in **permanent** jobs **for** Lodi upon completion of a **Super** Walmart.

Regards,

Gary D. Markle
Gary's Signs & Screen Printing



December 9, 2008

To: City of Lodi City Council

I am writing this letter in support of the Browman Development Company's new shopping center development that will include a new Super Wal-Mart and additional retailers that will further develop and strengthen the existing commercial corridor and bring more customers to Lodi to spend their retail dollars in our City!

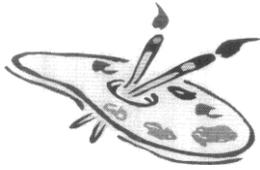
I am confident that this new retail development will make the retail corridor along Kettleman Lane and Lower Sacramento Lane stronger especially because a successful experienced company like Browman Development is doing the development.

I have been the owner of West Coast Canvas in Lodi since 1982 and I have **observed** that the Browman shopping center projects **have been** highly successful. Good Lodi **based** tenants providing a diversity **of** goods and services have filled the well maintained shopping centers for years and have been very successful

It's my opinion that this commercial area will continue to prosper as this retail corridor of Lodi continues to grow. The community of Lodi will benefit from all the new **business** that will be developed and managed by Browman Development

Respectfully

Curt Page
Owner



P R E C I S I O N

835298

4958 Thatcher Drive
Martinez, CA. 94553
(925) 360-0775
(925) 285-1380
(925) 848-3727 (FAX)
precisioninterex@yahoo.com

December 10, 2008

To: City of Lodi City Council

RE: Browman Development – New Shopping Center with Super Wal-Mart at south-west corner of Kettleman Lane and Lower Sacramento Rd.

I am Michael Donrad owner of Precision Painting and have been in business for 11 years. I have recently become acquainted with Browman Development and have been very impressed with their quality of shopping centers, the high standards that they have in maintaining their shopping centers with high occupancy levels and quality of tenants.

Within the last month our company re-painted one of Browman's shopping centers in American Canyon. My painters work as a team and I am there on-site with my painting crew during the job. I was amazed at the customer traffic that is generated and the friendliness of the retail merchants.

You don't see this type of enthusiasm at all properties and I was compelled to come here tonight and make you aware of my experience at the Browman retail properties. By the way I am currently scheduling re-painting the video store here at Sunwest Plaza in Lodi in the next week or two. This is another example of Browman's keeping the centers looking current and up-to-date. My company is proud to have the opportunity to support Browman Development in their endeavors of building the Super Wal-Mart retail project.

Sincerely,

Michael Donrad
Owner – Precision Painting

DATE: December 9, 2008

TO: City of Lodi
City Counsel

I am Jason Elliot, a resident **of** Lodi and one **of the owners** of Arrow Stripe Company which has been in business and located in the City of Lodi for 14 years.

Our company has been working for Browman Development for approximately the last 2 years and has found Browman Development to be a property developer with successful, **high** standards that requires those same high standards of success from its contractors and vendors. Our experience **is** that Browman does its best to use highly qualified, local companies where its properties are located.

We understand that the Walmart may relocate across the street with **a** Super Walmart. We are confident that the new retail development will strengthen the retail comdor along Kettleman Lane and Lower Sacramento Road especially because a successful, experienced company like Browman Development is doing the development. It is our opinion that this commercial area will continue to prosper as this retail corridor **of** Lodi continues to grow. The City **of** Lodi and its population base should benefit from all the new business that will be created and professionally developed and run by Browman Development.

Sincerely,

ARROW STRIPE COMPANY, INC.

Jason Elliott

/jpk

Memo

December 10, 2008

To: City of Lodi

From: Philip King, Ph.D., and Sharmila King, Ph. D.

Re: EIR for Lodi Supercenter Project

We have been asked by Brett Jolley of Herum Crabtree to review and comment on the Environmental Impact Report (EIR) for the proposed Lodi Shopping Center, a 340,000 square foot retail project located in southwest Lodi that includes a 226,868 square foot Wal-Mart Supercenter (hereafter referred to as the Project).

A previous EIR for this Project was found deficient due to several serious omissions in the urban decay analysis. Although this EIR has attempted to correct those omissions, the urban decay analysis remains deficient. Lodi already has a large amount of retail space for a small city and the addition of 340,000 square feet of retail space in the W. Kettleman Lane corridor, which is already crowded with retail, will lead to a substantial number of store closings, exacerbating urban decay that already exists in parts of Lodi.

While admitting that blight/urban decay is an issue, the EIR discounts the Project's potentially significant urban decay impacts in several ways. First, it provides an inaccurate environmental setting baseline by omitting existing urban decay/blight in east Lodi and existing retail stores located throughout the City, reducing the EIR's ability to determine the level of significance of urban decay and to mitigate these impacts. The EIR ignores existing blight, which was specifically identified in the recently approved redevelopment area, yet argues that downtown Lodi, Cherokee Lane, and other blighted areas will not be significantly impacted by this Project.

The EIR admits that the Project, in combination with the (now approved) Reynolds Ranch Project will lead to store closures on W. Kettleman, and the eastern part of W. Kettleman has already been declared blighted by the City. Indeed, two anchor stores on W. Kettleman are already closed or closing—Mervyns and Ace Hardware. These and further store closings on W. Kettleman will lead to lower retail property rents, not just on W. Kettleman, but in downtown Lodi and on Cherokee Lane. Lower rents lead to lower maintenance and eventual urban decay of marginal areas. The EIR blames current blight on poor stewardship by past landlords, but this analysis completely ignores the fundamental economic fact that landlords let property decline only when there is no economic incentive (through healthy rents) to maintain the property. However, this is precisely what will happen yet again as rents on marginal retail properties in already weak areas fall. Weaker stores will close and more successful retailers will move to Southwest Lodi.

Second, the EIR relies on City ordinances prohibiting graffiti and disrepair to mitigate any potential urban decay. This tactic shifts the burden of mitigating an environmental impact away from its root cause and onto the City, its law enforcement officials, and its residents. The EIR also essentially assumes that having an ordinance against urban decay solves the problem, despite evidence to the contrary in other places. Laws designed to mitigate urban decay are often expensive to enforce and already overworked law enforcement officials may decide to enforce other laws (e.g., against theft, murder, etc.) instead. Further, ordinances outlawing urban decay will *not* prevent hard pressed landlords from delaying routine maintenance on marginal, low-rent properties. If laws prevented crime, there would be no crime; clearly that is not the case. At best these ordinances can only partially abate the problem—at a substantial cost. **Lodi has spent millions to revitalize its downtown, which is now jeopardized by this project.**

Finally, the EIR fails to account for the offset in sales tax revenue that will result from this Project. The Project will largely displace current general retail and grocery sales. It will not generate sufficient sales taxes to pay for the considerable costs of increased urban decay.

The remainder of this memo will go into more detail on these key issues and other deficiencies in the EIR's urban decay analysis.

Urban Decay/Blight already exists in Lodi and the Project will Exacerbate these Impacts

Urban decay is a unique impact and therefore demands a more-detailed analysis than some other environmental effects. For example, while a project's individual traffic impacts may be ascertained by determining the trip generation of rates exclusive to the proposed project, a legally sufficient determination of urban decay impacts demands identification and evaluation of similar projects affecting the trade area. Stated slightly differently, urban decay is an "indirect environmental effect" (See, Guideline §15126.2 and *Bakersfield* at 1204-5). The evaluation and mitigation of this indirect impact requires a complete and accurate environmental setting that identifies the retail market area, existing retailers (along with their square footage of sales area) that will compete with the project, and existing blight/urban decay. Thus, the evaluation of a project's potential to cause individual and/or cumulative urban decay requires identification of a cumulative impacts-type baseline – namely a list of "past, present, and probable future projects" within the market area. See Guideline §15130(b)(1).

The DEIR notes that Sacramento Street and other areas in or adjacent to downtown Lodi are already experiencing blight or urban decay:

"Sacramento Street shows greater physical problems, especially on the west side in the blocks between oak and Elm...These blocks contain vacant and boarded up buildings and empty lots...they are extremely run down and in need of major improvements before they can be reused.

The Pine Street corridor and Main Street to the East of the railroad tracks also show a high proportion of physically deficient properties, including vacant and underutilized parcels and structures." (DEIR, p. 39-40)

However, the EIR fails to account for the most of area in east Lodi that the City recently declared blighted. The City has proposed a redevelopment plan¹ to eliminate blight in portions of east Lodi and has already adopted the area boundaries for the 2,000 acre "redevelopment area" (see Figure 1 below), which encompasses downtown Lodi, Cherokee Lane, and the eastern portion of W. Kettleman. **A substantial amount of retail exists in this area. The City's designation of a redevelopment area confirms that urban decay and blight is already a significant existing condition.** Further, the EIR makes clear that some store closings on W. Kettleman and Cherokee Lane will occur and the downtown will lose business as a result of the Lodi Shopping Center.

The EIR states specifically that one of the goals of the project is "To provide commercial development which does not negatively affect downtown and the past and ongoing investment in the downtown" (BAE report, p. 32). The EIR details the physical deterioration and urban decay that already exists downtown, but it fails to properly assess the impact of this Project or the cumulative impact of this Project along with the Reynolds Ranch Project, on the downtown. The EIR simply relies on assertions that the likely impacts of these projects will be insignificant even though the evidence that they present indicates otherwise.

¹ See <http://www.lodi.gov/Redevelopment.html>.

The EIR does state that the proposed projects will impede growth downtown:

“the introduction of additional retail square footage at the Lodi shopping center could delay further downtown growth and the reuse of currently vacant properties until retail demand increases...(BAE report, p.60)”

According to the EIR, **33%** of downtown businesses are eating and drinking establishments, 13% are apparel stores and 23% are “other retail.” The proposed project calls for 113,132 square feet of retail space besides the Supercenter ranging from fast food and sit down restaurants to “business and professional services,” to financial services and “unspecified other retail” (67,960 square feet). In addition the City of Lodi recently adopted plans to more than double retail at Reynolds Ranch to 750,000 square feet.

Although it may not be possible to precisely specify which stores will go in the Lodi Shopping Center and the Reynolds Ranch shopping center, it is reasonable to assume that a number of smaller retail stores and restaurants which compete directly with the downtown retail will be part of both. The restaurants will clearly compete with the downtown as will the business and professional services. Downtown Lodi also contains a substantial percentage of Lodi's banks including the main branches for Bank of America and Bank of Stockton, two of the most popular banks in the area.

The Project's additional 113,132 square feet of non-supercenter retail is substantial. If one assumes that this retail will generate \$300 per square foot, a reasonable estimate, the non-Supercenter retail at the Lodi shopping center could generate close to \$30 million per year in revenues, 60% of downtown Lodi's retail revenue. If even a relatively small percentage of this \$30 million comes at the expense of the downtown, then the results could be serious and significant.

Although the EIR paints a picture of the downtown as full of boutiques and specialty retail, it is clear from visiting the downtown as well as examining the list of businesses, that most are small owner-operated businesses, particularly those involved in the restaurant business, business and financial services, and beauty and cosmetic services. All of these types of businesses can and do easily operate in older (or newer) shopping centers. The main appeal of the downtown is clear—low rents.

The closure of stores at older shopping centers around Lodi will thus have an important secondary impact on the downtown which the EIR completely omits—it will create a glut of retail space leading to lower rents for current retail. In such an environment it is difficult to maintain the physical integrity of a building since these rents will inevitably fall. This is hardly speculative, but is simple Econ 101—an increased supply in retail which far outstrips the increase in demand that the EIR projects will lower rents on existing properties leading to less incentive to upkeep current property.

This impact will occur throughout older shopping areas in Lodi, however its impact will be most profound in downtown Lodi for precisely the reasons specified in the EIR—downtown Lodi has many older and deteriorating businesses and the location of downtown Lodi, away from where most residents live, makes it a less desirable location. These negative impacts will also be felt in other the area designated as blighted by the City of Lodi in its redevelopment zone. The EIR, by ignoring this blight and urban decay, has consequently also ignored these impacts.

In such a situation, where rents decrease it will make no economic sense to invest in seismic retrofitting or other investments necessary to maintain the downtown or other areas subject to urban decay. The City has spent \$16 million upgrading properties downtown, but without a corresponding investment by private owners, the downtown and other blighted areas will deteriorate.

The EIR states that:

“The actual potential for physical deterioration and urban decay to occur at a specific property will be largely dependent upon the commitment from the property owner to maintain the property.. . (BAE report, p. 76)”

This is an odd statement for an economic analysis. The commitment of property owners to maintain property will ultimately be a business decision. The glut of retail properties that will be created by this Project in combination with the Reynolds Ranch project will have a direct impact on downtown rents and hence maintenance of downtown properties.

We are particularly concerned with the migration of smaller, owner operated restaurants and hairdressers/nail salons out of the downtown to older (and newer) shopping centers. It is clear that these businesses are important for the downtown—and there is no reason that these businesses or other similar businesses are located downtown other than low rents. As the EIR points out, relatively few people live near downtown, and as customers migrate to shopping centers elsewhere, ancillary services like hairdressers, nail salons, and restaurants will follow. Similarly, the downtown has several jewelry stores which would be vulnerable to closing should another jewelry store open outside downtown.

Downtown Lodi also has a number of large banks. As banking operations migrate outside of downtown to W. Kettleman, residents of Lodi lose another reason to make the journey downtown.

Bookstores are another area of concern. The downtown and near downtown area are the home to most of Lodi’s bookstores, mostly small, owner-managed businesses. The EIR does mention that a chain store, such as a Barnes and Noble or a Borders would have a negative impact on these stores. Since much of the retail in both of these projects is unspecified, one should account for the potential impact of a Barnes and Noble or a Borders on the downtown and not dismiss such an analysis as “speculative” since it is very likely that either the proposed project or the Reynolds Ranch project (or possible both) would contain a large chain bookstore. Indeed, it is unusual for a city the size of Lodi not to have such a store.

Health of Downtown Lodi

Although the EIR goes to some length to assess the relative health of the supermarket and general merchandise market in Lodi, it omits a similar assessment of the downtown. According to the EIR, the 140 downtown retail businesses generate \$51.6 million in revenues. These businesses vary in size but are typically small, a reasonable estimate of average size would be 2000 square feet, or 280,000 square feet in total. As indicated in table 1 below, this works out to \$184 per square foot, which is very low. Although sales vary by retail category, a healthy downtown should have sales of between \$250 and \$300 per square foot. The average sales in downtown Lodi, at \$187 per square foot, are considerably below this level.

Table 1: Sales per Square Foot in Downtown Lodi

Sales	\$	51,600,000
Retailers		140
Total Square Feet @ 2000 sq. ft.		280,000
Avg. Sales/Sq ft.	\$	184
% of \$275/sq. ft.		67%

In sum, this project will clearly exacerbate the current poor business climate downtown and ultimately lead to a number of stores closing or moving operations to a shopping center outside the downtown Lodi area, and eventually resulting in a significant urban decay impact. For the downtown to survive, it is clear that a substantial investment will be required in addition to the \$16 million that the City has already spent.

Store Closings

The EIR states that a number of stores may close as a result of this project and the Reynolds Ranch project. In particular, the EIR states that the following stores are at risk: the K-Mart, the Orchard Supply Hardware, and one supermarket. The total square footage of the Lodi Shopping Center and the already approved 750,000 square foot Reynolds Ranch projects amounts to approximately 1.1 million square feet of new retail. Given the mediocre state of current retail in Lodi and the downturn in housing and the economy, it is not “speculative,” but reasonable to conclude the impact of 1.1 million square feet of new retail will be substantial and severe.

Consequently, we believe that it is reasonable to conclude that, in addition to the now closed Ace Hardware and Mervyns stores, several of the following stores will close as a result of the cumulative impacts of Reynolds Ranch and the Lodi Shopping Center:

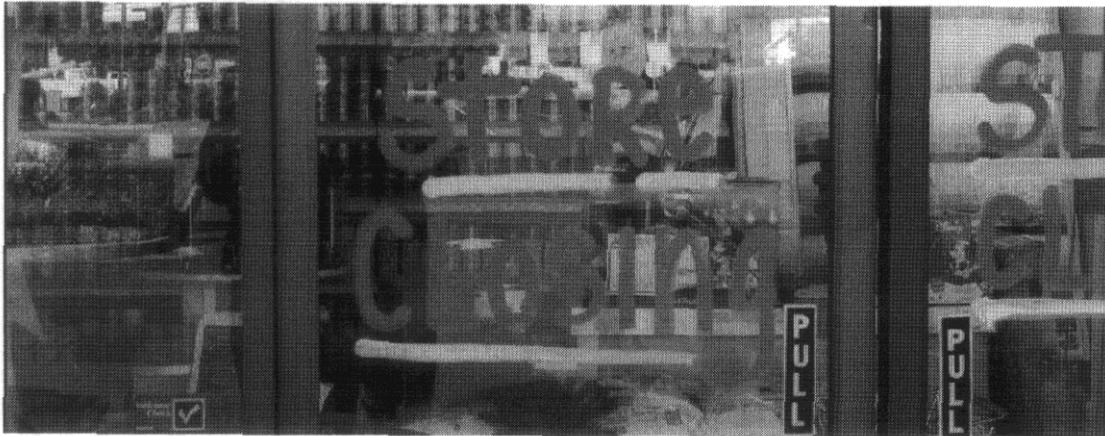
- The existing Wal-Mart (W. Kettleman)
- K-Mart (Cherokee Lane)
- Orchard Supply Hardware
- Former Albertson’s (now S-Mart)
- S-Mart or Safeway on W. Kettleman
- At least one other general merchandise anchor store such as JC Penney
- Many smaller stores in shopping centers anchored by the above.

As shown in Table 2 below, in aggregate, these stores comprise 450,000 square feet of retail space. Although the above analysis may seem extreme, it reopresents less than half of the new (non-grocery) retail orooosed including the Reynolds Ranch oroiect.

Table 2: Store Closings as Result of Cumulative Impacts of Both Projects

Store	Square Feet
JC Penney	75,000
Ross Stores	33,000
Marshalls	32,000
Mervyns	80,000
Pier 1	9,000
Misc Dollar Stores (e.g. Dolex, Dollar Joe’s, 99 cents)	45,000
Other General Merchandise	35,000
Total	309,000

As a result of these closings, there will be a glut of vacant retail space in Lodi. It is possible that one of the older shopping centers on W. Kettleman will go “dark”, resulting in a significant urban decay impact. However, it is also possible that the owners of these older shopping centers will compete for these smaller businesses by lowering rents. As indicated in the EIR, the physical condition of many of the downtown sites is poor. Further, as indicated in the EIR, most people in Lodi do not live in or near downtown.



Figures 2 and 3: The Ace Hardware store closed in Fall 2008 a few years after the Lowe's opened down the street.

Ordinances to **Prevent/Abate** Urban Decay are **Insufficient** (and Place the Burden of Mitigation on the City of Lodi)

The DEIR and FEIR also argue that urban decay will not occur because the City of Lodi has ordinances forbidding such decay. Frankly, this argument makes little sense for several reasons:

1. The purpose of an EIR is to identify environmental impacts and mitigate them, not simply pass the expense on to the City of Lodi. The DEIR/FEIR's argument essentially states that the City may face an environmental impact and it will have to pay to address the problem. The DEIR/FEIR's assertion is analogous to stating that a project may create a toxic pollutant and that some other (innocent) party will be forced to clean it up, so it's not a problem. This approach turns the entire CEQA process on its head and, if taken to its logical conclusion, renders CEQA vacuous and ineffective.
2. Despite such ordinances it is clear that urban decay is still an issue in other cities with similar ordinances. For example, in the city of Delano, California, a now closed K-Mart is subject to graffiti and urban decay despite ordinances specifically forbidding such

graffiti² and efforts by the city (the store is fenced off and some graffiti has been painted over). Urban decay is still setting in.

3. Although ordinances preventing graffiti *allow* municipal officials to enforce nuisance provisions, they are not **required** to do so. City officials have wide discretion as to enforcement of their laws. Enforcement of nuisance provisions is discretionary, and subject to budgetary and time constraints, which will be particularly problematic as the number of vacancies grows.

4. Ironically, the same economic downturn that will give rise to graffiti and urban decay will also lower tax revenues for cities and counties, forcing them to make even tougher choices about how to spend declining tax dollars—under such conditions, it is simply unreasonable to assume that all graffiti code violations will be enforced while other, potentially more pressing, issues are ignored.

If abatement authority is sufficient to prevent the impacts from occurring, then there would never be urban decay. The key issue is whether the impacts will occur, not whether there **is** some potential mechanism to address them after the fact. The **EIR** does not even address the issue of how long a property would continue in a state of decay before effective action were taken to clean it up, assuming that such action were taken at all. The inescapable conclusion is that the more stores that close and the longer they remain vacant, the more likely urban decay becomes.

The EIR also argues that these abatement programs will not impose costs on the City since they place the costs on the property owner to follow City code. If that were the case, however, the City of Lodi would not have had to spend millions of dollars refurbishing downtown Lodi. Ironically, even the EIR notes this:

“The City of Lodi has demonstrated **its** commitment to preventing physical deterioration of urban properties within the City through its successful revitalization efforts in Downtown.. **including large expenditures of City funds.**”(BAE report, p.76, emphasis added)

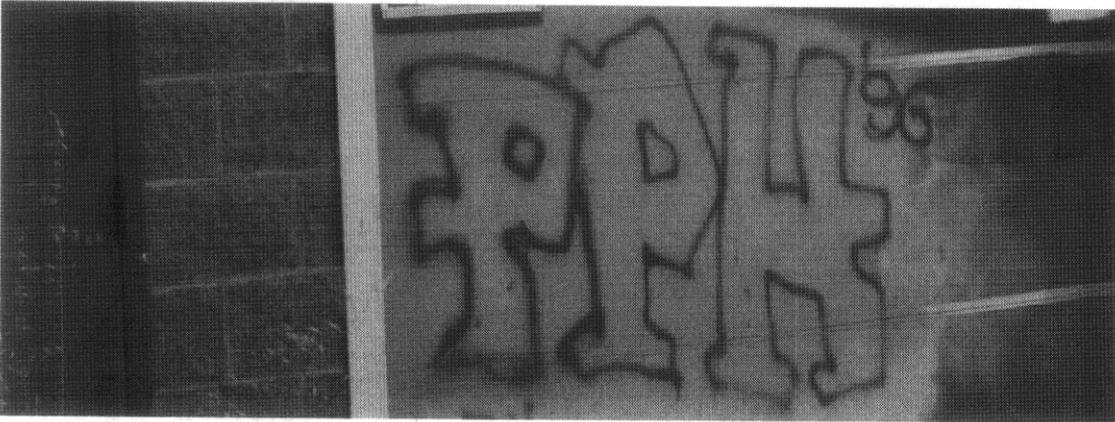
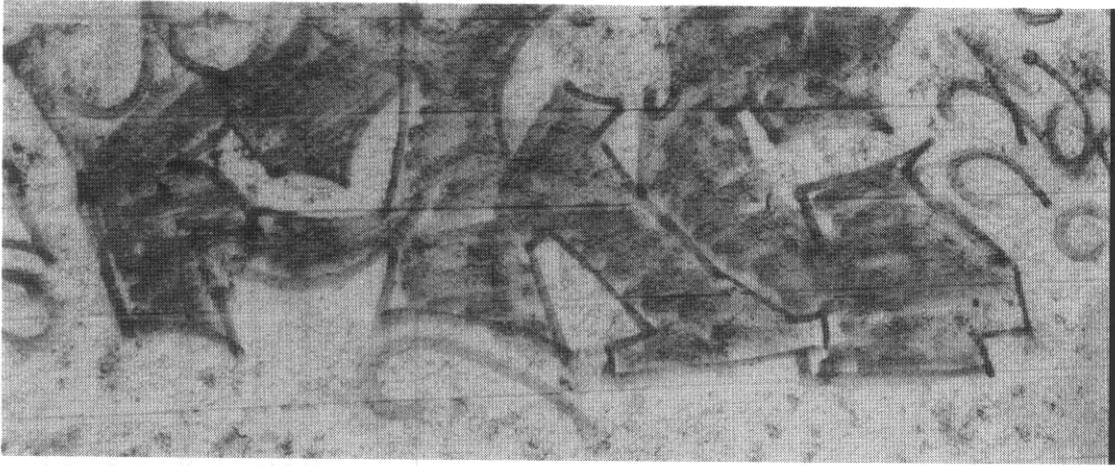
Elsewhere in the DEIR, the amount the City has spent is estimated

“Overall **the City has spent approximately \$16 million in the last decade on various capital improvement programs in the downtown area,** excluding normal maintenance.” (DEIR, p.41, emphasis added)

The City’s proposed redevelopment plan is also likely to cost the City a substantial amount and may also lead to lower tax dollars received since tax breaks are often part of such plans.

Indeed, if the City of Lodi’s ordinances preventing urban decay and blight were working as the EIR suggests, then the urban decay specifically noted in the EIR on Sacramento and Pine Streets (and several other places) would not exist. Clearly, the evidence provided in the EIR itself indicates that such ordinances, while useful, are not sufficient to prevent urban decay.

² Specifically, Delano Municipal code Section **20.1.40** authorizes enforcement of all performance standards of the Zoning ordinance, including standards governing wastes, maintenance, etc.



Figures 4, 5, 6: The **55,420** square foot closed K-Mart in Delano, California is fenced, boarded up and covered with graffiti, despite City statutes which outlawing these conditions. This is a textbook example of physical deterioration and urban decay. Ordinances in Lodi are also unlikely to stop urban decay and force the cost of complying with environmental impacts on the City.

The EIR Omits Significant Retail in Lodi and thus Understates Impacts

Although the picture painted by the EIR is grim enough, the urban decay analysis omits existing and relevant retail establishments, thereby understating the Project’s **true** urban decay impacts. The EIR consultants use sales tax data from the State of California to estimate sales. This is standard practice. However, a careful examination of this data indicates that they only apply these sales data to selected stores, in effect overstating current sales at these stores. This omission of stores was applied to both grocery stores and general merchandise stores in the EIR, to similar effect.

- The EIR omits **54** ethnic grocery markets and convenience stores which comprise almost **130,000** square feet and generates up to **\$50** million in sales.

The EIR’s data on food sales (and other retail sales) **uses** the California Franchise Tax Board’s sales tax data to estimate total sales. Although grocery stores are indeed the main competitor to the Supercenter, sales tax data is aggregated for *all* food stores and the EIR fails to properly account for sales at **54** stores it omits. Though, individually, most of these stores are small, the failure to properly account for these 54 stores distorts the EIR’s conclusions about the health of current grocery stores, biasing their conclusions.

Table 3: 2005 Taxable Sales in Lodi³

Type of business	LA		LEMON GROVE		LIVERMORE			
	Permits	Taxable transactions	Permits	Taxable transactions	Permits	Taxable transactions	Permits	Taxable transactions
Retail Stores								
Apparel stores	22	4,817	21	6,264	21	2,751	30	11,470
General merchandise stores	5	5,607	7	8,863	40	206,531	24	150,767
Food stores	23	8,163	21	17,977	41	65,685	63	59,615
Eating and drinking places	67	24,213	65	27,174	182	96,847	180	78,756
Home furnishings and appliances	30	8,484	18	3,885	57	24,279	68	18,457
Bldg. materi. and farm implements	5	50,955	7	#	55	228,276	24	92,242
Auto dealers and auto supplies	40	24,057	21	139,361	51	140,655	90	203,707
Service stations	12	44,247	8	29,129	29	117,515	17	51,171
Other retail stores	155	37,681	132	121,700 #	496	152,857	377	63,874
Retail Stores Totals	369	208,224	300	354,353	972	1,036,396	873	730,059
All Other Outlets	348	37,400	298	79,120	1,260	652,853	906	159,768
Totals All Outlets	707	245,624	598	433,473	2,232	1,688,249	1,779	889,827

Please note that for the City of Lodi in Table 3 above (pasted directly from the California State report) there were **63 permits granted** implying that during 2005, 63 stores in Lodi were primarily engaged in food sales in 2005. However, the EIR lists only 9 stores which comprise the major supermarkets in Lodi. Thus, their analysis has omitted 54 stores, a substantial amount.

³ See California State Franchise Tax Board, Taxable Sales in California 2005, p.22, http://www.boe.ca.gov/news/pdf/ts_a05.pdf. Since **not** all food sales are taxable, the EIR inflates food sales using a standard procedure.

Partial List of Food Stores Omitted in EIR

1. Smart and Final⁴
2. Quik Stop Market 148
3. Downtown Market and Deli
4. Park India Spices
5. El Moljacetí Market
6. Pay Less Market
7. Buy 4 Less
8. Casa del Pueblo
9. Aldee Market
10. Salisbury Market
11. Los Portales Market
12. **Bil's 76**
13. Dos Hermanos Market
14. AM-PM Market
15. Quik Stop Market 152
16. Tokay Food and Liquor
17. **E & L market**
18. Star Market
19. Victor's Market and Deli
20. Camiceria California Deli
21. Lakewood Meats and Sausages
22. Fiori's Butcher Shoppe
23. La Chiquita Meat market
24. Dos Amigos

It is reasonable to assume, as the EIR appears to, that the remaining stores comprise ethnic stores, convenience stores, and smaller grocery stores. While nationally, sales at convenience and ethnic stores typically represent only a small percentage of total food sales, this percentage varies considerably depending upon a number of factors including local demographics. It is clear that in Lodi, which has a substantial Hispanic population (approximately 27%) as well as many other ethnic minorities, has a significant number of ethnic markets, as well as a number of convenience stores and "Mom and Pop" stores in and near the downtown. The proportion of sales represented by these stores cannot be ignored or dismissed as small.

⁴ This store was formerly a Grocery Outlet and was discussed in the **EIR** but not listed as a grocery store.

To estimate the impact of these sales, we have used the average size for a convenience or ethnic store of 2400 square feet and we have used the EIR's sales estimates per square foot, which are also reasonable for convenience/ethnic stores.⁵ Table 4 below presents the estimates based on these simple assumptions. Overall, the EIR has omitted just under 130,000 square feet of food retail space representing about one-third of the overall square footage and sales estimated in the EIR. If one applies BAE's assumptions about sales per square foot using national averages (which are similar for convenience and ethnic stores), this implies an omission of just over \$50 million in sales.

Table 4: Sales and Square Footage of 54 Food Stores Omitted in EIR

Total Square Feet 9 Supermarkets in Trade Area (BAE Report, p. 24)		391,663
Estimated Sales (BAE Report, p. 24)	\$	152,840,000
Avg. Convenience Store Size in square feet		2400
#stores excluded from BAE Analysis		54
Est. square feet omitted from study		129,600
Sales per square foot (BAE methodology)	\$	390
Corrected Total Square Feet Food Sales		521,263
Est. total Sales Omitted	\$	50,544,000
% BAE Estimated Sales		33%

Why does this matter? Because the EIR's omission of these sales leads it to overestimated food sales at the grocery stores in Lodi and thus paint a rosier picture of grocery store sales than is realistic.

Table 5 below incorporates the omitted square feet of retail space for convenience stores. To be fair and consistent, we have increased the sales slightly reflecting the complete 2005 taxable sales of \$59,615,000 (see our Table 3) as opposed to BAE's estimate of just over \$55 million.⁶

⁵ See Neighborhood groceries: New Access to Healthy Food in Low Income Communities, California Food Policy Advocates, 2003, <http://www.cfpa.net/Grocery.PDF>, and The Association For Convenience and Petroleum retailing: http://www.nacsonline.com/NR/exeres/00002daajcpwltgfyhcgdpl/GeneralUse_Resource.asp?NRMODE=Published&NRORIGINALURL=%2fNACS%2fResource%2fIndustryResearch%2fwhat%2fis%2fa%2fcstore%2fhtm&NRNODEGUID=%7b26411FAF-587F-466D-8968-90799BACDE74%7d&NRQUERYTERMINATOR=1&cookie%5Ftest=1.

⁶ The BAE estimate is for the year ending in the third quarter 2005 whereas ours is for all of 2005. These numbers should be quite similar. It is possible that BAE has assumed that the \$4 million in taxable sales, which translates into \$12.5 in total sales is meant to represent convenience store sales, but this represents less than 8% of all sales even though such stores comprise one third of BAE's estimate of grocery square footage.

When one includes omitted retail space for food sales, as shown in table 3, the average sales per square foot is actually \$317 per square foot, not \$390, as the EIR claims. This \$317 represents 81% of the national average sales per square foot employed as the standard of comparison in the EIR, indicating that Lodi's grocery retail market in 2005 was already struggling.

After the Supercenter is built the picture becomes far worse. Table 3 also examines the impact of the grocery component of a Supercenter. We apply the same sales figure as used in the EIR, \$28 million (though we believe that actual sales could be somewhat higher) and use the same methodology as employed in the EIR (simply subtracting Supercenter sales from the total of competitor store sales).

As shown in Table 5, after the Supercenter opens, average sales at food stores will be \$263 per square foot, two-thirds of the national average. Consequently, it is clear that some stores would close. Accounting for an increase in demand in 2011 (as the EIR does) only increases this percentage to 70%, still very low.

Table 5: Corrected Sales per square Feet at Lodi Food Stores

BAE Estimate of Grocery Square Feet (BAE Report, Table 11 p. 24)		391,663
BAE Estimate of Grocery Sales(BAE Report, Table 12 p. 26)	\$	152,840,000
BAE Estimate Sales/sq. ft	\$	390
Actual Food Store Square Feet (this memo Table 2)		521,263
Corrected Food Store Sales 2005		165,370,000
Corrected Sales/Square Feet	\$	317
% ULI National Average before Supercenter		81%
BAE Estimated Supercenter Food Sales (Table 18, p. 47)	\$	28,533,202
Sales at other Grocery Stores after Supercenter		136,836,798
Sales per Square Feet	\$	263
% ULI National Average after Supercenter		67%

It is also clear, as one would expect, and as the EIR acknowledges to some extent, that some stores are doing much better than the average, while others are doing much worse. Although the Food 4 Less next to the existing Wal-Mart is doing reasonably well it can be expected to lose substantial sales and is at risk due to its proximity. On the other hand, the Albertson's near downtown is already performing poorly and even a small reduction in sales would likely lead to closure. The S-Mart on W. Kettleman, just down the road from the proposed Supercenter is also performing poorly and is a strong candidate for closure. Finally, the nearby Safeway is also doing poorly. The EIR argues that the Safeway will be immune from closure since it targets a more upscale customer, but Wal-Mart Supercenter's grocery component competes well with Safeway and we believe the Safeway is in jeopardy.

Our data indicates that the grocery market is already struggling due to overcapacity. The most likely scenario involves the closing of Albertson's and the S-Mart on W. Kettleman, though the Safeway could close instead. The Albertson's is near downtown Lodi and hence its closure would

impact traffic of customers to the Lodi's downtown. The S-Mart anchors an older shopping center and its closure could bring down the entire shopping center, which is already weak.

- **The EIR's quantitative analysis omits many significant general merchandise (GM) stores. As with food store sales, this omission leads to an overly optimistic assessment of GM retailing in Lodi and hence biases the EIR's conclusions about urban decay.**

As with food sales, the EIR spends a considerable amount of time deciphering the aggregate data for general merchandise (GM) sales. It divides GM sales into drug store and non-drug store sales. However, the EIR's analysis of non-drug store sales only examines the three large GM retailers in Lodi: the current Wal-Mart, Target, and K-Mart (BAE Report, Table 13, p.27).

As indicated in our Table 3 above, the California Board of Equalization lists 24 GM stores in Lodi. The EIR only analyzes eight of these stores (3 large stores plus 5 drug stores). However, Lodi has a number of medium sized GM stores such as Ross, J C Penney, Marshalls and Mervyns (now closed), which make a significant contribution to GM sales (see Table 6 below).

Table 6: Square Footage of GM stores Omitted in EIR's Quantitative Analysis⁷

Store	Square Feet
JC Penney	75,000
Ross Stores	33,000
Marshalls	32,000
Mervyns	80,000
Pier 1	9,000
Misc Dollar Stores (e.g. Dolex, Dollar Joe's, 99 cents)	45,000
Other General Merchandise	35,000
Total	309,000

The EIR discusses many of the medium sized GM retailers such as JC Penney, but the quantitative analysis employed in the EIR, which is used to render its final conclusions, ignores these stores. If one examines the EIR's estimates carefully, it becomes clear that the EIR has failed to take sales at these stores into account properly.

⁷ The Mervyns store has since closed but was open at the time of the EIR analysis

Why is this important? As with food sales, when one incorporates these omitted stores in the *quantitative* analysis, the overall picture of GM sales is far bleaker. As indicated in Table 7 below, incorporating the omitted square footage implies a much lower level of sales per square foot, **\$209**, well below the national average for GM sales.

Table 7: Sales per Square Foot at Non-Drug GM Retailers

3 major GM Store square footage (BAE Table 13, p.27)	313,906
Omitted General Merchandise square footage	309,000
Total	622,906
BAE est. sales non-drug GM stores (BAE Table 8, p. 17)	\$ 135,441,000
Average sales/sq. ft.	217

As with food sales, the results indicate that the retail market in Lodi is far less healthy than the EIR implies. Indeed, a number of stores appear to be struggling, not just the K-Mart. The low sales per square feet not only implies that additional stores will be at risk, but it is also an indication of a general glut in the retail market. Adding over a million square feet of new retail in Lodi will add significantly to this rut.

• The EIR underestimated the size of the Reynolds Ranch Project and thus the Cumulative Impacts of both Projects.

The EIR (BAE report, p. 63) discusses the cumulative impacts of the Lodi shopping center project as well as the (now approved) Reynolds Ranch project. However, the EIR assumes that the Reynolds Ranch project will be, at most, 640,000 square feet when, in fact, it was recently approved for up to 750,000 square feet—10,000 additional square feet of retail.⁸ We believe that this increase was reasonably foreseeable and that the consultants, far from acting conservatively, failed to assess the situation properly. Further, the cumulative impact of this additional 10,000 is significant, especially when added to other substantial omissions in the EIR.

• The EIR omits impacts from retail outside of the Trade Area.

The EIR mentions the possibility of two new Supercenters near Lodi, one in north Stockton and one in Galt, ten miles away. However, the EIR dismisses the impacts here since these stores will be constructed outside of the trade area. However, the EIR clearly shows that in General Merchandise, food, and other retail, Lodi draws people from outside the trade area, which is why Lodi has a surplus.

The Supercenter in Galt will clearly have a significant impact on Lodi since currently residents of Galt have no Wal-Mart, Target, or other large GM store. Lodi is the closest city to Galt—10 miles away and thus makes a much more convenient destination than Stockton or Sacramento.

Our conversations with retailers also indicated that Lodi draws a considerable amount of trade from the east into Amador County where a number of small towns in the foothills come down to Lodi on Hwy 12 and Hwy 88 to 12 to shop. The EIR also fails to mention that the construction of new projects, in particular, the over 300,000 square feet Amador Ridge shopping center in

⁸ <http://www.lodi.gov/clerk/aaPDFimages/m09-17-08.pdf>

Martell, which will draw customers who would have driven to Lodi previously. This project includes Lowe’s, Petco, Staples and other stores which would provide retail currently not provided in the area. Many residents used to travel over thirty miles to go to Lodi for such shopping.

AMADOR RIDGE
REGIONAL SHOPPING CENTER

ANCHORED BY **LOWE'S** **SAFWAY** **TARGET** **PETCO** AND **STAPLES**

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NOW OPEN

- ± 35 Acre Regional Community Shopping Center in the Heart of the Gold Country in Amador County, Martell, California, between the Cities of Sutter Creek and Jackson.
- Significant Tourist Activity stemming from the Area's Proximity to Yosemite, Lake Tahoe, the Kirkwood Ski Area and the Amador County Wineries.
- Planned Residential and Tourist Resort Developments in Martell, Sutter Creek and Jackson.
- Jackson Ranchario Entertainment and Conference Center with over 1 Million Visitors Annually and 1,500 Employees.

Under Preparation (Diagrams, EIR, License of PSN)

CBRE
CB RICHARD ELLIS

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Figure 7: The Amador Ridge Regional Shopping Center contains over 300,000 square feet of retail including a Lowe’s, Staples, Petco (but not a Target as stated above) and other stores unavailable to residents when the EIR was conducted. This project was easily foreseeable when the DEIR was prepared (2007) hut was not included in the study.

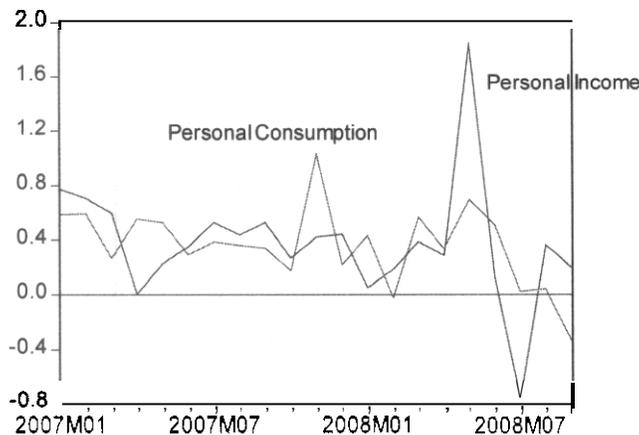
The **EIR** Ignores the Current Economic Downturn and the Foreclosure Crisis

The current EIR was completed in the spring of **2008**. By that time it was clear that the current housing/foreclosure crisis would have a profound impact on retail and exacerbate existing urban decay in Lodi. This crisis was certainly foreseeable; it is not sufficient for the consultants who prepared the **EIR** to dismiss these concerns, which are now upon **us**, as "speculative." If an economic analysis ignores economic reality, how useful is it? How does this further the goals of CEQA or the process?

Nationally:

The outlook for economic activity in the United States looks grim until **2010**. Recent Gross Domestic Product (GDP) figures, a measure of economic activity, declined at an annual rate of **0.3%** from July-Sept **2008**.⁹ According to the Bureau of Economic Analysis, the decline in GDP can be attributed to a sharp decline in spending by consumers (**3.1%**). This is the largest decline in consumer spending since **1980**. Durable goods spending decreased **14.1%**, nondurable goods spending decreased **6.4%**, and services expenditures increased **0.6%**.

Monthly Growth Rate in Personal Income and Personal Consumption Expenditures from January 2007 to September 2008
Source: Federal Reserve



When sales fall for firms, firms will layoff workers in an attempt to return to profitability, causing the unemployment to rise further. Further increases in unemployment, however, can result in further declines in spending as workers lose income. Indeed the US unemployment rate has risen from **6.1%** in September **6.5%** to in October—this is the 10th straight month of job losses in the US. Analysts at the Goldman Sachs Group Inc. forecast that the unemployment rate will further rise to **8.5%** by the end of **2009**¹⁰ Since consumer spending is 70% of **US GDP**, the decline in consumer spending is propagating and amplifying the recession. The International Monetary Fund (IMF) forecasts that US and global economic activity will be sluggish through **2009**.¹¹

The decline in home prices and mounting foreclosures is propelling the economic crisis. The decline in consumer spending is a direct result of declining incomes, wealth, the credit crunch,

⁹ <http://www.bea.gov/newsreleases/national/gdp/gdpnewsrelease.htm>

¹⁰ <http://www.bloomberg.com/apps/news?pid=20601087&refer=home&sid=aZdisKigEQIE>

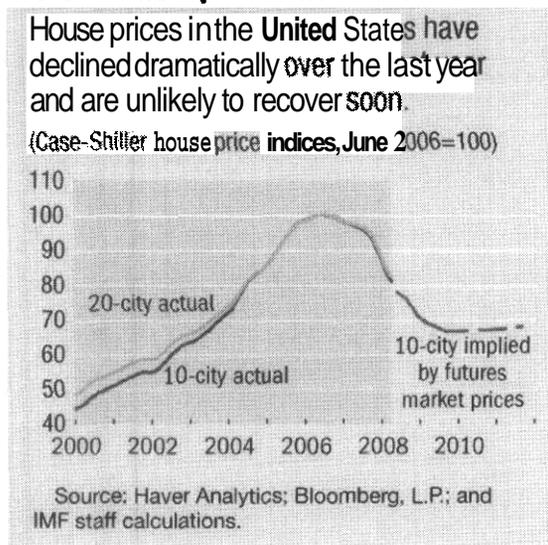
¹¹ <http://www.imf.org/external/pubs/ft/survey/so/2008/CAR080108A.htm>

and an overall decline in confidence about the future due to the housing and financial crisis. Many firms have been unable to obtain credit as local demand falls. Further, firms find it harder to raise credit when stock prices are falling, further compounding firm production and hence layoffs. Consequently firms have had to cut back on employment and wages, real disposable income (after tax income in constant dollars) for consumers fell **8.7%**. If consumers' incomes fall, consumers slow their spending.

Another reason for the decline in consumer spending is the decline in household wealth due to falling housing and stock prices. From a year ago house prices have fallen **15.4%** nationally and returns on the Standard and Poors 500 (S&P500) and **Dow Jones Industrial Average (DJIA)** has fallen **42.91%** and **37.97%** respectively.” The largest decline in home prices is in California. Sacramento alone has experienced a **37%** decline in the median home price which now stands at **\$212,000**. As chart 1 indicates, house prices are expected bottom-out in **2009** and are unlikely to reach the **2006** peak.

Chart 1

U.S. house prices tumble



Source: IMF Survey: United States Manages First Housing Bust in Four Decades

This means that many consumers are “upside-down” on their mortgages (they owe more on the mortgage than the house is worth) and many more will become “upside-down” so there are more future foreclosures. Mortgage delinquency rates on all loans in the second quarter of **2008** rose to **6.41%** nationally in particular, delinquencies on prime and sub-prime loans rose to **1.19%** and **18.67%** respectively. These delinquencies indicate that many consumers are experiencing financial hardship.

US foreclosure filings totaled **279,561** in October **2008**, an increase of **25 %** from a year ago. The fall in incomes and savings means that consumers are increasingly using credit to pay for necessities, The US is in the midst of a credit crunch; banks are tightly screening loan applicants,

¹² Stock returns using YTD <http://money.cnn.com/data/markets> and house returns 0 2 2007-02 2008 S&P/Case-Shiller Home Price Indices <http://www2.standardandpoors.com/spf/pdf/index/2008-10 Residential Real Estate Indicators.pdf>

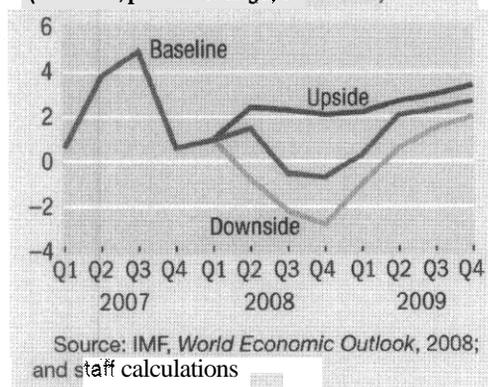
mortgage equity withdrawal has dropped (from \$700 billion in 2005 to \$20 billion Q2 2008), and banks are restricting credit to only those with excellent-good credit ratings. So many consumers are using credit cards to pay for day to day necessities resulting in a decline in retail sales every month since July. Retail sales will continue to fall further when credit cards are “maxed-out”. The October retail sales data shows sales down **2.8%** from September putting retail sales down in real terms for 5 months in a row. Again, it is the consumer that is now leading the recession since consumer spending is 70% of US GDP. The pattern of consumer spending over the last decade is over. Over the past few years consumers have spent well beyond their means by using home equity loans, credit cards, and auto loans to finance spending. **US** consumer debt as a percentage of disposable income (debt to income) increased from 70% in the early 1990’s to 100% in 2000 and now stands 140% in 2008.” **This pattern of consumer spending is not sustainable.** At some point, the debt must be repaid or there has to be an adjustment in the economy. The adjustment is occurring now.

Chart 2

Sluggish growth

The crisis in the financial and housing sectors makes the outlook for the U.S. economy uncertain.

(Real GDP, percent change, annualized)



Source: IMF Survey: United States Manages First Housing Bust in Four Decades

Chart 2 illustrates an IMF forecast of US GDP growth through 2009. The best case scenario is sluggish economic growth (indicated by the red-line in chart 2) assuming a substantial policy stimulus by the Federal government and the ability of banks to recover from the sub-prime mortgage mess. The worst case scenario (indicated by the green line in chart 2) is based on slowing economy causing more mortgage defaults and banks incurring further losses and feeding back into economic activity.

The Neilsen Company’s 2008 Holiday Forecast reports flat sales with over one third of consumers scaling back on discretionary spending. Their 21,000 consumer survey finds that 50% of households expect to spend the same as in 2007 and 35% of households will spend less than 2007. Only 6% of households reported that they would spend more than last year. The retailers

¹³ <http://www.rgemonitor.com/roubini-monitor/254419/20-reasons-why-the-us-consumer-is-capitulating-thus-triggering-the-worst-us-recession-in-decades>

that will benefit from the sluggish sales will be discount stores, online retailers, grocery, and mass-merchandise retailers. Department stores and specialty stores will suffer the most this season. The Nielsen Company also reports a worsening in economic conditions through 2009 and a fundamental shift in consumer behavior. Consumers are now shifting their spending behavior to levels they can afford.

Locally:

The economic situation at the local level mirrors the situation at the national level. This means that the retail sector at the local level will take a hit as local consumers slow their spending. In the Stockton MSA area (San Joaquin County) the unemployment rate stands at 10.2%, well above the national average of 6.5% and California average of 7.7%. Non-farm wage and salary employment is down 0.6% from a year earlier—the most affected sectors are in construction (-11.7%), financial activities (-10.1%), Leisure and Hospitality (-2.7%), Other Service (-3.9%), and Government activities (-1.0%). Only wages in two sectors are up from a year earlier: manufacturing (6.1%), trade, transportation, and utilities (1.7%) for the Stockton MSA.¹⁴

The housing market however, is worse in San Joaquin County compared to the national average. Since the downturn in house prices is leading cause of the economic crisis, the economic outlook presented here is not optimistic. According to RealtyTrac.com, 1/100 properties are foreclosed in San Joaquin County alone. As of November 19th 2008, the City of Lodi has 245 properties in pre-foreclosure, 113 under auction, and 618 properties bank-owned. In October of 2008, the City of Lodi had 88 new foreclosures in the 95240 zip code and 35 in the 95242 zip code. Many of the pre-foreclosed and bank-owned properties are located between South Main Street and South Cherokee Lane. With many households facing pre-foreclosure and foreclosure, it is likely that most consumers will buy necessities rather than “nice-to-have” items.

Fiscal Impact to the City of Lodi

For most cities the sales tax dollars derived from sales taxes contribute substantially to their budgets, particularly in the wake of Proposition 13, which limited property taxes. While the proposed shopping center will generate substantial sales it is clear that virtually all of these sales will come from displacement of existing sales. Indeed, the EIR essentially states this fact:

“the cumulative impacts of the Lodi Shopping Center and Reynolds Ranch project in addition to the Lodi center may lead to substantial cannibalization in sales from existing outlets in Lodi putting existing businesses at increased risk of closure.”
(BAE report p. 71)

As the EIR also indicates, based on State sales tax data and estimates of demand, it is clear that **the City of Lodi also has a substantial surplus in the key categories of general merchandise and grocery sales** (most of which are not subject to sales taxes) which the Supercenter would compete in. Indeed, the City already has a large Wal-Mart store very close to the proposed site. Thus it is reasonable to conclude that the net impact of the project, in terms of sales tax generation, will be a displacement of sales rather than new sales. For new sales taxes to occur, one of two things would need to happen:

1. The Supercenter would have to attract new customers who currently do not shop in Lodi
or

¹⁴ Source: US Bureau of Labor Statistics.

2. The Supercenter would have to “capture” sales leakage in categories that are underserved currently in Lodi.

For a variety of reasons, partially explained in the EIR, it is unlikely for (1) above to occur. First, Lodi already has a large Wal-Mart store and a number of grocery stores which attract local customers as well as some out of town customers. Second, a Wal-Mart Supercenter exists in nearby Stockton, one has been proposed in Galt, and three others in Stockton, one currently operating, one was recently approved, and one being litigated. These other Supercenters limit the appeal of the Project to nearby customers.

Indeed, the EIR concludes that additional sales (and hence sales ~~tax~~ dollars though this is never specified) will be generated by capturing leakage in two underserved retail categories in Lodi: apparel, and “other retail.” The EIR assumes that **25%** of the estimated leakage in these categories will be captured by the Lodi shopping center, either at the Supercenter or auxiliary retail.

Unfortunately, the EIR gives no details on how this retail leakage will be filled. The **25%** estimate seems to be mere speculation (something the consultants of the EIR have criticized others for doing). Realistically, to fill leakages in these retail categories, one would need new shopping venues in Lodi. There is no evidence that the Project will provide such venues. Instead the shopping center largely duplicates what is already abundantly available in Lodi—general merchandise, grocery, drugstores, fast food, and other restaurants. In the retail category, the GAP and its sister store, Old Navy are very large apparel retailers that do not exist in Lodi. (Customers must go to nearby Stockton.) Other popular retailers such as Abercrombie and Fitch, BeBe, Ann Taylor, Nordstrom, Macys, Sears, etc. are also missing in Lodi and available only in Stockton or Sacramento. It is unlikely that these stores would locate in the Lodi Shopping Center since most of these stores rarely team with Wal-Mart.

Similarly, Lodi lacks a major chain bookstore (e.g., Borders or Barnes and Noble) or a Costco, which undoubtedly results in some sales leakage. The EIR simply does not provide any rationale for believing that the retail leakages in these categories will be filled, but simply relies on an unexplained assumption.

Even if one accepts the estimate of sales capture in the EIR, (see BAE report, p. 44, Table **16**) one is left with an estimate of \$14.3 million in new sales, generating \$143,000 in new sales taxes per year, or 0.3% of its general fund budget for 2008-9 of **\$43 million**.

The EIR also fails to account for the fact that the (now approved) Reynolds Ranch project will almost certainly close much of the leakage in the apparel and other retail sectors, since the Reynolds project (unlike the Lodi shopping center) can reasonably be expected to contain an array of retail now lacking in Lodi. The Reynolds Ranch project will also be built in east Lodi, drawing customers who do not go to stores that already exist near the proposed Supercenter on W. Kettleman.

As store closings occur, other taxes such as business licenses, property taxes utility fees and other sources of City revenue will also fall. Essentially, what happens as retail shifts from older stores to the newer stores is that taxes will also shift, but **no** net increase occurs. Indeed, as urban decay sets in, one should expect property values to fall and economic activity to drop, lowering overall tax revenues.

Compared to the increased expenses just of policing the additional area, plus the costs of urban decay to the City, it is clear that the costs will easily exceed \$143,000 per year. The project would entail the following additional costs to the City of Lodi:

1. Providing public safety and fire services for several acres of land that were formerly farm land (and hence less expensive to provide such services).
2. Abating graffiti, run-down buildings, and other consequences of urban decay that the EIR states the City will do.
3. Dealing with increased crime in areas where blight has been exacerbated by the new retail.

The costs of 1-3 above should be considerably higher than \$143,000, which, as noted above, is an optimistic estimate of the new sales taxes that would be generated by this project. For example, the City of Los Angeles spends \$28 million per year on graffiti abatement alone and the costs for a typical City are about \$1-3 per resident. The EIR argues that abatement of urban decay will be paid for by fines. However, if that is the case, why has blight and urban decay already set in? Clearly such statutes only partially alleviate urban decay, and at considerable cost to the taxpayer.

Increased crime and the costs of law enforcement is also an issue. Two recent studies of Wal-Mart Supercenters¹⁵ indicate that crime is an issue at Wal-Marts and that Wal-Mart stores have significantly higher incidences of crime, as measured by police reports, than similar stores such as Target. Table 7 below contains data from one study of Wal-Mart stores¹⁶ indicating that the average store in California and the US reported approximately 270 serious incidents per store per year. Each incident involved an average cost of \$77.50 implying that local police departments had to spend about \$21,000 per store. Since most of these stores are much smaller than a Supercenter, one should expect substantially higher expenses in Lodi, with its bigger store.

Table 7: Cost of Police Incidents at a Typical Wal-Mart Store

	California	US
# Incidents	24,682	148,331
#Stores	91	551
Avg. Incidents/Store	271	269
Avg. Cost /Incident	\$77.50	\$77.50
Avg. Cost /Store	\$21,020	\$20,863

If these crime reports simply displaced existing crime, one could argue that the net cost to the City would not change. However, as noted above, blight and urban decay also increases crime. Thus it is likely that crime would increase due to urban decay and one would also have to address the crime that occurs at Wal-Mart stores.

Conclusion

The EIR contains a number of serious flaws and omissions which distort their analysis and conclusions. Perhaps most critical is its failure to even recognize the existing environmental setting in Lodi—as indicated by the City’s declaration that much of the eastern part of the City is a blight zone. The EIR admits that stores will close, but fails to relate these closings to existing urban decay, except in a very small area downtown.

¹⁵ See Crime and Wal-Mart –Is Wal-Mart Safe, May 2006, <http://walmartcrime.com/report.pdf>, and “Crime at Wal-Mart, <http://walmartwatch.com/img/documents/CrimeAtWalMart.pdf>.

¹⁶ Crime and Wal-Mart –Is Wal-Mart Safe, May 2006; data from Table 2, p. 7.

Although the EIR makes clear that a number of large stores are at risk of closure, it goes out of its way to minimize these damages, by omitting important data. We expect that the consultants who prepared the EIR will state that they have considered these stores in their analysis since some of these stores have been mentioned in the report. However, the key data presented in Tables 11 and 13 of the BAE report. on maior (GM and grocery) store sales in Lodi. is distorted seriously by these omissions and thus the conclusions rendered in the EIR are flawed—the situation, in particular the health of GM and food retailing, is far worse than the picture painted in the EIR.

Consequently, these serious omissions in the EIR imply that the probability of urban decay is far higher than the EIR concludes. Indeed, in our opinion, the Lodi project, in conjunction with the already approved Reynolds Ranch Project, will significantly exacerbate already existing blight and urban decay in downtown and eastern Lodi, particularly in downtown Lodi, at retail on Cherokee Lane and at older shopping centers and on W. Kettleman.

As a result, many retailers in the City of Lodi will close, resulting in significantly lower rents and hence lower maintenance and eventual urban decay. Parts of downtown Lodi are already deteriorating, as noted in the EIR, and the Lodi shopping center would seriously exacerbate this deterioration. Lower rents would make it much harder to maintain these properties and virtually impossible to do the seismic upgrades that are needed for many structures downtown, as mentioned in the EIR. This conclusion is not based upon “speculation,” but upon the most basic concept in all of economics — supply and demand.

It is clear that the demand for retail in Lodi will grow very slowly, if at all. Indeed, if the current housing downturn persists for several years as we believe, then growth out to 2011 may be close to zero or even negative. But even with the very low growth forecast by the EIQ it is clear that there will be a glut of retail, particularly if the Reynolds Ranch project is also built. It is not speculative to follow a logical argument based on the facts and data. Rather it is speculative to paint a rosy picture, **as** the EIR does, and ignore the basic facts.

It is abundantly clear from the data presented in the EIR (BAE report, table 10, p. 22), that Lodi already has a substantial surplus of \$33 million dollars in retail. For a relatively small city, not far from much larger cities (Stockton and Sacramento) this is already quite substantial. However, the EIR essentially ignores the possibility that some of this surplus might be lost due to retail developments in towns and cities where people now come from to shop in Lodi (i.e., Galt and towns to the east of Lodi, **as** well as developments in N. Stockton).

When one adds in the proposed Supercenter in Galt, developments in Amador County and N. Stockton **as** well as the current downturn in the credit markets, one has to question the veracity of an analysis which essentially dismisses all of these factors, while claiming to be “conservative.”

Even with these omissions, the EIR recognizes that the Lodi shopping center will leave a 120,000 square foot closed Wal-Mart store and result in the additional closing of several hundred thousand square feet of retail space in Lodi. The EIR also recognizes substantial physical deterioration and poor maintenance downtown, a harbinger of urban decay. However, the EIR then concludes that this substantial increase in store closings will have no significant impact on downtown rents and hence the health of downtown retail. This makes no sense. The retail mix in downtown Lodi, small inexpensive restaurants, hairdressers, discount stores, business services, etc., are all types that could easily migrate to other places in the city, in particular shopping centers with newly closed stores (**as** a result of these projects).

When one also incorporates the data omitted in the EIR’s quantitative analysis, it becomes clear that downtown Lodi is in serious jeopardy of further physical deterioration and urban decay. If one also looks at the cumulative damages of the Reynolds Ranch project, which would

cumulatively increase retail space in Lodi by over one million square feet, it becomes clear that urban decay is an even more serious issue.

The EIR also completely omits any discussion of the current housing crisis and economic downturn even though it was clear before these reports were completed that the downturn would be severe and that it would hit central California particularly hard. The EIRs failure to even discuss economic events that are headline news almost every day is further indication that the analysis is flawed and systematically omits information which would lead to any conclusion that urban decay is a significant issue.

Finally, it **is** clear from the EIRs own analysis that the project will not generate substantial sales or other taxes. At best, one can expect \$140,000 and we anticipate that with the development of the Reynolds Ranch project the smaller amount of leakage that already exists in Lodi will already be filled—by stores that are lacking in Lodi as opposed to duplicating existing retail as this project clearly does.

In sum, the consequences of this Project will result in significant urban decay in the City of Lodi.

PHILIP G. KING

Economics Department, San Francisco State University

E-mail: pgkin@sfsu.edu

Education:

- July, 87 **Ph.D. in ECONOMICS** **CORNELL UNIVERSITY**
Fields: Applied Microeconomics, Economic Development, International Economics
Dissertation: Bargaining between Multinational Corporations and Less Developed Countries over Mineral Concessions/Contracts.
- May, 78 **B. A. in PHILOSOPHY & ECONOMICS** **WASHINGTON UNIVERSITY**
Nominated to Omicron Delta Epsilon (Economics Honor Society)

Work Experience:

- 9/02-12/05 **CHAIR, ECONOMICS DEPARTMENT** **SAN FRANCISCO STATE UNIVERSITY**
- 9/93-present **ASSOCIATE PROFESSOR** **SAN FRANCISCO STATE UNIVERSITY**
- 9/87-9/93 **ASSISTANT PROFESSOR** **SAN FRANCISCO STATE UNIVERSITY**
- 9/83-5/85 **ASSISTANT PROFESSOR, ECONOMICS** **S.U.N.Y. at CORTLAND**

- Books:** *International Economics, Globalization and Policy*, McGraw-Hill, 2008.
International Economics and International Economic Policy, 4th Edition, McGraw-Hill, 2004.
International Economics and International Economic Policy, 3rd Edition, McGraw-Hill, 2000.
International Economics and International Economic Policy, 2nd Edition, McGraw-Hill, 1995.
International Economics and International Economic Policy, 1st Edition, McGraw-Hill, 1990.

Policy Papers prepared for Government and Non-Profit Organizations:

Economic Analysis of A Proposed Ordinance to Limit Grocery Sales at Superstores in Stockton, California, 2007.

"The (Economic) Benefits of California's Beaches," prepared for the California State Resources Agency, 2002, <http://dbw.ca.gov/beachreport.htm>.

"The Economic and Fiscal Impact of Beach Recreation in San Clemente," presented as part of Hearings on Congressional Appropriations for California Coastal Projects, US House of Representatives, April 2002. Also completed similar projects for Cities of Carpinteria, Enditas, and Solana Beach.

San Francisco's Economic Growth 1995-2000 The Fiscal Health of the City and Implications for the Future," prepared for the San Francisco Committee on Jobs Summer 2001, available at <http://online.sfsu.edu/~pgking/newpage22.htm>. This report was

widely cited in the San Francisco press including front page articles by the *Chronicle and Examiner*.

"The Demand for Beaches in California,' prepared for the California Dept. of Boating and Waterways, Spring 2001.

"Cost Benefit Analysis of Shoreline Protection Projects in California,' prepared for the California Dept. of Boating and Waterways, Spring 2000.

"The Fiscal Impact of Beaches in California,' prepared for the *Public Research Institute*, San Francisco State University, Fall 1999, available at <http://online.sfsu.edu/~pgking/beaches.htm>.

"An Economic Analysis of Coastal Resources on the Majuro Atoll," prepared for the *United Nations Development Program* Project MAS 95/001/D01/99 and the *Majuro Atoll Local Government*, September, 1997.

"The Economic Impact of California's Beaches,' prepared for the *Public Research Institute*, San Francisco State University, Summer, 1997 (with Michael Potepan.)

"The Revenue Impact of the Proposed Marine Link Pipeline System in Richmond, California,' prepared for the *Public Research Institute*, San Francisco State University, Spring, 1997 (with Ted Rust.)

"The Economic Impact of California's Ports and Harbors," prepared for the *Public Research Institute*, San Francisco State University, Spring, 1997 (with Ted Rust).

Published Academic Papers:

"Potential Loss in GNP and GSP from a Failure to Maintain California's Beaches", 2004, with Douglas Symes, *Shore and Beach*, Forthcoming.

"The Economic Value of California's Beaches,' Fall 1997, *Proceedings of the Conference on California and the World Oceans* (with Michael Potepan)

"William Simon: Treasury Secretary," in *Biographical Dictionary of the United States Secretaries of the Treasury: 1789-1995*, edited by Bernard Katz and C. Daniel Vencill, Greenwood Press, 1996.

"The Multinational Corporation: Pro and Con," in *International Economics and International Economic Policy*, McGraw-Hill, 1990.

"Negotiations over Mineral and Petroleum Contracts in Developing Countries: a new explanation," Winter 1987, *Journal of Economics and International Relations*.

"A Political Theory of MNC-LDC Negotiations over Mineral Concessions Contracts," 1988, *International Interactions*.

"Are Minimum Quotas Inefficient?" presented at the *Western Economics Association* Conference, Los Angeles, July 1988.

"The Debt crisis and LDC leaders," presented at the *Public Choice* meetings, San Francisco, March 1988.

"Adverse Selection and Competitive Health Care,' presented at the *American Economic Association* Meetings, New Orleans, December 1986.

SHARMILA KUMARI KING

PERSONAL

University Address: Department of Economics
University of the Pacific
3601 Pacific Avenue
Stockton, CA 95211

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EDUCATION

- Ph.D. Economics, University of California, Davis, **2001**
Dissertation: The Formulation of Monetary Policy and the Transmission Mechanism in Europe
(Chair: Professor Kevin Hoover)
Major Fields: Monetary Economics, International Finance, and Econometrics
- M.A. Economics, San Francisco State University, San Francisco, **1996**
- B.A. Economics (Honors), University of York, York, England, **1992**

TEACHING APPOINTMENTS

Associate Professor, University of the Pacific, **Fall 2007-present**

Assistant Professor, University of the Pacific, **Fall 2001-Spring 2006**

- Introductory Macroeconomics (ECON 55, ECON 55H)
- Intermediate Macroeconomics, Theory and Policy (ECON 103, ECON 103L)
- Money and Banking (ECON 141)
- International Finance (ECON 123)
- Computer Applications (ECON 161)
- Mentor2

PAPERS and BOOKS

- “Bank Efficiency and the Effectiveness of Monetary Policy” with Michael Jonas, *Contemporary Economic Policy*, October 2008
- Philip King and Sharmila King *International Economics and Globalization, and Policy: A Reader*, 5th ed. McGraw-Hill Publishers, 2008
- Philip King and Sharmila King *International Economics and International Economic Policy: A Reader*, McGraw-Hill Publishers, 2005
- “Do Symmetric Shocks Matter? The Monetary Transmission in the Euro Area,” with Philip King, *Jean Monnet Chair Conference Proceedings*, 2003
- “Tax Evasion and Equity Theory: An Experimental Investigation”, with Steven Sheffrin, *International Tax and Public Finance*, 9, 505-521, August 2002
- Sharmila King “Currency Boards” in *International Economics and International Economic Policy: A Reader*, Philip King and Sharmila King (Eds.), McGraw-Hill Publishers 2005

- Sharmila King “China’s Controversial Exchange Rate Policy” in *International Economics and Globalization, and Policy: A Reader, 5th ed.* McGraw-Hill Publishers, forthcoming Fall 2008
- “A Credit Channel in Europe: Evidence from Firm Balance Sheets”, *under revision*
- “A Lending Channel in Europe: Evidence from Bank Balance Sheets”, *under revision*

PRESENTATIONS

- “Bank Efficiency and the Effectiveness of Monetary Policy” at the *Western Economic Association International* Conference, Vancouver, July 2004
- Economics Department Colloquium Presentation: “Bank Efficiency and the Effectiveness of Monetary Policy”, April 2004
- “Do Symmetric Shocks Matter? The Monetary Transmission in the Euro Area,” at the Jean Monnet Chair “Regional Integration Compared Conference in Bordeaux, France, July 2003
- “Do Symmetric Shocks Matter? The Monetary Transmission in the Euro Area,” at the *Western Economic Association International* Conference in Seattle, July 2002
- Economics Department Colloquium Presentation: “Do Symmetric Shocks Matter? The Monetary Transmission in the Euro Area,” April 2002
- “A Credit Channel in Europe: Evidence from Firm Balance Sheets” presented at the *Western Economic Association International* Conference in Vancouver, July 2000

UNIVERSITY SERVICE

- College of Pacific Council -present
- College of Pacific: Curriculum Committee 2007-present
- Department of Economics Webmaster, Fall 2004-Fall 2008
- Omicron Delta Epsilon Faculty Advisor 2006-2008
- The Pacific Investment Group Faculty Advisor 2007–present
- College of Pacific: Courses and Standards 2003-2005
- University Parking Taskforce Committee 2004

PROFESSIONAL SERVICE

- Peer Reviewer for *Southern Economic Journal*
- Economics Analysis of MOA between the City of Stockton and the Sierra Club, 2008
- Economic Analysis of a Proposed Supercenter Wal-Mart in Tracy, California 2006
- Economic Analysis of a Proposed Supercenter Wal-Mart in Stockton (Eight Mile Road), California 2005
- Economic Analysis of a Proposed Supercenter Wal-Mart in Lodi, California 2005,2008
- Book Review on Krugman and Well’s *Macroeconomics*, Worth Publishers, 2004
- Chapter Review Stiglitz and Walsh’s the Phillips Curve in *Principles of Macroeconomics*, W. W. Norton Publishers, 2004

SUPERCUTS®

December **9,2008**

To Whom It May Concern:

I am writing this letter in **Support** of the Browman Development **Company** in their efforts to bring a Super Wal-Mart **to the Lodi Community.**

I have been a Supercuts franchisee for **23 years, and own** eighteen stores in and around the Sacramento area. **We have never owned** our own **buildings, so in** that time I have worked **with many** landlords. I can **say** without question that **Browman** Development **Company has** been a pleasure to **work with.** They **own** the **centers** that are home to two of **our** stores, **and** in my opinion, have always done an excellent job of running them.

The centers are well maintained, clean, and **have** very **low** vacancy **rates.** Their people are easy to work with, **and very** professional. They do a great job of **supporting** their **tenants,** and make it easier for me to be successful. We have **been in our** Lodi location for twelve years **now,** and **look forward** to a long and continued relationship with the people of **the Browman** Development Company.

Sincerely,



Michael James
Supercuts Franchisee

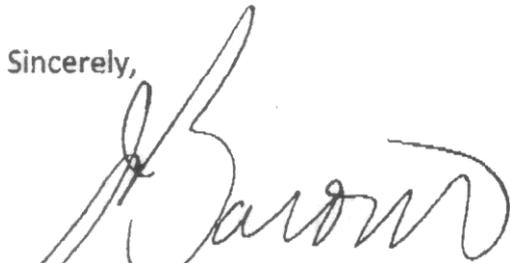
12/8/2008

ExpressWireless-Verizon Wireless Retailer
2314 W. Kettleman Lane #108
Lodi, CA 95240

To whom it may concern:

Express Wireless is Lodi's Verizon Wireless exclusive retailer and we've been in business in Lodi's Sunwest Plaza since April of 1995. The citizens of Lodi, Galt and the surrounding communities have supported us and the store has always been one of our top performers. One big reason for our success is the quality of the shopping center. Browman Development was successful in attracting a diverse mix of excellent tenants and the occupancy rate has been close to 100% from day one. Sunwest Plaza continues to be Lodi's busiest shopping center and because of the great job the Browman team has done maintaining the property, it still looks and feels new. Our customers really seem to enjoy the shopping experience at Sunwest Plaza.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Baroni". The signature is fluid and cursive, with a large initial "J" and "B".

Jon Baroni, President
Express Wireless

From: Mark Green Dba Green <stringsl@sbcglobal.net>
Subject: Wal-Mart Supercenter
To: cityclerk@lodi.gov, shitchcock@lodi.gov, bjohnson@lodi.gov, jmounce@lodi.gov,
pkatzakian@lodi.gov, Ihansen@lodi.gov
Date: Tuesday, December 9, 2008, 1:35 PM

Dear Mr. Mayor and Council Members,

The purpose of this letter is to communicate my support of Browman Development for its ongoing proposal for the Wal Mart Supercenter. I have been a tenant of Browman Development since 1994. It has been my experience that Browman Development is a quality landlord and is committed to their tenants success. Our Center has always been totally occupied and I have confidence that all efforts will be made to insure that it will continue to be fully occupied in the future. I believe Browman Development is very aware of the importance of making sure all of their tenants continue to prosper, even with the Supercenter approval, as they will continue to be our Landlord after Wal-Mart has re-located. In my opinion, this project will only help keep more consumer spending In Lodi, which is good for our entire community. I urge each of you to take appropriate action to insure the approval of this project.

Regards,
Mark Green, Owner
Strings Italian Cafe
2314 W Kettleman Lane
Lodi, CA 95242

12/9/2008

EXHIBIT A

Sacramento Business Journal - May 20, 2008

<http://sacramento.bizjournals.com/sacramento/stories/2008/05/19/daily21.html>



Tuesday, May 20, 2008

WalMart opens Supercenter in Orangevale

Sacramento Business Journal - by Kelly Johnson Staff writer

Orangevale gets its first Wal-Mart Supercenter on Wednesday with the opening of a store at 8961 Greenback Lane.

The 107,000-square-foot store, open around the clock, will employ more **than 285** people. Its grocery department will offer bakery **goods**, deli and frozen foods, produce, meat and dairy.

The Supercenter was built with energy-efficient features to reduce energy and water consumption and reduce waste, including skylights, **LED** lighting, sensor-activated faucets and concrete flooring made in part with recycled materials.

To mark the store opening, Wal-Mart Stores Inc. (NYSE: WMT) will give \$18,000 to local organizations.

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The Modesto Bee (California)

Distributed by McClatchy-Tribune Business News

February 29, 2008 Friday

BUSINESS AND FINANCIAL NEWS

20080229-MO-Wal-Mart-is-to-open-next-year-0229

423 words

Wal-Mart is to open next year

The Modesto Bee, Calif.

Feb. 29—The smallest Wal-Mart Supercenter in California is to open in Modesto in early 2009, according to company officials.

The store, at 3848 McHenry Ave., will occupy one building that previously housed two stores in the North Point Landing Center.

Aaron Rios, a California spokesman for Wal-Mart, said the store will be 105,000 square feet, slightly smaller than a supercenter that Wal-Mart opened in Sanger last year in what was formerly a Kmart.

The Modesto supercenter will have grocery items, including full produce, bakery, deli and meat counter areas, Rios said, along with items found at a standard Wal-Mart store.

Rios said the supercenter will complement, not replace, an existing Wal-Mart store in Modesto on Plaza Parkway. Wal-Mart also has a store in Ceres and plans for a supercenter in that city.

The building that will house Modesto's supercenter has been home to a variety of tenants over the years. Most recently, a SavMax store closed there in 2002, and a Rite Aid closed in the other half of the building in 1998.

Wal-Mart will knock out an interior wall in the building to create one store. Rios said site work will begin as soon as the Bentonville, Ark.-based retail giant receives permit approval from the city of Modesto.

The supercenter will need about 350 employees, Rios said, and generate about \$500,000 in local sales taxes. Hiring will begin about three months before the store opens, Rios said.

Employees will get wages comparable with the average Wal-Mart pays in Stanislaus County -- \$11.67 an hour -- Rios said.

The store will have a budget for contributing to local nonprofit groups, as other Wal-Mart stores do, he said.

Wal-Mart Supercenters have been controversial in many cities -- including Turlock, where they prompted a virtual ban -- because of their effect on local economies and use of nonunion labor.

Rios said Wal-Mart's experience with supercenters in California suggests that consumers will like what they find at the new Modesto store.

"Once they're open, they're well-received," Rios said. "It's really an opportunity both for us to open a new store and for customers to save more money."

Studies for Wal-Mart project under way

October 28, 2008 12:00 am

By ALISHA WYMAN

The Union Democrat

As one grocery store owner has announced plans to open in Sonora, Wal-Mart is navigating the application process to add a second new store.

Wal-Mart officials sought Sonora City Council approval in January to expand the Sonora store by **27,477** square-feet dedicated to grocery sales.

The city has contracted with San Ramon firm Michael Brandman Associates to complete the Environmental Impact Report.

Jason Brandman, executive vice president and project director, estimates the report should be complete by early next year.

A series of studies are examining traffic impacts, whether it will hurt other area grocery stores, lighting, watershed and other environmental issues.

"We may potentially have significant impacts resulting from the project," he said, adding that his firm will recommend ways Wal-Mart could mitigate the effects.

The studies are still under way, so Brandman couldn't detail the firm's findings so far.

The existing 130,166 square-foot store was approved in 1992 as part of the Sonora Crossroads Shopping Center off of Sanguinetti Road. A 30,000-expansion pad on the east side of the building was included in the original project.

The store will help boost the local economy with **job** creation and other economic growth, as unemployment rises in the county, City Administrator Greg Applegate said.

"We've got to get some jobs going here; we've got to get some economic vitality going on, because we can't rely on the state government," he said. "We can't rely on the federal government."

The new grocery offerings at Wal-Mart **will** be in addition to a new grocery store slated to replace Albertson's in The Junction shopping center. Albertson's closed in February **2007** and left **65** employees without work.

Randy Toy, owner of a grocery store in Stockton, plans to open a store called PriceCo in its stead.

A languishing economy hasn't shaken Toy or Wal-Mart from their goals.

Stores like Wal-Mart usually do market studies of the area before plunging into the local business arena, Applegate said.

"They're not about to make an investment not knowing they're going to have a positive return," he said.

The two stores are essentially replacing John Sierra Market and Albertson's, he added.

Wal-Mart officials did not return a call in time for publication.

After completion of the EIR, there will be a 30-to-45-day public comment period. In addition to written comments, the city will hold a public hearing.

The consultant will examine the comments and give a reply.

It's up to the Sonora Planning Commission to approve or deny the final project.

Contact Alisha Wyman at awyman@uniondemocrat.com or 588-4526.

Close Window

Sonora Wal-Mart expansion plan in works

Published: January **11,2008**

By REBECCA HOWES

The Union Democrat

Wal-Mart wants to expand its Sonora store by nearly 27,500 square feet.

The City of Sonora Planning Commission will hold a public meeting Monday regarding the proposed expansion of the store, at 1101 Sanguinetti Road.

The meeting is to discuss the project's environmental ramifications,

Addressed will be city Community Development Director Ed Wyllie's recommendation that an environmental impact report be completed before a site plan and design review of the expansion project proceeds. An original EIR, prepared **15** years ago and before the store was built, advised that further environmental review may be required if major changes to the project were made.

The existing 130,166 square foot building at The Crossroads shopping center, if expanded **as** proposed, would grow to 157,657 square feet.

"The proposed expansion would be grocery oriented. Wal-Mart is possibly taking advantage now that Albertsons is gone," City Administrator Greg Applegate said.

The Albertsons store in East Sonora closed almost a year ago and has remained empty. Raiey's, a West Sacramento-based chain of supermarkets in California and Nevada, holds the lease on the still-vacant store in The Junction shopping center.

The closure of Albertsons left **65** employees without jobs.

The proposed expansion of Wal-Mart would create 100 to 150 new jobs and increase the sales tax revenues for the city, Applegate said.

The existing **store** is not open overnight, however, the proposed expanded store, if approved, would be open 24 hours per day, seven days a week.

Should the project be approved, parking spaces will increase from 787 to 876, which meets the city's zoning code requirements of one space per **200** square feet for retail use. Additionally, the project would improve existing ADA parking spaces along the front of the building.

The existing Wal-Mart store was approved by the City of Sonora **as** part of the Sonora Crossroads Shopping Center project in 1992. Included in the original project was a 30,000-square-foot expansion pad on the east side of the building.

The environmental review of the original project acknowledged the expansion pad, but it did not include development of the pad at that time.

The expansion area to the east of the building was rough graded when the shopping center was built and now houses storage containers.

"We **are** not allowing for urban sprawl. The area is already equipped for sewer and water lines. As a city we have concentrated on keeping the stores confined in a concentrated commercial area," Applegate said.

Since 15 years have passed since the first EIR, a new environmental report **should be prepared** by a consultant in accordance with California Environmental Quality Act and city EIR guidelines, Wyllie said.

Giving Sonora residents more choice when **grocery** shopping, increased sales **tax** revenue for the city and the creation of new jobs all contribute to the overall positive outlook Wyllie and Applegate share for the proposed project.

"I don't anticipate much muss or fuss," Wyllie said. "I feel pretty optimistic."

Neither Wal-Mart representatives nor **RSC** Engineering, a Roseville **firm** which submitted a site plan and design review application to the city on **Wal-Mart's** behalf, would comment.

Contact Rebecca Howes at 588-4531 or rhowes@uniondemocrat.com.

Sacramento Business Journal - October 8, 2007

<http://sacramento.bizjournals.com/sacramento/stories/2007/10/08/newscolumn1.html>

SACRAMENTO BUSINESS JOURNAL

Friday, October 5, 2007

Wal-Mart downsizing plans for Galt store to a hybrid format

Retailer hopes approvals will come more quickly with new site, size

Sacramento Business Journal - by [Kelly Johnson](#) Staff Writer

Wal-Mart Stores Inc. has moved to Plan B for Galt, with a site and smaller store that the giant retailer hopes will be more satisfactory to the community.

For several years Wal-Mart had **expressed** interest in -- but had no formal agreement for -- building a grocery-selling "supercenter" store in a 400,000-square-foot shopping center proposed for east of Highway 99 between Boessow and Simmerhorn roads.

Now Wal-Mart is in escrow for 10 acres a couple of miles away, at Twin Cities Road **east** of Fermoy Way, and **has** submitted plans to the city for a store of **132,000** square feet. This store would sell groceries, but it would be a blend of traditional Wal-Marts and the company's larger supercenter format of more than **200,000** square feet.

The proposed Wal-Mart also wouldn't be subject to a superstore ban the city is mulling. Galt city leaders are considering an ordinance that would ban stores bigger **than 140,000** square feet and require extra studies for stores of more than 100,000 square feet.

That requirement wouldn't be a problem for Wal-Mart, company spokesman Aaron Rios said, because the company already routinely includes **the** analysis the city is considering. Even **so**, Wal-Mart **objects** to the proposed ordinance. The city's planning process already **has** the tools available to evaluate projects on an individual basis, Rios said.

The proposed **Wal-Mart** is still several years away, Rios said. But **Wal-Mart** expects that this site and smaller store could get through the approval process and **start serving** customers sooner **than** the other location it was eyeing.

The **Twin** Cities Road site has the appropriate zoning with no big constraints, though traffic will be an **issue**, said **Curt** Campion, Galt's **community** development director.

Wal-Mart would become Galt's largest store, even at the smaller size. Galt's largest retailers now are **grocery** stores.

Wal-Mart would employ about 450 people. The retailer is still working on estimates for the **amount** of sales **tax** revenue the store would produce for the **city**.

While Wal-Mart has moved on, Southern California developer **PZ Partners** is still working through the planning process for 56 acres on which it wants to build the 400,000-square-foot shopping center.

Baby fashionmaker goes retail

After 18 years of selling wholesale **socks** for babies and toddlers, and other footwear, clothing and accessories, designer Jon Stevenson has opened his first retail location of Trumpette.

Trumpette opened in 1,000 square feet Aug. 28 in Gold River at 2095 Gold River Lane.

Stevenson, who moved himself and the business to the Sacramento area four years ago from Petaluma, figured his product line -- with **427** separate stock keeping units -- was now large enough to warrant a store. He'd like to have five stores open within **two** years, either company-owned or through licensing agreements. Stevenson, 52, said this region could support another store, perhaps in east Sacramento, Roseville or Sacramento-- he'd love to land in the upscale Pavilions center.

Trumpette's colorful tights, socks designed to look like shoes, Maryjane rain **boots** and other items are sold through 12,000 vendors, including Bloomingdale's, Neiman Marcus and Saks Fifth Avenue stores, catalogs and Trumpette's Web site.

Through a year-old deal with The **Walt Disney Co** Trumpette also can market itself in connection with Disney (**NYSE:DIS**) and sell its products at Disney's stores, parks and resorts.

About 60 percent of Trumpette's business is baby **socks** sold in six-packs, Stevenson said, but the company sells a variety of products for babies and **kids** up to age **7**.

Stevenson had **two** menswear stores in San Francisco **two** decades ago when he discovered a void in the baby fashion industry. He was a new single father of an adopted baby boy when his au pair, out with the baby, would hear complimentary comments about the cute girl. After Stevenson had a romper printed in front with the word "**BOY**" on it, others wanted to **buy** it. Trumpette **was born**.

Trumpette Inc., the wholesale business, employs **50** people in Rancho Cordova. Manufacturing is done overseas.

In the past five **years**, revenue has **grown** by 100 percent and the work **force has grown to 50 from** four. **Now**, with the store open, Stevenson **wants** to increase Trumpette's involvement with charitable groups.

Sacramento center sold

Evergreen Center, a 29,823-square-foot shopping center at **5575** Mack Road in Sacramento, has changed hands for nearly **\$7.9** million.

The buyer is **Lilac Real Estate Holdings** in Los Angeles, which **was** represented by Michael Pourmirza of **Sperry Van Ness**. It is the company's **first** purchase in Greater Sacramento. Brett **Machale of CB** **Richard Ellis** represented the seller, a Sacramento-based family trust.

Evergreen Center, built in **1985** on 2.94 acres, is 100 percent occupied. Its tenants include AutoZone and 7-Eleven.



DATE: April 4, 2008

TO: Interested Persons

FROM: Chris Erias, Associate Planner

SUBJECT: Notice of Preparation (**NOP**) to prepare a Draft Focused Environmental Impact Report for the Galt Wal-Mart Project.

PUBLIC REVIEW PERIOD: April 4, 2008 through May 5, 2008

The City of Galt is the lead agency for the preparation of an Environmental Impact Report (EIR) for the Galt Wal-Mart project located within the City of Galt. The document is being prepared in compliance with the California Environmental Quality Act (CEQA).

CEQA Section 15082 states that **once a** decision is made to prepare an EIR, the lead agency (the City of Galt) must prepare a Notice of Preparation (**NOP**) to inform all responsible agencies that an EIR will be prepared. The purpose of the **NOP** is to provide sufficient information describing the project and the potential environmental effects to enable responsible agencies to make a meaningful response regarding the scope and content of the information that should be included in the EIR. Comments are also being solicited from the public.

PROJECT DESCRIPTION

Project Location

The project is located in the City of Galt, California. Galt is located within Sacramento County and is approximately 27 miles south of Sacramento and 92 miles northeast of San Francisco. Highway 99 runs north to south through Galt and provides the major regional access to the City (See Figure 1). The project site is located at the southeast corner of Twin Cities Road and Fermoy Way. The proposed project site consists of approximately 11.26 acres on a single undeveloped parcel (See Figure 2) identified as Sacramento County Assessor's Parcel Number (APN) 148-0074-058. The existing land uses surrounding the proposed project site are as follows:

- North: Twin Cities Road abuts the project site to the north. Undeveloped property exists outside the current City limits beyond.
- South: The Emerald Senior Village abuts the project site to the south.
- East: A single family residential development (Rancho San Jon) abuts the project site to the east.
- West: Fermoy Way abuts the project site to the west across from which is a developed commercial shopping center that includes a Raley's Grocery Store and a Dollar Store beyond. Highway 99 is located less than a 1/2 mile to the west.

Project Components

The proposed project includes the development of the approximately 11.26-acre site and construction of an approximately 133,279 square foot Wal-Mart store, including a 6,030 square foot (s.f.) fenced outdoor garden center (See Figure 3). While the project site plan currently illustrates a 133,279 s.f. store, this EIR evaluates a maximum conservative not-to-exceed size of 137,277 square feet. The building would be oriented toward Twin Cities Road with vehicle access points on Twin Cities Road and Fermoy Way.

Table I lists the components included in the floor plan for the proposed project.

Table I Project Floor Plan Components	
General Merchandise Sales Area	69,119 sq. ft.
Grocery Sales Area	24,999 sq. ft.
Retail Tenant Area	782 sq. ft.
Stockroom Receiving Area	11,803 sq. ft.
Ancillary Area	7,247 sq. ft.
Grocery Support Area	7,909 sq. ft.
Indoor Garden Center	5,390 sq. ft.
Total Area	133,279 sq. ft.

Necessary entitlements for the development of the proposed project would include the following:

- Certification of the EIR, findings, and MMP ;
- Site Plan and Design Review;
- Sign Permit;
- Architectural Review; and
- Conditional Use Permit.

ENVIRONMENTAL EFFECTS

The City has reviewed the proposed Galt Wal-Mart project application and has determined that the EIR should address the following issues. Each issue chapter will include a discussion of the existing setting, the thresholds of significance, evaluation of potential impacts, mitigation measures, and monitoring strategies.

Land Use – The Land Use chapter will evaluate the consistency of the proposed project with the City of Galt’s adopted plans and policies. The chapter will address the City’s General Plan, Northeast Area Specific Plan, and Zoning Ordinance, as well as any other appropriate documents such as the recently

adopted Big Box Ordinance, to address consistency issues. The chapter will further assess the compatibility of the proposed project with the surrounding land uses, both existing and proposed. The land use chapter will identify land use impacts and mitigation measures and will note any inconsistencies or incompatibilities with adopted plans and policies created by the approval of the proposed project.

Aesthetics – The Aesthetics chapter will summarize existing regional and project area aesthetics and visual setting. The chapter will briefly describe project-specific aesthetics issues regarding development of the proposed project such as scenic vistas, scenic highways, existing visual character or quality of the site and its surrounding **areas**. In addition, the potential impacts related to the light and glare associated with retail centers in close proximity to residential uses will be analyzed. This chapter of the EIR will include an analysis of the existing setting, identification of the thresholds of significance, identification of impacts, and the development of mitigation measures and monitoring strategies.

Transportation and Circulation – The Transportation and Circulation chapter will describe existing traffic conditions, existing plus project traffic conditions (**near-term**), and cumulative traffic conditions (including with and without the proposed project). This chapter will be based upon a Traffic Impact Study prepared specifically for the proposed project. The chapter will also include standards of significance and methods of analysis, and will describe the impacts associated with the traffic and propose mitigation to reduce the level of impacts. The traffic chapter will summarize the existing and planned regional and local transportation network as well as existing and future traffic conditions. The chapter will identify traffic loads and capacity of street systems including level of service standards for critical street segments and intersections. In addition, a detailed site circulation and access review will be conducted to determine the adequacy of the proposed site plan in accordance with generally accepted traffic engineering standards. Construction traffic, emergency access, transit, pedestrian, and bicycle facilities will also be discussed and analyzed to ensure adequacy of the proposed facilities based upon existing City of Galt plans.

Air Quality and Climate Change – The Air Quality and Climate Change chapter will summarize the regional air quality setting, including climate and topography, existing ambient air quality, regulatory setting, and presence of any sensitive receptors such as hospitals, convalescent homes, and schools near the project or roads providing access to the project site. This chapter will be based upon an Air Quality Study prepared specifically for the proposed project. The air quality impact analysis will include a quantitative assessment of short-term (i.e., construction) and long-term (i.e., operational) increases of criteria air pollutant emissions of primary concern (i.e., ROG, NO_x, and **PM₁₀**) using the most current Urban Emissions (URBEMIS), an ARB-approved emission factor computer modeling program. Emissions of **onsite** sources of toxic air contaminants (TACs) associated with **the** proposed land **uses** and resultant impacts to nearby sensitive land **uses are** anticipated to be minor **and**, therefore, will be **qualitatively** discussed. Local mobile source carbon monoxide (CO) concentrations will be assessed using the CALINE4 model for any intersections projected to operate at unacceptable levels of service (i.e., **LOS E** or worse). **In** addition, detailed emissions calculations for diesel particulate based on expected activity levels will be prepared and a model run using the AERMOD dispersion program to estimate annual average concentration at sensitive receptors. The project's cumulative contribution **to** regional air quality will be discussed, based in part on the modeling conducted at the project level. Increases in greenhouse **gas** emissions (GHG) (i.e., carbon dioxide, nitrous oxide, and methane) attributable to the proposed project will also be quantified and included in the cumulative air quality impact discussion. The significance of air quality impacts will be determined in comparison to SMAQMD-recommended significance thresholds. SMAQMD-recommended mitigation measures will be **incorporated** to reduce any significant air quality impacts and anticipated reductions in emissions associated with proposed mitigation measures will be quantified.

Noise – The Noise chapter will include an analysis of the existing setting, identification of thresholds of significance, identification of impacts, and the development of mitigation measures and monitoring strategies. This chapter will be based upon a Noise Study prepared specifically for the proposed project. To assess potential construction noise impacts, sensitive receptors and their relative exposure to the proposed project area (considering topographic barriers and distance) will be identified. Noise levels of specific construction equipment will be determined and resultant noise levels at nearby receptors (at given distances from the source) will be calculated. To assess potential operational noise impacts, traffic noise modeling will be conducted based on daily traffic volumes to be obtained from the traffic analysis to be prepared for this project. Traffic noise modeling will be conducted for existing, existing-plus-project, and cumulative-plus-project scenarios. The assessment of long-term noise impacts will also include an analysis of stationary source noise impacts associated with the proposed project. This analysis will include an evaluation of the potential for proposed onsite noise sources to affect nearby noise-sensitive receptors. The significance of noise impacts will be determined in comparison to state and local noise standards. Feasible mitigation measures will be identified for any impacts found to be significant or potentially significant.

Energy – The Energy chapter will be based on Appendix F of the CEQA Guidelines. The chapter will consider the potentially significant energy implications of the proposed project. The chapter will identify the energy consuming portions of the project during construction and operations, and describe the existing energy supplies and energy use patterns in the area. The EIR will describe potential impacts and propose mitigation measures to reduce wasteful, inefficient and unnecessary consumption of energy.

Public Services – The Public Services chapter will summarize setting information and identify potential new demand for services on water supply, storm water drainage, sewage systems, solid waste disposal, law enforcement, fire protection, and schools. The chapter will be based upon consultation with the appropriate City and other agencies in order to address public services and utilities and obtain the most recent information. Impacts to law enforcement will be determined based upon a Police Services Impact Report prepared specifically for the proposed project. This chapter will include an analysis of the existing setting, identification of the thresholds of significance, identification of impacts, and the development of mitigation measures and monitoring strategies.

Socio-Economics – The EIR will include a Socio-Economics chapter to determine the extent to which the project will impact the existing retailers and shopping centers within the City and market area to determine potential impacts associated urban decay or deterioration. This chapter will be based upon an Economic Impact Study prepared specifically for the proposed project. The Economic Impact Study will include an annual sales estimate, primary market area definition, competitive store reconnaissance, vacancy analysis, and an analysis of retail sales leakage. The study will also assess the proposed project's impact on existing primary market area stores, address cumulative impacts, provide a determination regarding urban decay, and project fiscal revenues.

Cumulative Impacts – The EIR will discuss and evaluate the cumulative development that would occur independent of, but during the same timeframe as, the proposed project, or in the reasonably foreseeable future, as provided in CEQA Guidelines Section 15130. This chapter will determine whether project-level incremental contributions to impacts evaluated in the EIR are cumulatively considerable. CEQA Guidelines Section 15130(a)(1) defines a cumulative impact as “[...] an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts.”

Other Issues to be Addressed - The EIR will evaluate the potential for the proposed project to impact existing on-site biological resources and the quality of stormwater runoff.

ALTERNATIVES

In accordance with Section 15126.6(a) of the CEQA Guidelines, the **EIR** will include **an** analysis of several project alternatives, including the No Project Alternative. The alternatives section will "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." The EIR will include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. The significant effects of the alternatives will be discussed, but in less detail than the significant effects of the proposed project. The **EIR** will also include a discussion of the environmentally superior alternative, and a description of alternatives considered but rejected from detailed analysis.

At this time, the alternatives to be analyzed by the EIR are still under consideration. Input is sought from the public **as** to alternatives to be included in the EIR.

SUBMITTING COMMENTS

To ensure that the full range of project issues and alternatives related to the proposed project are addressed and that all significant issues **are** identified, comments and suggestions are invited from all interested parties. Written comments **or** questions concerning the EIR for the project should be directed to the following address by **5:00 p.m.** on **Monday, May 5, 2008.**

City of Galt Planning Department
ATTN: Chris Erias
495 Industrial Drive
Galt, CA 95632
(209) 366-7230
(209) 744-1642 fax
planning@ci.galt.ca.us

In addition, a scoping meeting will be held on **Wednesday April 23, 2008 at 6:00 p.m.** at the Galt Police Department Community **Room, 455 industrial Drive** to receive verbal and/or written comments on the Notice of Preparation (NOP).

All comments ~~must~~ include full name and address in order for staff to respond appropriately.

Figure 1
Regional Location Map

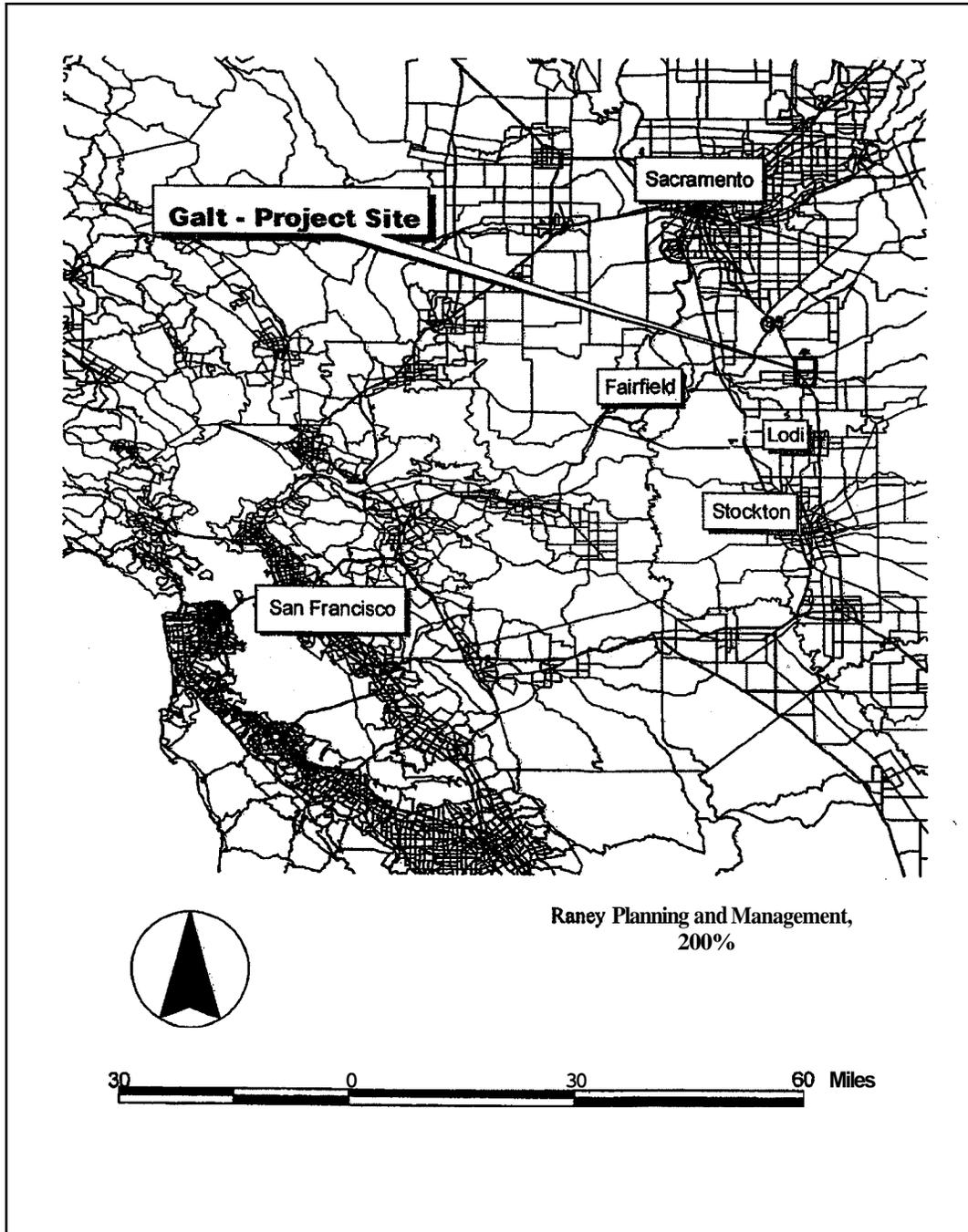


Figure 2
Project Location



*Note: The aerial photo does not show the current status of the development to the south of the project parcel. To date, only three parcels have not been developed with senior home units.

EXHIBIT B

Resolution No. 08 - 0477

STOCKTON CITY COUNCIL

RESOLUTION APPROVING THE FINAL ENVIRONMENTAL IMPACT REPORT
(FEIR5-04) FOR THE **WESTON RANCH TOWNE CENTER PROJECT**

BE IT RESOLVED BY THE COUNCIL OF THE **CITY** OF STOCKTON, AS
FOLLOWS:

The City Council of the City of Stockton, after careful review and consideration of all comments received, and after using its independent judgment, hereby approves the Final Environmental Impact Report for the Weston Ranch Towne Center Project and adopts the Findings, Statement of Overriding Considerations and Mitigation Monitoring/Reporting Program for the Weston Ranch Towne Center Project, for property located on the west side of Manthey Road between Henry Long Boulevard and French Camp Road as set forth in the report of the Planning Commission filed with the City Council on December 2, 2008, based upon the following findings:

It is recommended that the Planning Commission certify the Final Environmental Impact Report (FEIR 5-04) and adopt the "Findings of Fact, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program for the Weston Ranch Towne Center Project" (Findings), prior to, or in conjunction with any related discretionary actions for which the Commission is the final decision-making body. Similarly, the Planning Commission should recommend that the City Council certify FEIR5-04 and adopt the related Findings prior to, or in conjunction with, any applicable discretionary approvals for this project, based on the following findings:

1. The Draft EIR and Final EIR have been completed in compliance with the California Environmental Quality Act (CEQA), State CEQA Guidelines, and City Guidelines for the Implementation of CEQA.
2. The FEIR has been reviewed and considered prior to any related project approvals, reflects the City's independent judgment, and has been found to be adequate for said approvals.
3. The anticipated benefits of the proposed project outweigh the unavoidable or unresolved adverse environmental effects, as supported by the Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program for the Weston Ranch Towne Center commercial project.
4. Based on the significant and/or potentially significant environmental effects identified in Final Environmental Impact Report for the Weston Ranch Towne Center (FEIR5-04) and pursuant to Sections 15091 and 15093 of the State CEQA

City Atty
Review GDP
Date November 20, 2008

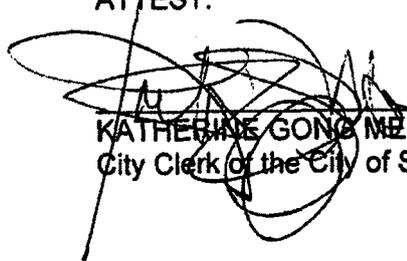
Guidelines, all applicable approvals are based on, and subject to the adopted findings, mitigation/measures and mitigation monitoring/reporting provisions, as specified in the Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program for the Weston Ranch Towne Center project.

PASSED, APPROVED AND ADOPTED DEC - 2 2008



EDWARD J. CHAVEZ, Mayor
of the City of Stockton

ATTEST:



KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

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**PUBLIC HEARING: FINAL ENVIRONMENTAL IMPACT REPORT (FEIR5-04) AND
REZONING (Z-13-04) REQUESTS OF VESTAR CALIFORNIA XXVIII, LLC, ET AL.**

(Page 2)

DISCUSSION

The Weston Ranch Towne Center project initially proposed a 232,000 square foot Wal-Mart Supercenter and a 134,720 square foot major retail building on the same parcel within the overall shopping center. The original project included other retail stores for a total maximum floor area of 710,000 square feet on a 54-acre site. However, on August 14, 2007, the City Council passed an ordinance to prohibit retail stores larger than 100,000 square feet with 10 percent or more of the floor space for the sale of groceries. Subsequently, the applicant revised the project to comply with the ordinance. The revised project reduces the floor area of the proposed Wal-Mart store to 99,996 square feet and removes the second large major retail store (134,720 square feet), so that the floor area of the shopping center will not exceed 481,000 maximum square feet at buildout.

Background

At its regular meeting of October 23, 2008, the City Planning Commission considered and recommended approval of the requests of Vestar California XXVIII, LLC, ET AL for a Final Environmental Impact Report (FEIR5-04) and adoption of the related California Environmental Quality Act "Findings, Statement of Overriding Considerations and Mitigation Monitoring/Reporting Program for the Weston Ranch Towne Center Project," Rezoning (Z-13-04), Tentative Map (TM34-06), Vesting Tentative Map (VTM11-08), and Use Permit (UP89-04), to allow the construction of a regional shopping center and Variance (V-1-08) for property located on the west side of Manthey Road between Henry Long Boulevard and French Camp Road. The environmental document and Rezoning require final approval by the City Council. Accordingly, a public hearing has been scheduled for consideration and determination by the City Council. Council action is not required for the Tentative Map, Vesting Tentative Map, Use Permit and Variance, as there was no appeal filed.

Present Situation

Environmental Clearance (FEIR5-04)

The Final Environmental Impact Report (FEIR5-04) for the Weston Ranch Towne Center Project was prepared in compliance with the California Environmental Quality Act, California Environmental Quality Act Guidelines and City Guidelines for the Implementation of the California Environmental Quality Act. In addition, the mitigation monitoring/reporting provisions and related California Environmental Quality Act findings are included in the related "Findings, Statement of Overriding Considerations and Mitigation Monitoring/Reporting Program for the Weston Ranch Towne Center Project" (California Environmental Quality Act Findings). The City Council must adopt all

December 2, 2008

PUBLIC HEARING: FINAL ENVIRONMENTAL IMPACT REPORT (FEIR5-04) AND REZONING (Z-13-04) REQUESTS OF VESTAR CALIFORNIA XXVIII, LLC, ET AL.

(Page 3)

applicable mitigation measures identified in the Final Environmental Impact Report (FEIR5-04) and the related California Environmental Quality Act Findings in conjunction with approval of any related discretionary authorizations.

Rezoning (Z-13-04)

The rezoning request would rezone a ±45-acre project site from RL (Residential, Low Density) to CL (Commercial, Large-Scale) to allow construction of a regional shopping center.

Tentative Map (TM34-06), Vesting Tentative Map (VTM11-08), Use Permit (UP89-04) and Variance (V-1-08)

As noted above, the Planning Commission also considered and approved the related discretionary applications for the project site, subject to the City Council's approval of the Final Environmental Impact Report and Rezoning applications. Since these applications were not appealed to the City Council, these exhibits are being transmitted for informational purposes only.

Information related to the above-noted environmental clearance and discretionary applications for the project is provided in the staff report to the Planning Commission, attached as Exhibits 1 through 16.

PUBLIC HEARING DISCUSSION

Following staff's presentation to the Planning Commission on October 23, 2008, the applicant and a representative from Wal-Mart Stores, Inc. spoke in favor of the request. The applicant provided a brief chronology of the project and explained the reasons why the project took six years to process. He indicated that the project was delayed because of the entitlement requirements, change in ownership and the "Big Box" ordinance that was adopted by the City, which resulted in revisions to the project. The size of the Wal-Mart store was reduced to comply with the new ordinance. He stated that several community meetings were held to receive input from area residents regarding the types of businesses they would like in the retail shopping center. Further, he stated that development of the regional shopping center will provide job opportunities for local residents and would generate tax revenue for the City. The applicant met with staff at the San Joaquin Regional Transit District and discussed ways to design and integrate public transit stops within the shopping center to provide easy access for the public. Commercial building design will comply with the Leadership in Energy and Environmental Design standards including energy-efficient heating, ventilation, lighting and air conditioning, water-efficient irrigation systems and devices, ride sharing programs and the design of bicycle enhancing infrastructure connecting to an existing

**PUBLIC HEARING: FINAL ENVIRONMENTAL IMPACT REPORT (FEIR5-04) AND
REZONING (Z-13-04) REQUESTS OF VESTAR CALIFORNIA XXVIII, LLC, ET AL**
(Page 4)

bikeway system within the community. The applicant stated that this Wal-Mart store also would have a budget for community giving and provide charitable opportunities for community non-profit organizations particularly in the south Stockton area. Several Planning Commissioners expressed concern regarding security issues once the shopping center commenced operation and directed staff to prepare a condition regarding a security plan as part of approval of the Use Permit (see security condition No. 31 of UP89-04 listed below).

Area residents spoke in support of the project. They indicated that development of the shopping center would benefit south Stockton residents. There was nothing in this area and they were in need of a shopping center. When the shopping center begins operation, south Stockton residents would no longer need to drive to shop in Lathrop, Tracy, or the Eight Mile Road and North Hammer Lane areas. Further, the retail stores would provide employment opportunities for the local residents and generate more tax revenue for the City. The area residents stated that allowing the shopping center in Weston Ranch would bring new residents to the area and keep the existing ones from leaving.

A former Wal-Mart employee spoke in opposition to the project. He expressed concern about the future security problems in the shopping center.

ANNING COMMISSION CTIO

Following the public hearing and its deliberation, the Planning Commission voted unanimously (7 to 0) to recommend that the City Council approve the following actions based on the findings, as contained in the attached Planning Commission Staff Report (Exhibits 1 through 16):

- 1) **Certify the Final Environmental Impact Report (FEIR4-05) and adopt the CEQA Findings, Statement of Overriding Consideration and Mitigation Monitoring/Reporting Program for the Weston Ranch Towne Center Project;** and
- 2) Rezoning request (Z-13-04).

In addition, the Planning Commission approved the related Tentative Map, Vesting Tentative Map, Use Permit and Variance, based on the findings and subject to the conditions as listed in the staff report, as modified by the Planning Commission, for Tentative Map (TM34-06), Vesting Tentative Map (VTM11-08) and Use Permit (UP89-04):

December 2, 2008

**PUBLIC HEARING: FINAL ENVIRONMENTAL IMPACT REPORT (FEIR5-04) AND
REZONING (Z-13-04) REQUESTS OF VESTAR CALIFORNIA XXVIII, L.L.C. ET AL.**
(Page 5)

FINANCIAL R

There is no financial impact to the City's departments from this action.

PUBLIC NOTIFICATION

Notice in the local newspaper at least one time, ten days prior to the public hearing and notice to owners of record as shown on the last equalized tax roll and addresses within 300 feet of the site, at least ten days prior to the public hearing (Stockton Municipal Code Section 16-420).

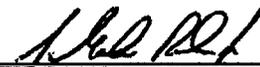
VOTES REQUIRED

Four votes of the City Council are necessary to approve the noted requests.

Respectfully submitted,

APPROVED BY


MICHAEL M. NIBLOCK, SECRETARY
CITY PLANNING COMMISSION


J. GORDON PALMER, JR.
CITY MANAGER

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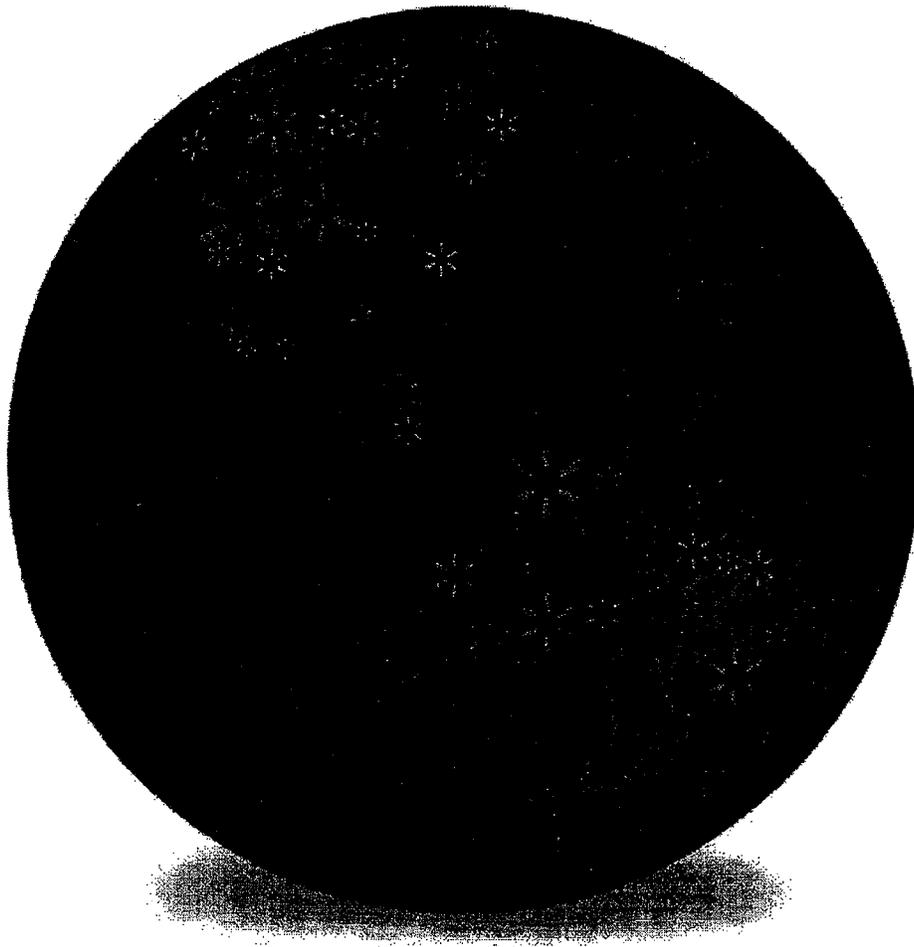
Global Sustainability News from Wal-Mart Stores, Inc.

S★MART

March 2008

Envisioning a Sustainable Future

Lee Scott announces goals for energy efficiency and supply chain



China Sustainability

Two-day meeting held
in Shenzhen

HE.5 Opens

Most energy efficient U.S.
retail store opens its doors

Let the Contest Begin!

First Sustainable Business Plan
competition is April 18

WAL★MART



Wal-Mart Opens ■ Most Energy Efficient U.S. Retail Store

In March 2008, Wal-Mart Stores, Inc. opened its **HE5** prototype in Las Vegas, Nev. The **HE5** is a western climate-specific store that is up to 45 percent more energy efficient than the baseline Supercenter. The store is part of Wal-Mart's high efficiency series of **HE.1**, **HE.2** and **HE.5** prototypes that incorporate many years of research, experiments, partnerships and pilots, and will ultimately become Wal-Mart's stores of the future.

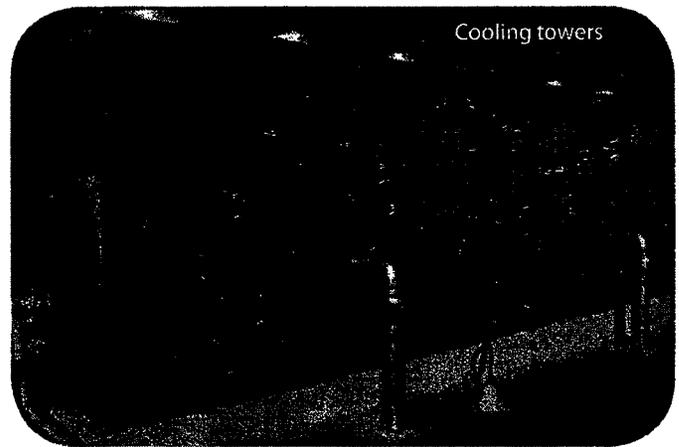
Building upon learnings from the **HE.1** and **HE.2** stores that Wal-Mart opened in 2007 and 2008 respectively, the **HE.5** begins a new series of prototypes designed for specific climates. The **HE.5** is western climate-specific, meaning the efficiency gains are made possible by innovations designed for the unique conditions of the region. Specifically, the **HE.5** includes new evaporative cooling and radiant flooring technologies that together provide a cool, comfortable shopping environment while using less energy. Additionally, the stores include all of the industry-leading technologies currently being installed in new Wal-Mart Supercenters, such as white roofs, daylight harvesting systems, light-emitting diodes (LEDs) in grocery cases and highly efficient bathroom fixtures.

Given the climate-specific nature of the **HE.5** store, this prototype will only be built in regions where its innovations can provide the greatest benefit. Additionally, because most of the pioneering technologies are housed on the roof and within the walls, floor and ceiling of the building, the **HE.5** store will look and feel much like a typical Wal-Mart Supercenter.

Wal-Mart is working to stay on the leading edge of sustainable building practices and is committed to openly sharing its learnings with the retail industry and the world. Increasing the efficiency of its stores is just one more way Wal-Mart is moving toward its goal to open a viable prototype that is 25 to 30 percent more efficient by 2009.

The **HE.5** store features advancements in heating, cooling, refrigeration and lighting to conserve up to 45 percent more energy than the baseline Wal-Mart Supercenter and reduces refrigerant use by 90 percent. These technologies include:

Indirect Evaporative Cooling: The new indirect evaporative cooling system cools water naturally by pumping it through roof-mounted towers and then running the cold water underneath the retail floor to cool the shopping area.



Radiant Flooring: Most retail buildings use heating, ventilating and air conditioning (HVAC) units located throughout the store to cool the ambient air. With Wal-Mart's radiant floor system, cold water is circulated underneath the sales floor, cooling the ambient air closest to customers as it floats upwards. The radiant floor is much more efficient than a conventional air-cooled system and significantly reduces maintenance costs.

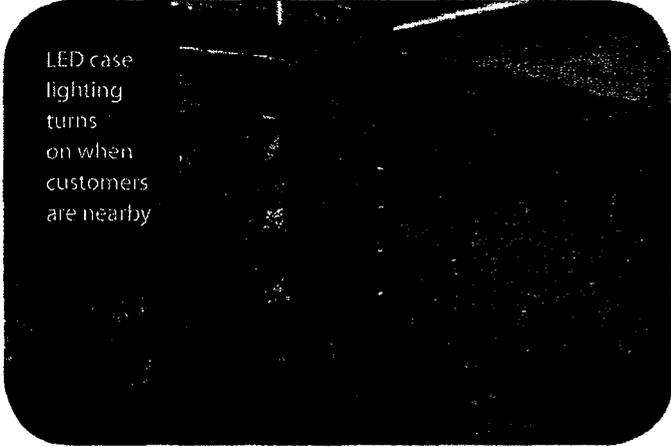
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Opens Its Most Energy Efficient U.S. Retail Store

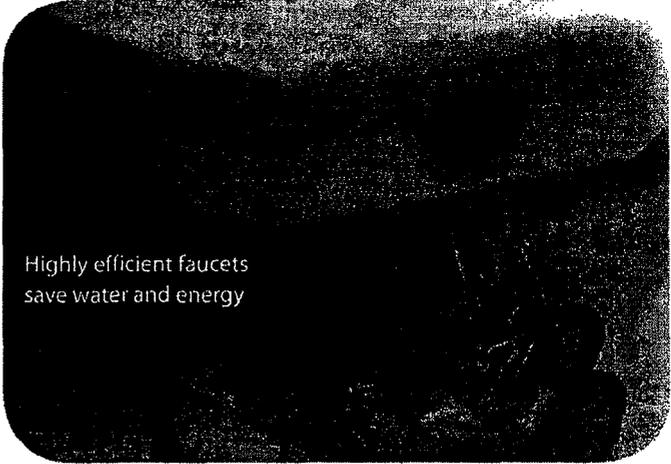
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Integrated water-source format refrigeration system: All of Wal-Mart's high-efficiency stores contain 100 percent integrated, water-source format heating, cooling and refrigeration systems that reclaim waste energy from the refrigeration units. This, as with the HE2 projects, utilizes a medium temperature, secondary loop system driven by a modular chiller concept that both improves overall system efficiency and reduces the refrigerant charge by 90 percent.

LED motion-sensing case lighting: All of Wal-Mart's high efficiency stores contain motion-activated sensors in LED lighted cases, illuminating merchandise as customers approach and conserving energy when shoppers are not nearby. LEDs with motion sensors use 70 percent less energy than industry standard fluorescent bulbs and can lower a Supercenter's overall energy use by approximately three percent. The total energy savings for LED lighting with motion sensors is more than 120,000 kWh per year, enough energy to power 11.5 single family homes (11,020 kWh average annual usage) for an entire year.



LED case lighting turns on when customers are nearby



Highly efficient faucets save water and energy

Water conservation in restrooms: Restroom sinks in newly constructed Wal-Mart stores contain sensor-activated 1/2 gallon per minute high efficiency faucets, reducing water usage by 78 percent compared to currently mandated 1992 EPA standards. In newly constructed stores and Sam's Clubs, Wal-Mart also installs high efficiency urinals that yield an 87 percent reduction in water usage and low-flow toilets that yield a 20 percent reduction in water usage. Water turbines are also built into each faucet and similar turbines are in the automatic toilet flush valves. During use, water flowing through the turbines generates the electricity needed to operate the sensors,



Wal-Mart Introduces Its Most Energy Efficient U.S. Retail Store

Latest prototype is expected to save up to 45 percent more energy than the baseline Wal-Mart Supercenter

Las Vegas, Nev., **March 18, 2008** -- Today, Wal-Mart Stores, Inc. introduced its most energy efficient U.S. store -- the HE.5 prototype -- that will use up to 45 percent less energy than the baseline Supercenter. Building upon learnings from previous high efficiency stores Wal-Mart opened in 2007 and 2008, the HE.5 begins a new series of prototypes designed for specific climates. This facility is western climate-specific, meaning the efficiency gains are made possible by innovations designed for the conditions of the region.

"Wal-Mart is piloting new technologies, driving innovation and leveraging advances in building design to better align our stores with the communities we serve," said Charles Zimmerman, Wal-Mart vice president of Prototype and New Format Development. "We are committed to openly sharing our learnings with the retail industry and the world because being more energy efficient is something everyone can benefit from."

The HE.5 store features advancements in heating, cooling, refrigeration and lighting to conserve energy and reduce greenhouse gas emissions. Specifically, the store takes the integrated water-source format system that Wal-Mart piloted in its successful high efficiency stores and adapts it to the unique local climate by adding evaporative cooling and radiant flooring technologies. The new HE.5 system reduces the temperature of water naturally by pumping it through roof-mounted cooling towers then runs the cold water underneath the retail floor to cool the shopping area. Together, the systems provide a comfortable shopping environment while using less energy.

"The Western Cooling Efficiency Center at the University of California, Davis, applauds Wal-Mart's cooling system design for the new Las Vegas store," said Richard Bourne, WCEC associate director. "We believe this is the most efficient cooling system implemented in a major retail facility. This project recognizes the very significant opportunity to integrate advanced natural cooling features in dry climates, thereby reducing the need to build new peak power generating plants."

Given the climate-specific nature of the HE.5 store, this prototype will only be built in regions where its innovations will provide the greatest benefit. Wal-Mart's high efficiency series of HE.1, HE.2 and HE.5 stores build upon many years of research, experiments, partnerships and pilots, and will ultimately help Wal-Mart reach its goal to design and open a viable store prototype that is 25-30 percent more energy efficient by 2009.

About **Wal-Mart** Stores, Inc. (NYSE **WMT**)

Wal-Mart Stores, Inc. operates Wal-Mart discount stores, Supercenters, Neighborhood Markets and Sam's Club locations in the United States. The Company operates in Argentina, Brazil, Canada, China, Costa Rica, El Salvador, Guatemala, Honduras, Japan, Mexico, Nicaragua, Puerto Rico and the United Kingdom. The Company's securities are listed on the New York Stock Exchange under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartstores.com and www.walmartfacts.com. Online merchandise sales are available at www.walmart.com and www.samsclub.com.

###

EXHIBIT D



Wal-Mart to Open Second Generation High-Efficiency Store

Retailer Unveils First of Four Stores That Use 25 Percent Less Energy and Significantly Reduce Greenhouse Gas Emissions

Bentonville, **Ark.** January 15, 2008 — Wal-Mart Stores, Inc. (NYSE: WMT) today announced the opening of its second generation of High-Efficiency stores (HE.2) that will use 25 percent less energy than the baseline Wal-Mart Supercenter. The first store will open in Romeoville, Ill. on January 23. The store combines what the company has learned from its successful first generation High-Efficiency stores (HE.1) with new state-of-the-art technologies. In addition to saving energy the new stores will significantly reduce greenhouse gas emissions by lowering refrigerant by 90 percent.

Leslie Dach, Wal-Mart's executive vice president of corporate affairs and government relations, made the announcement at the National Retail Federation's 97th Annual Convention & Expo in New York City.

"These stores are another solid step toward achieving our environmental commitments," said Dach. "We will continue to find new ways to build stores that have a reduced impact on the environment and ultimately reach a day when every new store is 25-30 percent more energy efficient than it was in 2005."

The improvement in energy efficiency comes from a new secondary refrigeration loop combined with an advanced water-source heating, cooling and refrigeration system. The technology was tested in Wal-Mart's Experimental Stores and uses a non-refrigerant-based solution to cool refrigerator and freezer cases, resulting in a 90 percent reduction in refrigerant. The HE.2 stores represent the first time secondary loop technology has been paired with a water-source heating, cooling and refrigeration system in the United States.

"We've learned a lot since we opened our first HE.1 store one year ago and we are excited to put what we have learned into practice with the HE.2," said Charles Zimmerman, vice president of prototype and new format development at Wal-Mart. "The secondary loop system is ideal because it not only makes the store more efficient, but also allows us to reduce greenhouse gas emissions. This is a perfect example of how Wal-Mart's culture of encouraging learning and driving innovation often yields additional environmental paybacks that can benefit the entire retail industry."

The HE.2 series will incorporate several learnings from the HE.1 stores and new technological advances, including white roofs, low-flow bathroom faucets, LED lights and an advanced daylight harvesting system. For more detailed, technical information, please visit www.walmartfacts.com.

About Wal-Mart Stores, Inc. (NYSE:WMT)

Wal-Mart Stores, Inc. operates Wal-Mart discount stores, Supercenters, Neighborhood Markets and Sam's Club locations in the United States. The Company operates in Argentina, Brazil, Canada, China, Costa Rica, El Salvador, Guatemala, Honduras, Japan, Mexico, Nicaragua, Puerto Rico and the United Kingdom. The Company's securities are listed on the New York Stock Exchange under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartstores.com and www.walmartfacts.com. Online merchandise sales are available at www.walmart.com and www.samsclub.com.



Garland Supercenter Focuses on Local Preferences

Innovative energy-efficient store anchors neighborhood revitalization

GARLAND, Texas, May 1, 2008 — Distinctive elements and special features abound throughout the new Wal-Mart Supercenter opening May 7 in Garland. Customers at the newly relocated store will find a merchandise mix created with their preferences in mind, including family-oriented departments, bold colors and popular foods. The store is also built to minimize its impact on the environment as the latest of Wal-Mart's High-Efficiency stores to open.

Located at 1801 Marketplace Dr., the store anchors the 48-acre Centerville Marketplace West shopping district near the intersections of LBJ Freeway/Interstate 635, Northwest Highway and Saturn Road. The city of Garland spearheaded the effort to replace a dilapidated apartment complex and other properties and then attract new development. The store is part of a neighborhood revitalization effort that brings new energy to a formerly declining area. Local officials and community leaders will join Wal-Mart representatives to celebrate the store's opening with a 7:30 a.m. ribbon-cutting ceremony May 7, followed by an all-day celebration.

"It's been wonderful to see this area revitalized and experience the enthusiasm surrounding our opening," said Store Manager Daryl Scoggins. He was born and raised in Garland, graduating from Garland High School in 1984. He chose to return to the area to manage the new Supercenter. "I am so excited about coming home to Garland," he said. "The city of Garland acted on its vision to replace blighted properties with a center bustling with retail, restaurants and other businesses I'm proud to be a part of."

The Garland store is the latest High-Efficiency Wal-Mart Supercenter to open. The HE.2 store is designed to greatly reduce greenhouse gas emissions and use 25 percent less energy than a typical Wal-Mart Supercenter. By incorporating some of the most innovative products in building today, the HE.2 prototype uses many of the energy improvements from the first generation High-Efficiency (HE.1) stores, such as the one in nearby Highland Village. HE.2 stores feature industry-leading advancements such as integrated heating, cooling and refrigeration systems, and lighting innovations to conserve energy. (Editors' Note: See page four for more information on High-Efficiency stores.)

Store Designed for Local Tastes

Since its original opening in 1987, the Garland store has focused on serving the needs of the nearby community. With its relocation, the 195,912-square-foot store features a full line of groceries and several new time-saving features and services

Wal-Mart paid attention to the shopping patterns and preferences of its customers and designed the store to reflect the local community. As a result, the store will make fresh corn and flour tortillas and chips daily. The deli will also offer fresh-baked bolillo and pan dulce, and the produce department will include an expanded selection of bananas, plantains, chilies and spices. Customers can pick up bulk packages of specially marinated meat, rice and beans. Near the entrance, shoppers will find a La Michela juice bar and a special shop with merchandise for the latest holiday or upcoming sporting event.

Customers will enjoy shopping with their families throughout the store, including its new youth-oriented department that displays children's furniture, bedding and home decor together. Bold colors, popular brands and the latest fashions fill the store's apparel and home décor sections. The store also has expanded its selection of children's and infant apparel and accessories. In addition to the latest electronics, the store offers a wide variety of Spanish-language music, movies, games and other entertainment choices.

The new Supercenter will have a Wal-Mart MoneyCenter to assist customers who are outside of mainstream banking with

convenient access to low-cost money services, including check cashing, money orders, bill payment and money transfers.

For added convenience, there will be a vision center, a pharmacy with two drive-through lanes, a digital photo processing center and a Wal-Mart Connect Center for wireless phone sales. Leased areas and services include a SmartStyle Family Hair Care salon, DaVi Nails salon, a Subway restaurant and a branch of First Convenience Bank.

Commitment to Community Continues with \$18,000 in Grants

As part of Wal-Mart's commitment to the communities in which they operate, the newly relocated store is continuing its support of the area by contributing \$18,000 to local charitable organizations. The Salvation Army Boys and Girls Club will receive a \$5,000 contribution to help with its after-school programs. Garland Summer Musicals will receive a \$2,500 grant to underwrite scholarships and youth-oriented productions. Garland High School will receive a \$2,500 grant to upgrade computers used in its classrooms. Other grants will provide support to the families of police officers and fire fighters who have died in the line of duty and help members of the military who have suffered spinal cord injuries.

"In addition to cash contributions, we've supported these agencies and other community charitable efforts for years by hosting fund-raisers, providing volunteers, and giving in-kind merchandise donations," Scoggins said. "We think of them as our community partners and consider it a privilege to support the good work they do."

Wal-Mart Provides Local Jobs

The store plans to employ approximately 650 associates upon opening. Due to its relocation, the Supercenter has added more than 175 jobs.

"Many associates joined because they know they have the opportunity for a long-lasting career at Wal-Mart." Scoggins said. Like three-fourths of Wal-Mart store management, Scoggins started his own career with the company as an hourly associate. He joined the company in 1994, gathering werts and stocking shelves at a store in Benton, Ark. He is one of 52 of the store's associates who have worked for Wal-Mart for more than 10 years.

Ribbon-cutting Celebration 7:30 am, May 7

Community and business leaders will join Wal-Mart associates for a brief ribbon-cutting ceremony at 7:30 a.m., Wednesday, May 7, and doors to the new store will open at 8 a.m. Throughout the day, activities will include numerous product samples character appearances and giveaways.

About Wal-Mart Stores, Inc. (NYSE: WMT)

Every week, millions of customers visit Wal-Mart Stores, Supercenters, Neighborhood Markets, and Sam's Club locations across America or log on to its online store at www.walmart.com. The company and its Foundation are committed to a philosophy of giving back locally. Wal-Mart (NYSE: WMT) is proud to support the causes that are important to customers and associates right in their own neighborhoods, and last year gave more than \$298 million to local communities in the United States. To learn more, visit www.walmartstores.com, or www.walmartfoundation.org.

EDITOR'S NOTES

- An invitation-only open house for VIPs, Wal-Mart associates and their families is scheduled for Saturday, May 3, from 6 to 8 p.m. Preview tours will be provided and checks will be presented to representatives from community organizations. Reporters and photographers are welcome.
- Daryl Scoggins, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or tours. He can be reached at 972-278-8077.

STORE FACT SHEET Garland **Wal-Mart Supercenter**

Store facts

- Location: 1801 Marketplace Dr., Garland, Texas
- Originally opened in 1987 at 3159 Garland Ave.

- 195,912-square-foot Wal-Mart Supercenter
- Store opens at 8 a.m., Wednesday, May 7, after a 7:30 a.m. ribbon-cutting ceremony
- Store manager: Daryl Scoggins

Store features

- Full line of groceries, bakery goods, deli **foods**, frozen foods, meat and dairy products, fresh produce, beer and wine section.
- Merchandise departments include apparel and accessories, fine jewelry, lawn and garden center, health and beauty aids and a full line of electronics.
- Convenience services include a money center, vision center, digital photo processing center, Wal-Mart Connect Center and a pharmacy with two drive-through lanes.
- Leased areas and services include a La Michajuce bar, SmartStyle Family Hair Salon, DaVi Nail salon, a Subway restaurant and a branch of First Convenience Bank.
- Open 24 hours a day, seven days a week
- Twenty full-service and 10 express check-out lanes

Charitable giving

\$18,000 in charitable contributions to eight area organizations

- o City of Garland Parks and Recreation Department
- Garland Civic Theatre
- Garland High School
- Garland Summer **Musicals**
- Guns N Hoses Foundation
- Paralyzed Veterans of America
- The Achievement Center of Texas
- The Salvation Army Boys and Girls Club

Employment

- The Supercenter plans to employ approximately 650 associates upon its opening. Due to its relocation, the store has added more than 175 associates.
 - Fifty-two of the store's associates have worked for Wal-Mart for more than 10 years.
 - Store Manager Daryl Scoggins was born and raised in Garland. He started his Wal-Mart career in 1994 as an hourly associate, working as a cart pusher at a store in Benton, Ark.
 - The average wage at Wal-Mart for full-time hourly associates in Texas is approximately \$10.55 per hour.*
 - Wal-Mart benefits – available to eligible full- and part-time associates – include healthcare insurance with no lifetime maximum. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, company performance-based bonuses, stock purchase program and life insurance.
- * Average wage taken April 2008. See www.walmart.com for details.**

HIGH-EFFICIENCY STORE INFORMATION
Garland Wal-Mart Supercenter

The Garland, Texas, store is the fourth Wal-Mart Supercenter classified as an HE.2 energy-efficient prototype. The stores are located in a variety of climate zones to evaluate how the systems perform and expected to use 20 percent less energy than a typical Supercenter. The stores feature industry-leading advancements such as integrated heating, cooling and refrigeration systems, and lighting innovations to conserve energy.

In July 2005, Wal-Mart opened the first of its experimental stores in nearby McKinney, Texas, followed by the opening of a similar store in Aurora, Colo., in November 2005, with the hope that successful experiments could someday be incorporated into new store prototypes. The Garland High-Efficiency store brings many of these experiments to life.

- To achieve a 25 percent overall energy reduction, the Garland store uses a 100 percent integrated water-source format heating, cooling and refrigeration system, where water is harnessed to heat and cool the building.
- The store also introduces a number of new and improved technologies, such as a state-of-the-art secondary loop refrigeration system, to gain a 5 percent improvement in energy efficiency over an HE.1 store. This improvement comes from a streamlined design of the water-source heating, cooling and refrigeration system, coupled with the new secondary refrigeration loop. This is the first time secondary loop technology has been paired with a water-source system.

Additional Energy-Efficient Store components include:

- Motion-activated light-emitting diodes (LEDs) in refrigerated and freezer cases, plus additional glass doors on deli and dairy cases
- Optimized pump package that is 50 percent smaller than the HE.1 store and uses even less copper piping
- Industry-leading daylight harvesting technology
- Reflective white membrane roof
- Recycled construction materials such as fly-ash, slag, integrally colored concrete floors, and plastic baseboards and chair rails
- A state-of-the-art Munters Dehumidification system is expected to increase overall store energy-efficiency by roughly two percent.
- Restroom sinks use sensor-activated, low-flow faucets. The low-flow faucets reduce water flow by 84 percent, while the sensors save approximately 20 percent in water usage over similar, manually-operated systems.

In 2007, Wal-Mart opened a series of HE.1 stores in Kansas City, Mo.; Rockton, Ill.; and Highland Village, Texas. In January 2008, the first HE.2 prototype store opened in Romeoville, Ill. Others have since opened in Bernalillo, N.M., and Wichita, Kan.

Wal-Mart is now introducing its next generation of energy-efficient U.S. stores, the HE.5 prototype. The first HE.5 prototype opened in Las Vegas in March 2008. These stores use up to 45 percent less energy than the baseline Supercenter. Building upon learnings from previous high efficiency stores Wal-Mart opened in 2007 and 2008, the HE.5 begins a new series of prototypes designed for specific climates.

The retailer's high efficiency series of HE.1, HE.2 and HE.5 stores build upon many years of research, experiments, partnerships and pilots, and will ultimately help Wal-Mart reach its goal to design and open a viable store prototype that is 25-30 percent more energy efficient by 2009.

Wal-Mart customers are increasingly becoming familiar with the company's energy-saving innovations as they are introduced in stores opening across the country. Many new stores now feature daylight-harvesting systems that minimize electricity usage during periods of bright sunlight, motion sensor-driven LED refrigerated and freezer case lighting and polished concrete floors that reduce the need for harsh chemical cleaning products.

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Wal-Mart Opens Second High-Efficiency Store In Northern Illinois, Using 20 Percent Less Energy

See "Related Resources" below
to download the HE-I press kit and high resolution images

New prototype to test conditions in cooler climate; Supercenter to bring economic benefits

Rockton, Ill., March 14, 2007 - Wal-Mart Stores, Inc. today announced the opening today of its second High-Efficiency Wal-Mart Supercenter in Rockton, Ill., expected to use 20 percent less energy than a typical Supercenter. The High-Efficiency Supercenter is the second of four to open this year, located in a variety of climate zones to evaluate how the systems perform. The store features industry-leading advancements such as integrated heating, cooling and refrigeration systems, and lighting innovations to conserve energy. Wal-Mart opened its first High-Efficiency store in January in Kansas City, Mo.

"At Wal-Mart, being a good business and a good steward of the environment go hand-in-hand," said Charles Zimmerman, vice president of Prototype and New Format Design. "This series of higher-efficiency stores is an important step toward reaching one of our environmental goals -- designing and opening a prototype that is 25 to 30 percent more efficient by 2009. By incorporating these technologies into a working store, we are demonstrating that more efficient store designs can save energy, lower utility costs and reduce emissions. Those are savings that we can pass along to our customers."

In 2005, Wal-Mart opened two experimental stores in McKinney, Texas, and Aurora, Colo., with the hope that successful experiments could someday be incorporated into new store prototypes. The Rockton High-Efficiency store brings many of these experiments to life.

- To achieve a 20 percent overall energy reduction, the Rockton store uses a 100 percent integrated water-source format heating, cooling and refrigeration system, where water is harnessed to heat and cool the building
- Energy-saving motion-activated light-emitting diodes (LEDs) in refrigerator and freezer cases are expected to create a two to three percent energy reduction.
- A state-of-the-art Munters Dehumidification system is expected to increase overall store energy-efficiency by roughly 2 percent
- Many floors are made of integrally colored concrete instead of carpet or tile, reducing the need for certain harsh chemical cleaning products
- All baseboards and chair rails are made of recycled plastic
- Restroom sinks use sensor-activated, low-flow faucets. The low-flow faucets reduce water flow by 84 percent, while the sensors save approximately 20 percent in water usage over similar, manually-operated systems

"The new heating, cooling and refrigeration systems are fully integrated so that 100 percent of the excess refrigerant heat is pumped back into the HVAC," said Jim McClendon, Wal-Mart Chief Mechanical Engineer. "That means heat which would have been released into the air is reclaimed and converted into usable energy. We are actively sharing this technology and other learnings from our High-Efficiency stores with the entire commercial industry, including our competitors."

Wal-Mart is now installing motion sensor-driven LED refrigerated and freezer case lighting in its new stores, the first commercial LED installation of this magnitude in U.S. retail. LED lights have a longer life span than fluorescent bulbs, produce less heat and use significantly less energy than typical grocery case lighting. In the High-Efficiency stores, LED

lights have been installed in freezer and refrigerated cases, and doors have been added to cases in the deli and dairy sections. To save energy, the motion sensor-driven lights in these cases automatically turn off when not in use for a few seconds, then quickly turn back on when a customer approaches.

Many environmentally beneficial features of the store are nearly indiscernible to customers and associates. For example, the daylight harvesting system uses skylights to refract daylight throughout the store and light sensors to monitor the amount of natural light available. During periods of higher natural daylight, the system dims or turns off the store lights, thereby reducing energy use. Although the amount of artificial light varies, the state-of-the-art system makes the lighting changes virtually seamless.

"We are excited to open this new High-Efficiency Supercenter, bringing reliable, comfortable, convenient service to the Rockton community," said Store Manager Alicia Lawrence. "Our new store features the latest in energy-saving technologies and Wal-Mart's new interior design and most importantly provides the community with the continued value of every day low price that brings them through our doors."

New Interior Designs and **Layout** add to **One-Stop** Shopping Convenience

The Rockton Supercenter interior features earth tones, wide aisles and concrete flooring for environmentally friendly maintenance. New **signage** and lower shelves help customers quickly locate their selections in a large format store. A large home organization department features the sleek new line of exclusive SELECT edition® GE small appliances. The home department also contains a large infant section complete with a selection of baby cribs, youth furniture and infant car seats. Wal-Mart's newly expanded electronics department offers the latest DVD players, music and other electronics, including a wall display of top brands in plasma and HDN.

As a Supercenter, the store also contains a full line of grocery items, including bakery, delicatessen, meat, dairy, frozen foods, fresh produce and organic selections, as well as a complete liquor department. The store has a family apparel department highlighting Wal-Mart's new George® line, organic Baby George clothing, health and beauty aids, household needs, toys, an expanded lawn and garden center, jewelry and shoes.

For added convenience, the Supercenter has a Tire & Lube Express, a vision center, a pharmacy with two drive-through lanes, a one-hour photo lab, a family fun center, and a Wal-Mart Connect Center. Additional leased space and services include a Regal Nails Salon, a Cost Cutters Hair Salon, a Subway restaurant, and a branch of Members Alliance Credit Union. The store will be open to customers 24 hours a day, seven days a week with 18 full-service and eight express check out lanes.

More than 1,000 applications **for** 400 new **jobs**

According to store manager Alicia Lawrence, the store has received more than 1,000 applications for the 400 new positions planned at the store.

"We have had many people interested in working at the store, and I think it's because they see the benefits and career opportunities Wal-Mart has provided for many of their friends and neighbors in the state," says Lawrence. Lawrence, like more than 75 percent of Wal-Mart's store managers, started as an hourly associate in menswear sales in Ottawa. Ten of the Rockton store's associates have worked for Wal-Mart for more than 10 years.

As of February 2007, Wal-Mart employed **45,758** associates in the state of Illinois. Including the newest Wal-Mart Supercenter in Rockton, the company currently owns and operates the following **facilities** in the state:

- Supercenters: 59
- Discount Stores: **78**
- Sam's Clubs: 28
- Distribution Centers: 4

\$25,500 in Grants to Local Organizations

According to Lawrence, as part of the new store's commitment to the community, the Rockton Wal-Mart Supercenter will announce \$25,500 in donations to local organizations through Wal-Mart's Good Works community involvement program. Like all Wal-Mart stores, the Rockton Wal-Mart will provide grant dollars throughout the year to help its neighborhood organizations. (Editors note: For a complete list of grant recipients, please see the Fact Sheet, attached.)

Area organizations interested in learning more about funding from Wal-Mart or are interested in raising money at Wal-Mart stores can contact the store for details, or go to www.walmartfoundation.org.

Grand Opening Celebration

The grand opening ceremony begins at 7 a.m. with area dignitaries and local representatives present to share in the community celebration on March 14. Additional grand opening activities planned throughout the day include product samples, giveaways and character appearances.

About Wal-Mart Stores, Inc. (NYSE: WMT)

Every week, more than 127 million customers visit Wal-Mart Stores, Supercenters, Neighborhood Markets, and Sam's Club locations across America or log on to its online store at www.walmart.com. The company and its Foundation are committed to a philosophy of giving back locally. Wal-Mart (NYSE: WMT) is proud to support the causes that are important to customers and associates right in their own neighborhoods, and last year gave more than \$245 million to local communities in the United States. To learn more, visit www.walmartfacts.com, www.walmartstores.com, or www.walmartfoundation.org.

EDITOR'S NOTES

- **Media is welcome to attend the preview night for VIPs, Wal-Mart associates and their families before the store opens, scheduled for Mon., March 12, from 6 p.m. until 8 p.m.**
- **Preview tours will be provided. Video and photography will be allowed, as well as on Grand Opening day. Please contact Wal-Mart (800)331-0085 if planning to attend so we can add you to the guest list.**

FACT SHEET Rockton Wal-Mart Supercenter

Store Fast Facts

- Location: 4781 E. Rockton Rd., Rockton, Ill.
- 205,147-square-foot Wal-Mart Supercenter
- 7 a.m. grand opening ceremony, Wednesday, March 14; doors open at 7:15 a.m.
- Second High Efficiency, Energy-Saving store to use 20% less energy
- Store manager: Alicia Lawrence

(See press kit at the bottom of this release for details on energy efficiency areas.)

Basic Store Features

- General merchandise departments including family apparel with an expanded infant section, a household organization department, health and beauty aids, household needs, expanded electronics department, toys and crafts, lawn and garden supplies, jewelry and shoes
- Other special features: Tire & Lube Express, a vision center, a pharmacy with two drive-through lanes, a one-hour photo lab, a Regal Nails Salon, a Cost Cutters Hair Salon, Subway restaurant, a Wal-Mart Connect Center, a Family Fun Center, a branch of Members Alliance Credit Union and a complete liquor department
- Open 24 hours a day, seven days a week

Employment

- o 400 planned new jobs, more than 1,000 applicants
- o The average wage at Wal-Mart for full-time hourly associates in Illinois is \$10.91 per hour.*
- Lawrence, like 76 percent of other store managers, started as an hourly associate. Her first job was as a menswear sales associate in Ottawa.
- o Wal-Mart benefits – available to full- and part-time associates – include healthcare insurance with no lifetime maximum. Wal-Mart also offers a 401(k) plan and profit sharing contributions. whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

**Average wage taken December 2006. See www.walmarthfacts.com for details.*

Charitable Giving

\$25,500 in charitable contributions to several area organizations:

- o American Legion #0332 Walter Graham Post
- o City of Rockton
- o City of Rockton Fire Department
- o City of Rockton Police Department
- o City of Rockton-Talcott Free Public Library
- o City of Roscoe Parks Department
- o Goldie B. Floberg Center for Children
- o Harlem Roscoe Fire Protection District
- o Hononegah Community High School
- o Macktown A. Living History Education Center
- o Oldstone Church Food Pantry
- o Rockton Chamber of Commerce
- o Rockton Lions Club Charities
- o Roscoe Chamber of Commerce
- o Stateline Family YMCA of Beloit, Inc.

[Click here to learn more about Wal-Mart in Illinois](#)

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Wal-Mart to Open First High-Efficiency Store; Supercenter Expected to Use 20 Percent Less Energy

Wal-Mart Wends Environmental Efforts to Kansas City – Donates \$110,000 in In-Kind and Cash Contributions to Local Community

Attention Journalists

See "Related Resources" for downloadable press kit and high resolution images of the Kansas City High-Efficiency Supercenter

Attention TV stations:

Broadcast-quality video available for download

Bentonville, Ark., Jan. 18, 2007 – Wal-Mart Stores, Inc. announces it will open tomorrow in Kansas City, Mo. the first in a series of High-Efficiency stores that will use 20 percent less energy than a typical Supercenter. In addition to the cutting-edge technologies already found in Wal-Mart stores, the new High-Efficiency stores will integrate industry-leading heating, cooling and refrigeration systems to conserve energy. High-Efficiency stores will help the retailer move one step closer to achieving its environmental goals, which include using less energy and producing less waste.

"Just over a year ago, our CEO Lee Scott challenged our associates to open a store that was 25 to 30 percent more efficient by 2009," said John Menzer, vice chairman, Wal-Mart Stores. "The Kansas City High-Efficiency store is the first of its kind, and shows Wal-Mart is capable of operating stores, clubs and distribution centers in a way that saves energy, lowers utility costs, reduces emissions, and above all, provides a better shopping experience for our customers."

In 2005, Wal-Mart opened two experimental stores in McKinney, Texas, and Aurora, Colo., to test several different environmentally friendly technologies, ranging from wind power to pervious pavement, from waterless urinals to light-emitting diodes. The aim was to experiment with innovative technologies, with the intention that they could some day be incorporated into a store prototype. The Kansas City High-Efficiency store is the first store to bring some of these experiments from the preliminary testing phase to a practical trial phase. Wal-Mart plans to open the next High-Efficiency store in Rockton, Ill., this spring.

"We are learning a tremendous amount from our experimental stores," said Eric Zorn, president, Wal-Mart Realty. "Wal-Mart stores are already some of the most energy-efficient in the retail industry, but we want to take efficiency even further. This new Supercenter is where we really get to put what we've learned into practice, and we're excited to reach a 20 percent energy reduction so quickly."

To achieve the 20 percent energy reduction at the new Kansas City High-Efficiency store, the company will target two main energy-consuming units: the heating and air conditioning system (HVAC), and the refrigeration system. With the installation of special equipment, such as a water source heat pump and cooling towers, hot and cold water can be harnessed to drive new levels of efficiency. Specifically, the new HVAC and more efficient refrigeration systems are fully integrated so that 100 percent of the heat rejected by the refrigeration system is reclaimed into the HVAC. The reclaimed heat is then converted into usable energy. By incorporating a loop piping design, the advanced refrigeration system also reduces the amount of installed copper and the total refrigerant charge required.

"For years, retailers have used air cooled equipment for air conditioning and refrigeration," Vice President of Prototype and New Format Design Charles Zimmerman said. "In recognizing that water has four times the heat carrying capacity of air, we realized it would be much more efficient as a conductor of energy in our heating, cooling and refrigeration systems. In this

High-Efficiency store, we're putting that to the test by utilizing our on-site resources to full capacity before applying secondary power sources."

Other energy-saving technologies in the High-Efficiency store include the installation of **ultra-efficient** case fans, glass doors on medium temperature grocery cases, **RollSeal®** quick response doors to seal air in areas such as the Garden Center, an a **top-of-the-line** dehumidification system. The store will also have a daylight harvesting system, which uses skylights to refract daylight throughout the store and light sensors to monitor the amount of natural light available. During periods of higher natural daylight, the system then dims or **turns off** the store lights when they aren't needed, thereby reducing energy usage.

Like many other Wal-Mart stores opening this month, the Kansas City Supercenter also features **GE's** energy-saving light-emitting diode (LED) refrigerated case lighting. **LEDs** have a longer life span than fluorescent bulbs, produce less heat and use significantly less energy than typical grocery case lighting. In the High-Efficiency store, motion sensor-driven LED lights have been installed in all freezer and **medium-temperature** refrigerated cases. When not in use for a few seconds, the light in these cases automatically **turn off**, and quickly turn back on when a **customer** approaches. This direct learning from the Aurora and **McKinney** experimental stores is expected to add a **2 to 3** percent energy reduction, and will be **rolled-out** in new Wal-Mart stores, Supercenters, Neighborhood Markets and Sam's Clubs beginning this month.

"We're very excited to launch this High-Efficiency concept in Kansas City, where our residents and local business leaders have shown that the environment is a key priority for them." said Dan Steele, Wal-Mart store manager. "Though most of the energy-saving technologies here are not visible to the public, we've added new **signage** to show our customers how these systems can help save money and keep our prices low."

Lighting the Way for Energy Savings in Kansas City

In addition to the focus on energy-efficient stores, Wal-Mart is committed to selling products that sustain our resources and our environment. As part of this store's grand opening events, Wal-Mart announces a partnership with Kansas City Mayor Kay Barnes to support the **city's** "A Million Lights Campaign." With its donation of 21,000 compact fluorescent light bulbs (CFLs), Wal-Mart will aid the city's campaign to distribute CFLs to low-income and senior citizen households in Kansas City Mo. The Wal-Mart **gift** will also help the **city** reach its goal to change one million incandescent bulbs to energy-saving CFLs by October 2007. This in-kind donation of more than **\$53,000** brings this store's total grand opening donations to local charities and organizations – such as the Kansas City Weatherization Improvement Project, Bridging the Gap, and the Boy! Club of Greater Kansas City – to \$110,000.

About Wal-Mart Stores Inc. (NYSE **WMT**)

Every week, more than 127 million customers visit Wal-Mart Stores, Supercenters, Neighborhood Markets, and Sam's Club locations across America. The company and its Foundation are committed to a philosophy of giving back locally. Wal-Mart (NYSE: **WMT**) is proud to support the causes that are important to customers and associates right in their own neighborhoods, and last year gave more than **\$245** million to local United States communities. To learn more, visit www.walmartfacts.com, www.walmart.com, or www.walmartfoundation.org.

FACT SHEET *Kansas City Wal-Mart Supercenter*

Store fast facts

- Location: 11601 E. **U.S. 40** Highway, Kansas City, Mo.
 - 197,000-square-foot Wal-Mart Supercenter
 - VIP Preview night Thursday, Jan. 18, 6 p.m.
- Grand opening ceremony Friday, Jan 19; 7:30 a.m. followed by store opening at 8 a.m.
 - Store manager: Dan Steele

Other Store features

- Full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products, fresh produce, full line of beer, wine and liquor, apparel and accessories, toys, fine jewelry, lawn and garden center, health and beauty aids, electronics, Tire & Lube Express, vision center, Subway restaurant, one-hour photo lab, pharmacy, SmartStyle hair salon, Wal-Mart Connect Center, Kansas City Chiefs and Royals sport shop and a UMB branch.
- Open 24 hours a day, seven days a week.
 - Nineteen full-service and 12 express check-out lanes.

Employment

- More than 1,200 applications. Store plans to employ 480 associates.
 - Thirty-two of the Kansas City store's associates have worked for Wal-Mart for more than 10 years.
 - The national average wage at Wal-Mart for full-time hourly associates is approximately \$10.11 per hour.*
- Wal-Mart benefits — available to full- and part-time associates — include healthcare insurance with no lifetime maximum. Wal-Mart associates are eligible for health care benefits. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

* Average wage taken December 2005. See www.walmartfacts.com for details.

For more information

- Store manager: Dan Steele, (816) 313-1183
- Wal-Mart information online: www.walmartfacts.com; merchandise sales: www.walmart.com

Charitable Giving Fast Facts

Kansas City Supercenter Donates over \$1 10,000 in In-Kind and Cash Contributions to Local Community

- \$53,000 in product donations of 21,000 CFL light bulbs for “A Million Lights” Campaign; City will distribute 21,000 energy-efficient light bulbs to low-income and senior citizen households in Kansas City, Mo.
- \$10,000 donation to the Home Weatherization Division of the Kansas City Neighborhood and Community Services
- \$10,000 donation to Bridging the Gap to support various environmental programs and community organizations

“A Million Lights” Campaign — More than \$53,000 in in-kind light bulb donations

Wal-Mart is pleased to partner in the Kansas City, Missouri’s “A Million Lights” campaign — an effort to replace one million light bulbs with compact fluorescent light bulbs to save the region over \$2 million in energy costs by October 2007. Compact fluorescent light bulbs (CFLs) consume 70 percent less energy than standard incandescent bulbs and last up to 10 times longer. Each CFL can save about \$30 over the life of the bulb and keep as much as 450 pounds of greenhouse gases from entering the atmosphere. Wal-Mart’s donation of 21,000 CFLs, worth more than \$53,000, will have far-reaching impacts in the city’s effort to distribute energy-efficient light bulbs to low-income and senior citizen households in Kansas City, Mo.

Kansas City Weatherization Improvement Project - \$10,000 cash contribution

In 1977, the Missouri Department of Natural Resources established the Low-Income Weatherization Assistance Program (LIWAP) and since the program’s inception more than 140,000 homes have been weatherized. The program operates year round and service providers of the program examine furnaces and ductwork, perform window and door repairs, and target general heat loss areas with caulking and weather-stripping. The Home Weatherization program income guidelines are set at 150 percent of poverty and are funded through several income sources. The Missouri Department of Natural Resources and the Federal Department of Energy serve as the largest source of funds. The program is also funded through utility providers including Kansas City Power & Light and Missouri Gas Energy.

Bridging the Gap = \$10,000 cash contribution

In 1991, Bridging the Gap opened Kansas City's first volunteer recycling center. A year later, the group formed a 501(3)(c) organization with the mission to **encourage** an understanding of local and global interconnectedness through education and action. Today, Bridging the Gap operates as an organizing hub for numerous environmental projects—from waste prevention to environmental education, from recycling to picking up litter and keeping Kansas City beautiful. The organization works closely with business, **schools**, governments and the community to encourage local partnerships and support sustainable decision making.

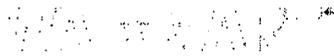
Additional Charitable Outreach = **\$37,500** in charitable contributions are directed to 15 area organizations

- o Greater Kansas City Foundation for Citizens with Disabilities
- o Kansas City Metropolitan Crime Commission
- o Special Olympics Missouri
- o City of Kansas City Police Department
- o Blue Hills Community Services Corporation
- o City of Independence Fire Department
- o Gillis Center Inc.
- o Kansas City Community Gardens
- Raytown Fire Department District
- o Sickle Cell Disease Associations of America – Kansas City Chapter 2301
- o Vietnam Veterans of America
- o Boys Club of Greater Kansas City
- o Police Athletic League of Kansas City
- American Cancer Society
- o City of Kansas City Police Department* Tactical Response Team

For more information

- Wal-Mart information online: www.walmartfacts.com; merchandise sales: www.walmart.com
- o Kansas City Neighborhood and Community Services Department. Robert Jackson, director
- o Home Weatherization Division: (816) 513-3025 http://www.kcmo.org/neighborhood/nsf/web/weather_main?opendocument

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Home About Us Facts & News Health & Wellness Careers Community & Giving Diversity

Home > Sustainability > Climate & Energy > Sustainable Buildings

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Networks

Sustainability Newsletter
Sustainability Progress
Report

Climate & Energy

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Trucking Fleet
Greenhouse Gas
Emissions

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Seafood
Organics
Locally Grown Products
Wal-Mart Pledges
Packaging Reduction
Compact Fluorescent
Light Bulbs
Ethical Sourcing

Communities

Store Siting
Economic Impacts
Acres for America

Associates

Healthcare
Compensation

Sustainable Buildings

Our experimental stores were built to help us reach our three long-term environmental goals:

- To be supplied 100 percent by renewable energy
- To create zero waste
- To sell products that sustain our resources and the environment

We are also committed to designing a store prototype that is 25-30 percent more efficient by 2012 and reducing greenhouse gas emissions in existing stores by 20 percent by 2012.

Our experimental stores

We have two stores, one in McKinney, Texas, and one in Aurora, Colorado, that show how working together can help solve issues. Engineers, architects, scientists, contractors, landscape designers, and owners created functional facilities that save energy, conserve natural resources and reduce pollution. They also created a more pleasant shopping experience for our customer and a healthier work environment for our associates.



Solar panels on our McKinney, Texas experimental store

These stores are living laboratories

At these stores, we test new technologies and products that we can potentially incorporate into our stores. Some tested technologies from our experimental stores — like LED lighting — are already making their way into stores across the country — at Wal-Mart stores and the facilities of our competitors.

Our high-efficiency stores

In 2007, we opened three High Efficiency stores, called HE.1s, that use 20 percent less energy than a typical Supercenter. Located in Kansas City, Missouri, Rockton, Illinois, and Highland Village, Texas, these stores were constructed using recycled building materials and energy-efficient lighting methods. They operate using an environmentally-friendly, 100 percent integrated water source heating, cooling and refrigeration system. Other features of the HE.1 stores include reflective white roofs, low-flow bathroom faucets, motion-sensing LED lights and an advanced daylight harvesting system.

Our ultra high-efficiency store

In January 2008, we opened the first of four next generation High Efficiency stores (HE.2s).

Sustainable building design focuses on reducing energy use, utilizing wind/solar/skylights/LED lighting/other technologies, all to create up to a 50% reduction in overall usage.

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Romeoville, Illinois. The store builds upon what we learned from the HE.1 and experimental by incorporating a secondary loop refrigeration system. In combination with other energy-saving and environmentally friendly building aspects, this technology allows the store to be 25 percent more energy efficient than the 2005 baseline, and reduce refrigerant use by 90 percent.

Solar Power

We are also experimenting with solar power. In 2007, we announced a solar power pilot in 2 locations throughout California and Hawaii. When fully implemented, the aggregate purchase will be one of the top 10 largest-ever solar power purchases in the United States.

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EXHIBIT E

As published in *Real Property Law Reporter*, September 2007

Analyzing Climate Change Under CEQA in a Climate of Uncertainty

Arthur Friedman, Judy Davidoff, and Miriam Montesinos

Introduction

California has long been recognized as a leader in environmental protection. In 1970, the legislature enacted the California Environmental Protection Act (CEQA) (Pub Res C §§21000–21178), which mandates that governmental agencies at all levels identify potentially significant environmental effects, and implement feasible mitigation measures or alternatives, before approving a project. Pub Res C 921002. CEQA requires that public agencies prepare a comprehensive environmental impact report (EIR) to analyze projects that may cause significant environmental effects. California courts have described the EIR's role "as an environmental alarm bell whose purpose is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *County of Inyo v Yorty* (1973) 32 CA3d 795, 810, 108 CR 377.

Yet, in the 37 years since its enactment, CEQA has not served its function as the "environmental alarm bell" on the issue of climate change. California's awareness and growing concern about this issue, which many describe as the single most important environmental issue of this and future generations, has developed outside the context of CEQA, largely in response to private action and other legislative initiatives spanning approximately 20 years. Consequently, there is no California appellate case law applying CEQA's requirements to the issue of climate change. But in the words of Bob Dylan, "The times they are a-changin'."

Since the California legislature's enactment in September 2006 of AB 32, the California Global

Warming Solutions Act of 2006 (Health & S C §§38500–38599), at least two CEQA lawsuits have been filed challenging the respective agency's alleged failure to consider a project's greenhouse gas (GHG) emissions and effects on climate change. Last December, the Center for Biological Diversity filed a challenge to the City of Banning's approval of a 1500-home development. On April 13, 2007, California Attorney General (AG) Jerry Brown, on behalf of the state, filed a lawsuit against San Bernardino County's update to its General Plan. (As we go to press, the Attorney General and San Bernardino County have settled the suit, with the county agreeing to incorporate a greenhouse gas emissions reduction plan into its General Plan, including a specific reduction target and mitigation measures. See <http://www.sbcou nty.gov/pressreleases/docs/1877AGlawsuitsettlementrelease8-21-07.pdf>.)

The AG has also submitted CEQA comment letters challenging several projects throughout the state based on the project EIR's alleged failure to analyze climate change impacts, including:

- The San Diego General Plan;
- The Yuba Highlands Project;
- The Kern County Regional Transportation Plan;
- The Merced County Regional Transportation Plan;
- The San Joaquin County Regional Transportation Plan; and
- The ConocoPhillips Rodeo Refinery Expansion Project.

The sudden proliferation of CEQA challenges on the issue of climate change recently prompted the California Chamber of Commerce, along with several prominent California companies and labor unions, to

jointly submit a letter to Governor Schwarzenegger, Senate President pro tem Don Perata, and Speaker Fabian Nunez requesting legislation clarifying that "CEQA is not the appropriate vehicle for addressing climate change concerns." Their June 21, 2007, letter warns: "The potential for harm if these [CEQA] challenges are allowed to continue is staggering." (The letter can be found at www.pcl.org/newsroom/CEQAClimateChangeLetter.pdf.) The industry group's letter sparked a flurry of letters in response to the Governor from environmental groups asserting that CEQA is a vitally important legal instrument to accomplish the state's goal of reducing GHG emissions.

Given California's political and actual climate today, there is a growing consensus among CEQA practitioners that in at least some, if not most, circumstances, even in the absence of an express statutory requirement to do so, governmental agencies will expand the traditional scope of their environmental review under CEQA to consider a project's GHG emissions and potential climate change impacts.

This article discusses the regulatory background leading to California's focus on the issue of climate change. It then discusses some of the unique challenges presented by environmental review under CEQA of a project's potential effects on climate change. Finally, it discusses alternative approaches to such CEQA review.

California's Actions to Address Climate Change - Warming Up to the Threat of Warming

In 1988, the California legislature enacted AB 4420, which, among other things, directed the California Energy Commission (CEC), in consultation with California's Air Resources Board (CARB) and other agencies, to study the implications of global warming on California's environment, economy, and water supply.

Executive Order S-3-05 and the Climate Action Team

In June 2005, the Governor signed Executive Order S-

3-05, which called for a reduction in GHG emissions to 1990 levels by 2020 and an 80-percent reduction in GHG emissions by 2050. (Executive Order **S-3-05** can be found at http://www.climatechange.ca.gov/climate_action_team/index.html.) The Executive Order also directed the Secretary of the California Environmental Protection Agency (Cal/EPA) to lead an effort to evaluate the impacts of climate change on California and to recommend measures in response. The Secretary of Cal/EPA thereafter created the Climate Action Team (CAT). The CAT includes representatives from the CARB, Business, Transportation & Housing Agency, Department of Food & Agriculture, CEC, California Integrated Waste Management Board, Department of Water Resources, and the Public Utilities Commission.

The CAT released its 107-page report to the Governor in March 2006. (The report can be found on the CAT website at http://www.climatechange.ca.gov/climate_action_team/index.html.) The CAT report states that "during the 20th century, we have observed a rapid change in the climate and climate change pollutants that is attributable to human activities." Report at 6. The report continues that "[t]he climate change we are seeing today ... differs from previous climate change in both its rate and its magnitude." Report at 6-7. The report states further that "[c]ontinued climate change would have widespread impacts on California's economy, ecosystems, and the health of its citizens." Report at 37.

Finally, the report identifies several GHG emission reduction strategies, most of which are not applicable to land use development. The recommendations relating to land use include (Report at 39-65):

- Planting trees in urban and suburban areas;
- Implementation of energy efficient water and wastewater operations;
- Implementation of building energy efficiency standards;
- Implementation of energy efficient cement manufacturing techniques;
- Implementation of strategies that integrate transportation and land-use decisions (e.g., encouraging jobs/housing proximity, transit-oriented development,

and high-density residential/commercial development along transit corridors);

- Implementation of Green Building Initiatives comparable to the Governor's Green Building Executive Order, S-20-04, which sets forth specific actions state agencies are to take with state-owned and leased buildings; and
- Increased use of solar and other noncarbon sources of energy.

California's Global Warming Solutions Act of 2006

The CAT's findings provided additional impetus for the legislature to enact landmark legislation aimed at addressing global warming. In September 2006, Governor Schwarzenegger signed AB 32, the California Global Warming Solutions Act of 2006, which requires CARE, the state agency charged with regulating statewide air quality, to determine by January 1, 2008, what the statewide GHG emissions level was in 1990, and approve a statewide GHG emissions limit that is equivalent to that level, to be achieved by 2020. Health & S C §38561.

Assembly Bill 32 includes a declaration by the legislature that "[g]lobal warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California." Health & S C §38501(a). Section 38501(a) further states that

the potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human related problems.

Although the CARE has primary responsibility for reducing GHG emissions under AB 32, the Act further directs that "[n]othing in this division shall relieve any state entity of its legal obligations to comply with existing law or regulation." Health & S C §38598(b).

The AG and various environmental organizations have asserted that AB 32 implicitly has imposed a mandato-

ry duty on governmental agencies to analyze under CEQA a project's potential effects on climate change. This viewpoint gained momentum on April 27, 2007, with the Association of Environmental Professionals' (AEP) publication of its Draft White Paper on Global Climate Change (found at <http://www.califaep.org/climate%20change/default.html>). The AEP is a statewide group with over 1600 members whose primary focus is the preparation of CEQA compliance documents. AEP's Draft White Paper states (at 8):

When the legislative findings about the threats to the environment and the absence of relief from other laws are considered together, AB 32 creates compelling statutory basis for addressing significant adverse effects of GCC [Global Climate Change] in CEQA compliance.

Advocates of the AG's viewpoint contend further that CEQA is a critically important legal instrument for achieving the GHG reductions mandated by AB 32 given the severity of existing GHG levels and current trends. According to the CEC's December 2006 report on the "Inventory of Greenhouse Gas Emissions and Sinks" (found at <http://www.energy.ca.gov/publications/displayOneReport.php?pubNum=CEC-600-2006-013-SF>), California is the second largest contributor of GHG emissions in the United States (behind Texas), and the 16th largest in the world. CEC Report at 17. The major source of GHG emissions in California is transportation, contributing 41 percent, followed by electricity, contributing 22 percent. CEC Report at 8. The CEC report concurs with the CAT that urgent action is needed to reverse the trend of increasing GHG emissions. CEC's report states (at 8):

California's GHG emissions are large and growing as a result of population and economic growth and other factors. From 1990 to 2004 total gross GHG emissions rose 14.3 percent; they are expected to continue to increase in the future under "business-as-usual" unless California implements programs to reduce emissions.

On an optimistic note, however, the CEC report states that while California's economy grew 83 percent between 1990 and 2004, its GHG emissions

increased more slowly, at 12 percent, thus demonstrating "the potential for uncoupling economic trends from GHG emissions trends." CEC Report at i. The state's ongoing ability to uncouple economic growth from GHG emissions, according to the CEC, is largely dependent on its commitment to implementing energy efficiency, renewable energy, and other GHG emission reduction measures. CEC Report at i. Advocates of the AG's viewpoint contend that CEQA is perhaps the best mechanism to ensure that GHG emission reduction measures are incorporated into future projects.

The CEC's warning against proceeding with "business as usual" is echoed in the AG's recent CEQA comment letters. As an example, the AG's June 11, 2007, letter to the City of San Diego regarding its proposed general plan states (at 7): "The impacts of global warming are potentially catastrophic and we cannot proceed with 'business as usual' even though some of the required changes may encounter public opposition." (The letter can be found at <http://www.sandiego.gov/cityattorney/reports/pdf/sagl070706.pdf>.)

The growing consensus favoring CEQA analysis of climate change impacts, however, has far outpaced any consensus on how to conduct this analysis during the interim period before the CARB provides regulatory guidance.

From "Business-as-Usual" to "Ad-Hoc" Rules

GHG emissions into the atmosphere are not by themselves an adverse environmental effect. The increased concentrations of GHG emissions, resulting in global climate change and its associated consequences, produce adverse environmental impacts. Although it is possible to generally estimate a project's incremental contribution of GHG emissions into the atmosphere, there is no recognized methodology for determining how an individual project's relatively small incremental contribution might translate into physical effects on the environment—particularly given the global nature of the problem.

Consequently, CEQA analysis of a project's effect on global climate change involves unique challenges.

Among other issues, there is ongoing debate among CEQA practitioners regarding how best to determine:

- A project's environmental effects, if any, on global climate change;
- The threshold for finding that a project's incremental climate change effects rise to the level of a "cumulatively considerable" impact; and
- If the project's climate change effects are cumulatively considerable, what feasible alternatives or mitigation measures, if any, can "substantially lessen" the project's effects.

Determining the Project's Effects on the Physical Environment

Among the first steps in the environmental analysis under CEQA is a determination of what physical changes to the environment, if any, will be caused by the project. *Baird v County of Contra Costa* (1995) 32 CA4th 1464, 38 CR2d 93. Lead agencies are required under CEQA to consider direct and indirect physical changes in the environment that may be caused by the project. 14 Cal Code Regs §15064(d). An indirect physical change is to be considered only if that change is a reasonably foreseeable impact; a change that is speculative or unlikely to occur is not reasonably foreseeable. 14 Cal Code Regs §15064(d)(3).

There is no established methodology for determining the impacts of a land use plan or an individual project on global climate change. The 2005 report prepared by the National Research Council, a branch of the National Academy of Science, entitled "Radiative Forcing of Climate Change: Expanding the Concept and Addressing Uncertainties," concluded that "the mechanisms involved in land-atmosphere interactions are not well understood, let alone represented in climate models." The determination of a project's effect on the physical environment resulting from climate change is further complicated by the fact that GHG emissions, unlike other air quality impacts that are linked to a localized area or region, are by definition a global issue, requiring analysis on a global scale.

The analysis of a project's effect on the environment begins with an inventory of each potential source of

GHG emissions fairly attributed to the project. CEQA defines the term "project" broadly to encompass the "whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." 14 Cal Code Regs §15378(a). Courts have held that under this broad definition, the environmental analysis should encompass not only airborne emissions associated with project construction and operations, but also mobile emissions related to transportation to and from the project. *Kings County Farm Bureau v City of Hanford* (1990) 221 CA3d 692, 716, 270 CR 650. The latter source is a subject of some controversy. In many cases, a project will not cause "new" vehicle GHG emissions sources from a global perspective, but rather merely causes the movement of existing vehicle emission sources from one location to another,

In *Natural Resources Defense Council v Reclamation Bd.* (Sacramento Super Ct, Apr. 27, 2007, No. 06CS01228), the court rejected petitioner's claim that recent global warming legislation constituted new information triggering the need for "supplemental" environmental review under CEQA, in part because the causal link between the specific project and climate change was not established. The court stated:

As the projected effects of climate change become clearer and can be related to specific sites, there is little doubt that those effects will have to be factored into the analysis of many projects under CEQA.

The court's holding suggests that a lead agency's obligation to disclose a project's incremental impact on climate change may grow as science advances. See Bogdan, *Greenhouse Gas Emissions and Climate Change: CEQA Catches Up With Science, Celebrities, and Product Placement*, 16 California Land Use L & Policy Rep 245 (June 2007). During this interim period, lead agencies may conclude that a determination regarding the project's impact on climate change is too speculative. Bogdan, *supra*. Title 14 Cal Code Regs §15145 authorizes such a conclusion, stating that "[i]f, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the

agency should note its conclusion and terminate discussion of the impact." Under CEQA's "rule of reason," an EIR is required to evaluate impacts to the extent it is "reasonably feasible" to do so. 14 Cal Code Regs §15151; *San Francisco Ecology Ctr. v City & County of San Francisco* (1975) 48 CA3d 584, 122 CR 100. While CEQA requires lead agencies to make a good faith effort to disclose what they reasonably can, it "does not demand what is not realistically possible." *Residents Ad Hoc Stadium Comm. v Board of Trustees* (1979) 89 CA3d 274, 286, 152 CR 585.

Determining Thresholds of Significance

CEQA compels public agencies to refrain from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects. Pub Res C §21002; *Sierra Club v State Bd. of Forestry* (1994) 7 C4th 1215, 1233, 32 CR2d 19. The determination of what constitutes a "significant" impact is important under CEQA because mitigation measures are not required for effects not found to be significant. 14 Cal Code Regs §15126.4(a)(3).

The AG has argued that anticipated GHG emissions of proposed projects will cause significant environmental effects under a "cumulative impacts" analysis. A cumulative impact consists of an impact created as a result of the combination of the project evaluated together with other projects causing related impacts. 14 Cal Code Regs §§15130(a)(1), 15355. Cumulative impact analysis involves a two-step process. The lead agency first determines whether the combined effects from both the proposed project and other projects would be cumulatively significant. If the answer is yes, the second question is whether "the proposed project's incremental effects are cumulatively considerable." *Communities for a Better Env't v California Resources Agency* (2002) 103 CA4th 98, 120, 126 CR2d 441; Thomas, Moose, Manley, *Guide to CEQA 468* (11th ed Solano Press 2006).

The AG has asserted that because the state is committed by AB 32 to a 25-percent decrease in GHG emissions, any project that produces increases in GHG emissions could be an obstacle to complying with AB 32 and

thus should be considered a significant cumulative impact. The AG argues further that this approach is consistent with 14 Cal Code Regs 515387, App G (Environmental Checklist Form), which lists as a factor (in determining whether an air quality impact is significant) consideration of whether the project conflicts with or obstructs implementation of applicable air quality plans. The logical extension of this argument, however, is that virtually all projects will require preparation of an EIR rather than a negative declaration, as the slightest incremental contribution of GHG emissions may cause significant environmental impacts.

There is minimal guidance under CEQA regarding what constitutes a cumulatively considerable impact. Courts have held that the addition of "one molecule" is not cumulatively considerable. *Communities for a Better Env't, supra*. On the other hand, "the greater the existing environmental problems are, the lower the threshold should be for treating a project's contribution to cumulative impacts as significant." *Communities for a Better Env't, supra*. The determination of whether an incremental increase in airborne contaminants greater than one molecule constitutes a cumulatively considerable impact ultimately must be made on a case-by-case basis.

There are currently no published thresholds for significance for measuring a project's impact on climate change. CARB is expected to provide regulatory guidance regarding standards of significance in January 2008. During this interim period, agencies may conclude that any determination of significance would be speculative "and terminate discussion of the impact." 14 Cal Code Regs 515145; *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1993) 6 C4th 1112, 1137, 26 CR2d 231 (upholding EIR's conclusion that potential cumulative impacts of toxic air emissions are too speculative for evaluation).

The AG rejects such determinations by lead agencies. As an example, the AG's comment letter to the Contra Costa County Planning Commission regarding the ConocoPhillips Rodeo Refinery Expansion Project states:

By declining to determine that GHG emissions

from the projects could have a cumulatively considerable impact on global warming, the County has attempted to avoid CEQA's requirement to adopt all feasible alternatives and mitigation measures to reduce the project's global warming impacts. This substantially undercuts "the fundamental purpose of CEQA which is to ensure that environmental considerations play a significant role in governmental decision making."

The AG has asserted that even if no regulatory agency has established a threshold by which to measure the significance of a single project's GHG emissions, lead agencies are obligated under CEQA to make their own determinations of significance. 14 Cal Code Regs §15064.7(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.")

Critics of the AG's position counter that while agencies have considerable discretion in determining thresholds of significance, their determinations should be based, to the extent possible, on scientific and factual data, which are lacking prior to CARB's issuance of regulatory standards. See 14 Cal Code Regs §15064(b). Additionally, an agency's determinations must be supported by "substantial evidence." Pub Res C §21080(c)(1). CEQA defines "substantial evidence" as facts, reasonable assumptions predicated on facts, and expert opinion supported by facts. 14 Cal Code Regs §15384(b).

The AG's critics additionally warn that absent reliance on regulatory guidance from the CARB through the AB 32 process, rules regarding how climate change impacts are to be evaluated will likely be developed on an ad hoc basis, increasing the risk that mitigation resources will be misallocated.

Determining Feasible Mitigation Measures

CEQA requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid the otherwise significant adverse environmental effects of proposed projects. Pub Res C §21002. Mitigation measures should be capable of avoiding or substantially less-

ening the project's environmental impacts. 14 Cal Code Regs §15370. Additionally, to survive constitutional scrutiny, mitigation measures must be "roughly proportional" to the impacts of the project. 14 Cal Code Regs §15126.4(a)(4)(B).

Project modification is not required when it is infeasible or the responsibility for mitigation lies with some other agency. 14 Cal Code Regs §15091(a), (b). "'Feasible' means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." Pub Res C §21061.1. In cases in which significant impacts are not at least "substantially lessened," the agency may nevertheless approve the project if it first adopts a "statement of overriding considerations" setting forth the specific reasons why the agency found that the project's benefits rendered acceptable its unavoidable adverse environmental effects. 14 Cal Code Regs §§15043(b), 15093.

The AG has asserted that lead agencies must make project approvals contingent on the implementation and enforcement of mandatory mitigation measures to reduce GHG emissions, which, depending on the nature of the project (*i.e.*, plan-level or site-specific), may include, but are not limited to, the following:

Transportation

- Coordinate controlled intersections so that traffic passes more efficiently through congested areas. Where signals are installed, require the use of Light Emitting Diode (LED) traffic lights.
- Set specific limits on idling time for commercial vehicles, including delivery and construction vehicles.
- Require construction vehicles to use retrofit emission control devices, such as diesel oxidation catalysts and diesel particulate filters verified by the CARB.
- Promote ride sharing programs, *e.g.*, by designating a certain percentage of parking spaces for high-occupancy vehicles, providing larger parking spaces to accommodate vans used for ride-sharing, and designating adequate passenger loading and unloading and waiting areas.
- Create car-sharing programs. Accommodations for such programs include providing parking spaces for the

car-share vehicles at convenient locations accessible by public transportation.

- Require clean alternative fuels and electric vehicles.
- Develop the **necessary** infrastructure to encourage the use of alternative fuel vehicles, *e.g.*, electric vehicle charging facilities and conveniently located alternative fueling stations.
- Increase the cost of driving and parking private vehicles by imposing tolls, parking fees, and residential parking permit limits.
- Develop transportation policies that give funding preference to public transit.
- Design a regional transportation center where public transportation of various modes intersect.
- Encourage the use of public transit systems by enhancing safety and cleanliness on vehicles and in and around stations.
- Assess transportation impact fees on new development in order to facilitate and increase public transit service.
- Provide shuttle service to public transit.
- Offer public transit incentives.
- Incorporate bicycle lanes into street systems in regional transportation plans, new subdivisions, and large developments.
- Create bicycle lanes and walking paths directed to the location of schools and other logical points of destination and provide adequate bicycle parking.
- Require commercial projects to include facilities on-site to encourage employees to bicycle or walk to work.
- Provide public education and publicity about public transportation services.

Energy Efficiency and Renewable Energy

- Require energy efficient design for buildings. This may include strengthening local building codes for new construction and renovation to require a higher level of energy efficiency.
- Adopt a "Green Building Program" to promote green building standards.
- Fund and schedule energy efficiency "tune-ups" of existing buildings by checking, repairing, and readjusting heating, ventilation, air conditioning, lighting, hot water equipment, insulation, and weatherization. (Facilitating or funding the improvement of energy efficiency in existing buildings could offset in part the

global warming impacts of new development.)

- Provide individualized energy management services for large energy users.
- Require the use of energy efficient appliances and office equipment.
- Fund incentives and technical assistance for lighting efficiency.
- Require that projects use efficient lighting. (Fluorescent lighting uses approximately 75 percent less energy than incandescent lighting to deliver the same amount of light.)
- Require measures that reduce the amount of water sent to the sewer system. (Implementing this measure means less water has to be treated and pumped to the end user, thereby saving energy.)
- Incorporate on-site renewable energy production (through, e.g., participation in the California Energy Commission's New Solar Homes Partnership). Require project proponents to install solar panels, water reuse systems, and/or other systems to capture energy sources that would otherwise be wasted.
- Streamline permitting and provide public information to facilitate accelerated construction of solar and wind power.
 - Fund incentives to encourage the use of energy efficient equipment and vehicles.
- Provide public education and publicity about energy efficiency programs and incentives.

Land Use Measures

- Encourage mixed-use and high-density development to reduce vehicle trips, promote alternatives to vehicle travel, and promote efficient delivery of services and goods. (A city or county could promote "smart" development by reducing developer fees or granting property tax credits for qualifying projects.)
- Discourage "leapfrog" development. Enact ordinances and programs to limit sprawl.
- Incorporate public transit into project design.
- Require measures that take advantage of shade, prevailing winds, landscaping, and sun screens to reduce energy use.
- Preserve and create open space and parks. Preserve existing trees and require the planting of replacement trees for those removed in construction.
- Impose measures to address the "urban heat island"

effect by, e.g., requiring light-colored and reflective roofing materials and paint; light-colored roads and parking lots; shade trees in parking lots; and shade trees on the south and west sides of new or renovated buildings.

- Facilitate "brownfield" development. (Brownfields are more likely to be located near existing public transportation and jobs.)
- Require pedestrian-only streets and plazas within developments, and destinations that may be reached conveniently by public transportation, walking, or bicycling.

Solid Waste Measures

- Require projects to reuse and recycle construction and demolition waste.
- Implement or expand city- or county-wide recycling and composting programs for residents and businesses.
- Increase areas served by recycling programs.
- Extend the types of recycling services offered (e.g., to include food and green waste recycling).
- Establish methane recovery in local landfills and wastewater treatment plants to generate electricity.
- Provide public education and publicity about recycling services.

See Office of the California Attorney General, Global Warming Mitigation Measures (<http://ag.ca.gov/newsalerts/release.php?id=1433&>).

The AEP similarly recommends in its draft white paper that lead agencies require the implementation of all feasible and applicable emission reduction strategies contained in the CAT Report or a locally applicable GHG reduction plan if one has been adopted. The AEP concludes that compliance with such strategies would likely support a conclusion that the project would have a less than significant impact on global climate change. AEP Draft White Paper at 12-13.

Critics of this approach note that many of the CAT strategies are not applicable to land use projects. Moreover, while the GHG emission reduction strategies identified in the CAT Report are quantified statewide, there is no recognized basis for quantifying the CAT's strategies on a project-by-project basis. Thus, there is

no recognized way of quantifying whether the implementation of **GHG** emission reduction strategies avoids or substantially lessens a specific project's otherwise cumulatively considerable global climate change effects. Thus, when an agency concludes that a project's **GHG** emissions are cumulatively considerable, in the absence of irrefutable evidence that the required mitigation measures avoid or substantially lessen those impacts, lead agencies are well advised, in the exercise of caution, to adopt a statement of overriding considerations in support of the project.

Alternative Approaches to CEQA Analysis of Climate Change Impacts

CEQA documents may address **GHG** emissions and a project's potential impacts on climate change by using one of the following approaches:

- Limited discussion of the issue followed by a finding that the impact is too speculative for evaluation;
- A "qualitative" analysis that discusses the issue in more detail, but ultimately concludes that one or more elements of the analysis are too speculative for determination; or
- A "quantitative" analysis that makes determinations regarding the project's anticipated **GHG** emissions, findings of significance, and the adequacy of feasible mitigation measures.

The following checklists summarize some of the fundamental components to these varying approaches:

Alternative 1—Findings of Infeasibility or Speculation

- A discussion of the scientific knowledge regarding climate change.
- A discussion of the regulatory setting pertaining to climate change at the international, national, state, and, if applicable, regional and local levels.
- A discussion of the **GHG** emission reduction measures incorporated into the project.
 - A discussion of the distinction between direct and cumulative impacts.
 - A discussion of the various methodologies that are available to assess the project's anticipated **GHG** emissions and/or thresholds of significance.
 - A finding that there are no accepted methodologies

or standards for measuring the project's anticipated **GHG** emissions and/or determining a threshold of significance.

- A finding that, after thorough investigation, the potential impact is too speculative for evaluation under 14 Cal Code Regs §§15145 and 15151.

Alternative 2—A Qualitative Analysis

- A discussion of the scientific knowledge regarding climate change.
- A discussion of the regulatory setting pertaining to climate change at the international, national, state, and (if applicable) regional and local levels.
 - A discussion of the project's anticipated **GHG** emissions considering the project as a whole.
 - A discussion of the distinction between direct and cumulative impacts.
 - A discussion of the various methodologies that are available to assess the thresholds of significance.
 - A determination that a threshold for significance is too speculative.
 - A discussion of the project's proposed **GHG** emission reduction measures.
 - A recommendation that the project implement as mitigation measures the feasible recommendations from the CAT Report or other local **GHG** emission reduction plan.
 - A finding that, based on the implementation of **GHG** emission reduction measures recommended by the CAT or some other applicable plan, the project's cumulative impacts would likely be less than significant.

Alternative 3—A Quantitative Analysis

- A discussion of the scientific knowledge regarding climate change.
 - A discussion of the regulatory setting pertaining to climate change at the international, national, state, and (if applicable) regional and local levels.
 - A discussion of the project's anticipated **GHG** emissions considering the project as a whole.
- A discussion of the distinction between direct and cumulative impacts.
- A discussion of the adopted threshold for significance (*i.e.*, consistency with the **GHG** emission reduction requirements of **AB 32**).

- A discussion of the project's proposed GHG emission reduction measures.
- If there is a finding that the proposed project's GHG emissions are cumulatively considerable under the adopted threshold of significance, a discussion of all feasible mitigation measures that could avoid or substantially lessen the impacts.
- A finding that, with the implementation of the proposed mitigation measures, the cumulatively considerable impacts would be substantially lessened; or, alternatively, a finding that the project, even with the implementation of all feasible mitigation measures, would result in significant and unavoidable impacts that would necessitate the adoption of a statement of overriding considerations in order to approve the project.

Conclusion

Since the legislature's enactment last fall of the Global Warming Solutions Act, the times are indeed "a-changin'" with respect to the requirements for environmental analysis of climate change impacts under CEQA. Until CARB provides some guidance regarding baseline conditions for GHG emissions and standards for significance, CEQA practitioners will continue to grapple with a climate of uncertainty. The words of Bob Dylan, which today seem eerily prophetic, are a fitting conclusion:

Come gather 'round people wherever you roam
And admit that the waters around you have grown
And accept it that soon you'll be drenched to the bone.
If your time to you is worth savin'
Then you better start swimmin' or you'll sink like a stone,
For the times they are a-changin'.

About the Authors

Arthur J. Friedman is a partner in the Real Estate, Land Use, Natural Resources and Environmental practice group at Sheppard, Mullin, Richter & Hampton LLP in San Francisco. Mr. Friedman litigates real estate, land use and various commercial matters. He also has significant experience practicing before the California Courts of Appeal, which resulted in a number of published decisions concerning the interpretation of CEQA and the Subdivision Map Act. He also leads the land use litigation subcommittee for the firm's Global Climate Change practice group.



Judy V. Davidoff is a partner in the Real Estate, Land Use, Natural Resources and Environmental practice group at Sheppard, Mullin, Richter & Hampton LLP in San Francisco. Ms. Davidoff focuses on state and federal land use and environmental matters, including CEQ/NEPA compliance, natural resources, air and water law, public trust and coastal matters, endangered species, cultural and historic resources, initiatives and referendums, public land permitting, and administrative proceedings and litigation.



Miriam Montesinos is an associate in the Real Estate, Land Use, Natural Resources and Environmental practice group at Sheppard, Mullin, Richter & Hampton LLP in San Francisco. Ms. Montesinos' practice emphasizes land use and environmental matters, including obtaining development entitlements, compliance with CEQA, and administrative proceedings and litigation.

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9/6/2007 **16-Year Relationship Between Wal-Mart and Arizona Business Grows, Thrives**

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Company Overview

Community Benefits

Wal-Mart on the Web

STATE BY STATE

State



El Centro Wal-Mart Supercenter Opens Friday; Grand Opening Celebration Tuesday, Jan. 31

El Centro Wal-Mart Supercenter Opens Friday; Grand Opening Celebration Tuesday, Jan. 31
Store's impact seen in **400** new jobs and **\$14,000** in charitable donation

EL CENTRO, Calif., Jan. 20, 2006 - Creating 400 new jobs and focusing on charitable support and every day low prices, the newly relocated Wal-Mart Supercenter in El Centro will open to the public on Friday, Jan. 27, at 7 am, and celebrate its grand opening at 7:30 a.m. on Tuesday, Jan. 31. The store is located at 2150 N. Waterman Ave.

Store features

Originally opened in 1990 at 2050 Imperial Ave., the newly relocated store has gained more than 113,630 additional square feet. According to Store Manager Angel Sanchez, the new 207,000-square-foot Wal-Mart Supercenter now features a full line of groceries as well as a bakery, a delicatessen, a frozen food section and meat, dairy and fresh produce sections. The store has 36 general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, and a full line of electronics. It will be open to customers 24 hours a day, seven days a week and will include 12 full-service, 14 express and four self check-out lanes.

Other store features include: a Tire & Lube Express, a McDonald's, a family fun center, a portrait studio, a one-hour photo lab, a vision center, a pharmacy, a Hair Works hair salon and a Regal nail salon. In addition, the store will have a Wal-Mart Connect Center for wireless phone sales.

Grand opening activities - Tuesday, Jan. 31

The Southwest High School marching band will perform the national anthem and representatives of the Veterans of Foreign Wars will present the colors at the grand opening ceremony. Members from the El Centro Chamber of Commerce will cut the ribbon to the new store.

In addition, El Centro Mayor Cedralia Sanders will speak at the ceremony. She also attended the 1990 grand opening ceremony of the original El Centro Wal-Mart. Sanchez and Wal-Mart associates will present Sanders with an enlarged picture of her speaking at the grand opening event nearly 16 years ago.

Employment

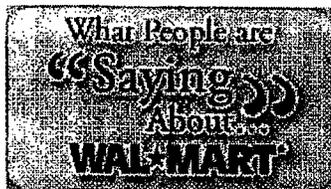
The store will employ approximately 720 associates, which includes 400 jobs created by the relocation. More than 3,000 people applied for jobs at the new store, according to Sanchez. The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*

"The large number of applicants for this new store doesn't surprise me at all," said Sanchez. "Great career opportunities, fantastic benefits and lasting friendships are just a few of the positive aspects of becoming a Wal-Mart associate." Sanchez started as an hourly associate in 1992 at the El Centro store as a cashier. Seventy-seven of the El Centro store's associates have worked for Wal-Mart for more than 10 years, added Sanchez.

Charitable giving

Upon its opening, the store will announce \$14,988 in donations through Wal-Mart's Good Works community involvement program to a number of organizations. The store will also have a budget to give donations away locally throughout the year. Organizations interested in receiving funding can contact the store for details. Groups receiving donations upon the store's opening include:

- Boys and Girls Club
- Catholic Charities: a Community Service Ministry of the Diocese
- Central Union High School
- City of El Centro Fire Department
- City of El Centro Parks and Recreation Department



- City of El Centro Police Department
- El Centro Kiwanis Club Foundation
- El Centro Police Athletic League
- Hidalgo Elementary School
- Imperial County Sheriff's Department
- Imperial Valley Association for the Retarded
- Southwest High School Band
- United Way of Imperial County
- Volunteers of America Inc.
- Washington Elementary School

In 2004, Wal-Mart Stores and SAMS CLUB gave **\$8,625,303** to local causes and organizations in the communities they serve in the state of California. In addition, many charities and organizations received in-kind donations and additional funds raised through stores, CLUBS and distribution centers in the amount of **\$3,201,084**, for a grand total of **\$11,826,387** contributed through Wal-Mart's presence across the state.

Wal-Mart in California

EDITOR'S NOTE: See www.walmartfacts.com for more information about Wal-Mart in California.

As of December 2005, Wal-Mart employed **73,787** associates and owned and operated the following facilities in the state of California as of October 2005:

- Supercenters: 7
- Discount Stores: 150
- SAMS CLUBS: 34
- Distribution Centeh: 9

In 2004, Wal-Mart collected on behalf of the state of California more than **\$719.9** million in sales taxes and paid more than **\$99.7** million in state and local taxes.

About Wal-Mart Stores

Wal-Mart Stores, Inc. operates Wal-Mart Stores, Supercenters, Neighborhood Markets and SAMS CLUB locations in the United States. Internationally, the company operates in Argentina, Brazil, Canada, China, Germany, Japan, Mexico, Puerto Rico, South Korea and the United Kingdom. The company's securities are listed on the New York and Pacific stock exchanges under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartfacts.com for more information about Wal-Mart in California.

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EDITOR'S NOTES

- Wal-Mart store employees are called associates.
- Angel Sanchez, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or preview tours. He can be contacted at **760-353-2512** (new store) or **760-337-1600** (old store).

* Average wage taken yearly (December 2005). See www.walmartfacts.com for more details.

FACT SHEET

El Centro Wal-Mart Supercenter

store fast facts

- New Location: **2150 N.** Waterman Ave., El Centro, Calif.
- Originally opened in **1990** at **2050** Imperial Ave.
- 207,000-square-foot **Wal-Mart** Supercenter, gaining an additional **113,630** square feet
- Store opening Friday, Jan. **27**, at **7** am; Grand Opening event Tuesday, Jan. **31**, at **7:30** a.m.
- Store manager: Angel Sanchez

Store features

• Full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products and fresh produce, apparel and accessories, fine jewelry, lawn and garden center, health and beauty aids, full line of electronics, Tire & Lube Express, vision center, McDonald's restaurant, portrait studio, one-hour photo lab, pharmacy, Hair Works hair salon, Regal nail salon, family fun center and a Wal-Mart Connect Center.

- Open **24** hours a day, seven days a week
- **12** full-service, **14** express and four self check-out lanes

Employment

- Total employment is **720**, including 400 new jobs; **3,000** applicants
- The average wage at Wal-Mart for full-time hourly associates in California is **\$10.50** per hour.*
- Store Manager Angel Sanchez started as an hourly associate in **1992** as a cashier at the El Centro store.

* Average wage taken December **2005**. See www.walmartfacts.com for more details

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- Store Manager Angel Sanchez started as an hourly associate in **1992** as a cashier at the El Centro store.

* Average wage taken December **2005**. See www.walmartfacts.com for details.

Charitable giving

\$14,988 in charitable contributions to **15** area organizations

- o Boys and Girls Club
- o Catholic Charities: a Community Service Ministry of the Diocese
- o Central Union High School
- o City of El Centro Fire Department

- o City of El Centro Parks and Recreation Department
- o City of El Centro Police Department
- o El Centro Kiwanis Club Foundation
- o El Centro Police Athletic League
- o Hidalgo Elementary School
- o Imperial County Sheriffs Department
- o Imperial Valley Association for the Retarded
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- o United Way of Imperial County
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- o Washington Elementary School

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Gilroy Wal-Mart Supercenter Celebrates Grand Opening

Gilroy Wal-Mart Supercenter Celebrates Grand Opening
First Supercenter in the Bay Area offers groceries and traditional retail

GILROY, Calif., Sept. 22, 2005 - Creating 450 new jobs and focusing on charitable support and every day low prices, the new Wal-Mart Supercenter in Gilroy - the first Supercenter in the Bay Area -- will celebrate its grand opening at 7 a.m. on Wednesday, Sept. 28. Doors will open to shoppers at 7:30 a.m. The store is located at 7150 Camino Arroyo.

Store features

Originally opened as a traditional Wal-Mart Store in 1993 at 7900 Arroyo Circle, the newly relocated store has gained more than 93,613 additional square feet. According to Store Manager Ken Higgins, the new 219,570-square-foot Wal-Mart Supercenter now features 36 general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, and a full line of electronics. In addition, the store offers a bakery, a delicatessen, a frozen food section and meat, dairy and fresh produce sections. It will be open to customers 24 hours a day, seven days a week and will include 30 full-service, eight express and three self check-out lanes.

Other store features include: a Tire & Lube Express, a McDonald's restaurant, a portrait studio, a one-hour photo lab, a vision center, a pharmacy, a Hair Works hair salon and a Regal Nail Salon. In addition, the store will have a Wal-Mart Connect Center for cellular phone sales and a Hearing Aid Center.

Grand opening activities

The 7 a.m. grand opening ceremony will begin with Rose Marie Arbizu, a Wal-Mart associate, performing the national anthem. Members of the Veterans of Foreign Wars will present the colors, and Higgins will cut the ribbon to the new store. In addition, there will be costumed character appearances, product samples and give-aways during the grand opening celebration.

Employment

The store will employ approximately 650 associates, which includes 450 new jobs created by the relocation. Two-hundred associates from the original Store have relocated to work at the new Supercenter. More than 1,500 people applied for jobs at the new store, most of which will be full-time, according to Higgins. The average wage at Wal-Mart for full-time hourly associates in the Bay Area is \$10.82 per hour.*

"We were thrilled with the large pool of applicants we had for our jobs," said Higgins. "It makes me proud to work for this company where there truly are unlimited opportunities." More than 20 of the Gilroy store's associates have worked for Wal-Mart for more than 10 years, added Higgins.

Charitable giving

Upon its opening, the store will announce \$18,000 in donations through Wal-Mart's Good Works community involvement program to a number of organizations. The store will also have a budget to give donations away locally throughout the year. Organizations interested in receiving funding can contact the store for details. Groups receiving donations upon the store's opening include:

- City of Gilroy Fire Department
- City of Gilroy Police Department
- City Team Ministries (Back To School Clothing Program)
- Gilroy High School
- GUSD Middle School Performing Arts Program
- National Exchange Club
- Ronald McDonald House at Stanford
- St. Joseph's Family Center
- United Way of Silicon Valley

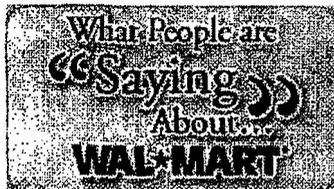
More donations will be announced during the grand opening event.

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- + Community Benefits
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STATE BY STATE

State





In 2004, Wal-Mart Stores and SAMS CLUB gave \$8,625,303 to local causes and organizations in the communities they serve in the state of California. In addition, many charities and organizations received in-kind donations and additional funds raised through stores, CLUBS and distribution centers in the amount of \$3,201,084, for a grand total of \$11,826,387 contributed through Wal-Mart's presence across the state.

Wal-Mart in California

EDITOR'S NOTE: See www.walmartfacts.com for more information about Wal-Mart in California.

As of August 2005, Wal-Mart employed 66,582 associates and owned and operated the following facilities in the state of California:

- Supercenters: 5
- Discount Stores: 149
- SAMS CLUBS: 34
- Distribution Centers: 9

In 2004, Wal-Mart collected on behalf of the state of California more than \$719.9 million in sales taxes and paid more than \$99.7 million in state and local taxes.

Wal-Mart benefits

Wal-Mart benefits - available to full- and part-time associates - include healthcare insurance with no lifetime maximum. Associate premiums begin at less than \$40 per month for an Individual and less than \$155 per month for a family, no matter how large. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

Wal-Mart Stores, Inc. operates Wal-Mart Stores, Supercenters, Neighborhood Markets and SAMS CLUB locations in the United States. Internationally, the company operates in Argentina, Brazil, Canada, China, Germany, Japan, Mexico, Puerto Rico, South Korea and the United Kingdom. The company's securities are listed on the New York and Pacific stock exchanges under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartfacts.com for more information about Wal-Mart in California.

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EDITOR'S NOTES

- Wal-Mart store employees are called associates.
- Ken Higgins, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or preview tours. He can be contacted at 408/848-8161.
- A special Invitation-only open house for VIPs, Wal-Mart associates and their families is scheduled for Monday, Sept 26, at 6:30 p.m. Preview tours will be provided. Checks will be presented to

representatives of the community organizations this evening.

*Average wages taken yearly (October 2004). See www.walmartfacts.com for more details.

FACT SHEET

Gilroy Wal-Mart Supercenter

store fast facts

- New location as a Supercenter: 7150 Camino Arroyo, Gilroy, Calif.
- Originally opened as a Discount Store in 1993 at 7900 Arroyo Circle
- 219,570-square-foot Wal-Mart Supercenter, gaining an additional 93,613 square feet
- Store opening 7:30 am, Wednesday, Sept. 28; 7 a.m. grand opening ceremony
- Store manager: Ken Higgins

Store features

- Full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products and fresh produce, a Tire & Lube Express, a McDonald's, a portrait studio, a one-hour photo lab, a vision center, a pharmacy, a Hair Works hair salon, a Regal Nail Salon, a Hearing Aid Center and a Wal-Mart Connect Center
- Open 24 hours a day, seven days a week
- 30 full-service, eight express and three self check-out lanes

Employment

- Total employment is 650, including 450 new jobs; 1,500 applicants
 - Majority of jobs are full-time
 - The average wage at Wal-Mart for full-time hourly associates in the Bay Area is \$10.82 per hour.*
 - Wal-Mart benefits - available to full- and part-time associates - include healthcare insurance with no lifetime maximum. Associate premiums begin at less than \$40 per month for an individual and less than \$155 per month for a family, no matter how large. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.
 - Approximately 76 percent of Wal-Mart store managers started as hourly associates.
- * Average wage taken October 2004. See www.walmartfacts.com for more details.

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Gilroy Wal-Mart Supercenter

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 - Approximately 76 percent of Wal-Mart store managers started as hourly associates.
- * Average wage taken October 2004. See www.walmartfacts.com for details.

Charitable giving

• \$18,000 in charitable contributions to nine area organizations:

- o City of Gilroy Fire Department
- o City of Gilroy Police Department
- o City Team Ministries (Back To School Clothing Program)
- o Gilroy High School
- o GUSD Middle School Performing Arts Program
- o National Exchange Club
- o Ronald McDonald House at Stanford
- o St. Joseph's Family Center
- o United Way of Silicon Valley

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- Health Care
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- Store Openings
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- Company Overview
- Community Benefits
- Wal-Mart on the Web

STATE BY STATE

State

Yuba City Wal-Mart Supercenter Celebrates Grand Opening

Yuba City Wal-Mart Supercenter Celebrates Grand Opening
Store's impact seen in 300 new jobs and \$17,000 in charitable donations

YUBA CITY, Calif., Jan. 24, 2006 - Creating 300 new jobs and focusing on charitable support and every day low prices, the newly relocated Wal-Mart Supercenter in Yuba City will celebrate its grand opening at 7:30 a.m. on Tuesday, Jan. 31. Doors will open at 8 a.m. The store is located at 1150 Harter Road.

Store features

Originally opened in 1990 at 935 Tharp Road, the newly relocated store has gained more than 78,829 additional square feet. According to Store Manager Paul Kovacs, the new 204,000 Wal-Mart Supercenter now features a full line of groceries as well as a bakery, a delicatessen, a frozen food section and meat, dairy and fresh produce sections. The store has 36 general merchandise departments including apparel and accessories, Fine jewelry, a lawn and garden center, health and beauty aids, and a full line of electronics. It will be open to customers 24 hours a day, seven days a week and will include 22 full-service, six express and four self check-out lanes.

Other store features include: a Tire & Lube Express, a McDonald's restaurant, a portrait studio, a one-hour photo lab, a vision center, a pharmacy and a Hair Works hair salon. In addition, the store will have a Tri-County Bank branch and a Wal-Mart Connect Center for wireless phone sales.

Employment

The store will employ approximately 630 associates, which includes 300 jobs created by the relocation. More than 1,000 people applied for jobs at the new store. The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*

"The large number of applicants for this new store doesn't surprise me at all," said Kovacs. "Great career opportunities, fantastic benefits and lasting friendships are just a few of the positive aspects of becoming a Wal-Mart associate." Kovacs started as an hourly associate in 1995 at a store in Mobile, Ala., as a truck unloader. Forty-five of the Yuba City store's associates have worked for Wal-Mart for more than 10 years, added Kovacs.

Charitable giving

Upon its opening, the store will announce \$17,000 in donations through Wal-Mart's Good Works community involvement program to a number of organizations. The store will also have a budget to give donations away locally throughout the year. Organizations interested in receiving funding can contact the store for details. Groups receiving donations upon the store's opening include:

- City of Yuba City Fire Department
- City of Yuba City Police Department
- Kiwanis International
- Ronald McDonald House
- Rotary International
- United Way

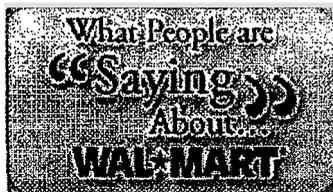
In 2004, Wal-Mart Stores and SAM'S CLUB gave \$8,625,303 to local causes and organizations in the communities they serve in the state of California. In addition, many charities and organizations received in-kind donations and additional funds raised through stores, CLUBS and distribution centers in the amount of \$3,201,084, for a grand total of \$11,826,387 contributed through Wal-Mart's presence across the state.

Wal-Mart In California

EDITOR'S NOTE: See www.walmartfacts.com for more information about Wal-Mart in California.

www.walmartfa&.com for more information about Wal-Mart in California.





As of December 2005, Wal-Mart employed 73,787 associates and owned and operated the following facilities in the state of California as of October 2005:

- Supercenters: 7
- Discount Stores: 150
- SAMS CLUBS: 34
- Distribution Centers: 9

In 2004, Wal-Mart collected on behalf of the state of California more than \$719.9 million in sales taxes and paid more than \$99.7 million in state and local taxes.

About Wal-Mart Stores

Wal-Mart Stores, Inc. operates Wal-Mart Stores, Supercenters, Neighborhood Markets and SAMS CLUB locations in the United States. Internationally, the company operates in Argentina, Brazil, Canada, China, Germany, Japan, Mexico, Puerto Rico, South Korea and the United Kingdom. The company's securities are listed on the New York and Pacific stock exchanges under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartfacts.com. Online merchandise sales are available at www.walmart.com.

EDITOR'S NOTES

- Wal-Mart store employees are called associates.
- Paul Kovacs, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or preview tours. He can be contacted at 530-751-0130.

*Average wage taken yearly (December 2005). See www.walmartfacts.com for more details.

www.walmartfacts.com for more details.

FACT SHEET

Yuba City Wal-Mart Supercenter

store fast facts

- New Location: 1150 Harter Road, Yuba City, Calif.
- Originally opened in 1990 at 935 Tharp Road
- 204,000-squarefoot Wal-Mart Supercenter, gaining an additional 78,829 square feet
- Store opening 8 am, Tuesday, Jan. 31; 7:30 a.m. grand opening ceremony
- Store manager: Paul Kovacs

Store features

- Full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products and fresh produce, apparel and accessories, fine jewelry, lawn and garden center, health and beauty aids, full line of electronics, Tire & Lube Express, vision center, McDonald's restaurant, portrait studio, one-hour photo lab, pharmacy, HairWorks hair salon, Tri-County Bank branch and a Wal-Mart Connect Center.
- Open 24 hours a day, seven days a week
- 22 full-service, six express and four self check-out lanes

Employment

- Total employment is 630, including 300 new jobs; 1,000 applicants
 - The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*
 - Kovacs started as an hourly associate in 1995 at a store in Mobile, Ala., as a truck unloader.
- * Average wage taken December 2005. See www.walmartfacts.com for details.

www.walmartfacts.com for details.

Charitable giving

- \$17,000 in charitable contributions to six area organizations
 - o City of Yuba City Fire Department
 - o City of Yuba City Police Department
 - o Kiwanis International
 - o Ronald McDonald House
 - o Rotary International
 - o United Way

- # # # -

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Careers

9/13/2007 Wal-Mart Donates \$4 Million to America's Second Harvest

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- Employment and Diversity
- Merchandising
- Health Care
- Financial Results
- Store Openings
- Charitable Giving
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Wal-Mart Supercenter in Beaumont Celebrates Grand Opening as 2000th Supercenter Nationwide; Offers New Wal-Mart Features

BEAUMONT, Calif., March 22, 2006 — The grand opening of the new Wal-Mart Supercenter in Beaumont, Calif., today is a milestone for the U.S. company, marking 2,000 Wal-Mart Supercenters officially open across the country. Before the store opened its doors today, it held a pre-opening celebration, Saturday, March 18 to thank customers, associates and suppliers for their patronage and partnership.

"We are very excited to be a growing part of the California community," said Henry Jordan, California regional general manager, Wal-Mart. "We are creating new jobs and helping working families to save money, and that's worth celebrating with Californians who have continued to be a part of that effort."

Ryan Cabrera Hits the Wal-Mart Stage

Hundreds of residents turned out for the store's community event, which included a live concert from rising recording artist Ryan Cabrera to kick-off the week's festivities. Surrounded by tents, booths and inflatables, participants were able to freely join in festivities surrounding the stage, as well as show their support for America's Second Harvest Food Bank, which held a silent auction of autographed music items from well-known artists such as Alabama, George Strait and Lonestar.

Beaumont Wal-Mart Supercenter Features

Located at 1540 E. Second St., the new 216,000-square-foot store boasts many of the latest merchandise features coming to Wal-Mart Supercenters across the U.S., including wider aisles, concrete and hardwood floors throughout the store, an expanded Garden Center, and its popular exclusive apparel line George®. The new Supercenter also includes an expanded selection of organic food items in its grocery. In addition, Customers will find new features in the electronics section that showcase the latest in computers, iPods and hi-definition televisions and a do-it-yourself paint center.

The new 24-hour Supercenter offers a one-stop shopping experience for customers, including a bakery, delicatessen, frozen food section and meat, dairy and fresh produce sections and 36 general merchandise departments which include apparel and accessories, fine jewelry, a lawn and garden center, toys, automotive and health and beauty aids. Other store features include a Tire & Lube Express, a Subway restaurant, a portrait studio, a one-hour photo lab, a vision center, a pharmacy, a Hair Works hair salon, and a Banco Popular community bank branch.

More Than 3,400 Applicants for 600 New Jobs

The store will employ approximately 600 associates, most of which will be full-time. More than 3,400 people applied for jobs at the new store, according to Store Manager Rodney Colyott.

"The large number of applicants for this new store doesn't surprise me at all," said Colyott. "Great career opportunities, fantastic benefits and lasting friendships are just a few of the positive aspects of becoming a Wal-Mart associate." Some of the Beaumont store's associates have worked for Wal-Mart for more than 10 years, added Colyott. The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*

\$34,000 in Additional Charitable Support

The store also announced \$34,000 in direct grant donations to local organizations as a part of Wal-Mart's Good Works community involvement program. The Beaumont Library District received \$5,000 to provide repairs and renovation to an elevator and the upper level of its building; the Second Harvest Food Bank of Riverside and San Bernardino Counties also received \$5,000; and Child Help USA, which serves abused and neglected children, received a \$5,250 grant. Other groups receiving donations in celebration of the grand opening include:

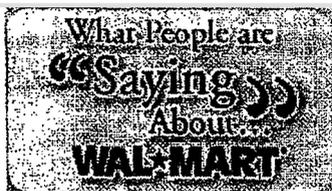
- o American Cancer Society
- o Veterans of Foreign Wars

- Wal-Mart Media Center
- Company Overview
- Community Benefits
- Wal-Mart on the Web

STATE BY STATE

State





- o Renu Hope Foundation
- o City of Riverside Fire Department Explorer Post 566
- o City of Beaumont Police Department Citizen Volunteer Patrol Program
- o Carol's Kitchen Food Pantry

As with any Wal-Mart store, organizations can contact their local Wal-Mart to inquire about local grant opportunities to raise dollars outside store locations throughout the year.

Wal-Mart Economic Impact in California

EDITOR'S NOTE: See www.walmartfacts.com for the latest information about Wal-Mart in California.

As of January 15, 2006, Wal-Mart employed 70,412 associates and owned and operated the following facilities in the state of California:

- Supercenters: 13
- Discount Stores: 146
- o SAM'S CLUBS: 35
- Distribution Centers: 9

In 2004, Wal-Mart collected on behalf of the state of California more than \$719.9 million in sales taxes and paid more than \$99.7 million in state and local taxes.

Wal-Mart benefits - available to full- and part-time associates - include healthcare insurance with no lifetime maximum. Wal-Mart offers a choice of as many as 18 health plans that cost as little as \$11 a month in some areas. Both full and part-time Wal-Mart associates are eligible for health care benefits. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

About Wal-Mart Stores

Wal-Mart Stores, Inc. operates Wal-Mart Stores, Supercenters, Neighborhood Markets and SAM'S CLUB locations in the United States. Internationally, the company operates in Argentina, Brazil, Canada, China, Germany, Japan, Mexico, Puerto Rico, South Korea and the United Kingdom. The company's securities are listed on the New York and Pacific stock exchanges under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartfacts.com for the latest information about Wal-Mart in California.

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* Average wage taken yearly (December 2005). See www.walmartfacts.com for more details.

www.walmartfacts.com for more details.

FACT SHEET
Beaumont Wal-Mart Supercenter

Store fast facts

- Location: 1540 E. Second St., Beaumont, Calif.
- **2,000th** Wal-Mart Supercenter to open
- **216,000-square-foot** Wal-Mart Supercenter
- Store opening Wednesday, March 22, at 8 a.m.; **7:30 a.m.** grand opening celebration
- Store manager: Rodney Colyott

Charitable giving totals **\$34,000** in grants

- \$5,000 charitable donation to Second Harvest Food Bank of Riverside and San Bernardino Counties
- \$5,000 charitable donation to the Beaumont Library District for elevator repairs and upper level building renovation
- \$5,250 donation to Child Help USA, serving abused and neglected children
- \$15,000 in charitable contributions to six other area organizations
 - o American Cancer Society
 - o Veterans of Foreign Wars
 - o Renu Hope Foundation
 - o City of Riverside Fire Department Explorer
 - o City of Beaumont Police Department Citizen Volunteer Patrol Program
 - o Carol's Kitchen Food Pantry

Employment

- **600 new jobs**; 3,400 applicants
- The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*
- Approximately 76 percent of Wal-Mart store managers started as hourly associates.
- * Average wage taken December 2005. See www.walmartfacts.com for details.

Store features

- **Wider aisles**, a **new home trends display**, concrete and hardwood floors throughout the store, and an expanded selection of organic food items in its grocery line. In addition, customers will find new features in its electronics section that showcase the latest in computers, iPods and hi-definition televisions. Overall, the store contains a full line of groceries, bakery goods, deli foods, frozen foods, meat and dairy products and fresh produce, apparel and accessories, fine jewelry, lawn and garden center, health and beauty aids, full line of electronics, Tire & Lube Express, vision center, Subway restaurant, portrait studio, one-hour photo lab, pharmacy, Hair Works hair salon and a Banco Popular community bank branch.
- Open 24 hours a day, seven days a week
- 18 full-service, 10 express and four self check-out lanes

For more information

- Store manager: Rodney Colyott, 951-845-1529
- **Media** contact: Amy Juaristi, 310-633-9428, www.walmartfacts.com for details.

Store features

- **Wider aisles**, a **new home trends display**, **concrete** and hardwood floors throughout the **store**, and an expanded selection of organic food items in its grocery line. In addition, **customers** will find new features in its **electronics section** that showcase the latest in computers, iPods and hi-definition televisions. Overall, the store contains a **full line of groceries**, bakery goods, deli foods, frozen foods, meat and dairy products and fresh produce, apparel and accessories, fine jewelry, lawn and garden center, health and beauty aids, **full line** of electronics, Tire & Lube Express, vision center, Subway restaurant, portrait studio, one-hour photo lab, pharmacy, Hair Works hair salon and a **Banco** Popular community bank branch.
- Open 24 hours a day, seven days a week
- **18** full-service, 10 express and four self check-out lanes

For more information

- Store manager: Rodney Colyott, 951-845-1529
- Media contact: Amy Juaristi, 310-633-9428, ajuaristi@HilandKnowiton.com
- Wal-Mart Home Office spokesperson: Melissa O'Brien, Wal-Mart corporate communications, 479-273-4314, option 1, melissa.obrien@wal-mart.com
- Wal-Mart information online: www.walmartfacts.com; merchandise sales: www.walmartfacts.com; merchandise sales: www.walmart.com

- # # # -

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- > Employment and Diversity
- > Merchandising
- > Health Care
- > Financial Results
- > Store Openings
- > Charitable Giving
- > More...

Wal-Mart Opens Second Local Supercenter This Month

Store benefits local suppliers; Wal-Mart contributes \$46,000 to local groups

HANFORD, Calif., May 17, 2006 - The newly relocated Wal-Mart in Hanford will celebrate its grand opening as a Supercenter on Wednesday, May 17, with a focus on supporting the local community. The grand opening of the new store, second closest to Fresno, adds an additional \$46,000 in donations to local organizations through grants and associate contributions at Wal-Mart. The grand opening ceremony starts at 7:30 a.m., and doors open at 8 a.m. The store's new location is 250 S. 12th St.

Originally opened in 1991 at 1750 W. Lacy, the relocated Wal-Mart Supercenter has added 84,860 square feet. According to Store Manager Cornel Andrei, the new 209,860-square-foot Supercenter now features a full line of grocery items, including a new bakery, a delicatessen, meat, dairy and fresh produce sections as well as a full liquor department and a frozen food section.

Boasting many of the latest store features introduced by most new Wal-Mart stores this year including wider aisles as well as concrete and wood floors, the Hanford Supercenter offers customers 36 general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, and a full line of electronics. It will be open to customers 24 hours a day, seven days a week and will include 22 full-service and 10 express check-out lanes.

Other store features include a Tire & Lube Express, a McDonald's, a family fun center, a one-hour photo lab, a vision center, a pharmacy, a portrait studio, a Regal Nails salon, a Hair Works hair salon, a Kerry's Medical Center as well as a Wal-Mart Connect Center for wireless phone sales.

Fifteen Year Partnership with Community Suppliers

With its vision to be the "store of the community," the Hanford Wal-Mart Supercenter also will feature products throughout the store from local Fresno-area and California suppliers including Rain Creek Baking Company Inc., Pappy's Meat Company and La Tapatia Tortilleria Inc. Customers visiting the store during the grand opening celebration will be able to sample chocolate milk and orange juice from Berkley Farms and quesadillas and cheese from Marquez Brothers' El Mexicano.

"We recognize the value of being able to provide our customers with locally produced products," said Andrei. "During the last 15 years, we have been proud of our collaborative partnerships with our suppliers and this grand opening marks the continuation of our commitment." There are more than 50 suppliers servicing Wal-Mart in the Fresno area.

In 2005, Wal-Mart Stores Inc. spent \$20 billion for merchandise and services with suppliers in the state of California. As a result of Wal-Mart's relationship with these suppliers, Wal-Mart supports 248,000 supplier jobs in the state.

More than \$46,000 in Total Donations to Help Area Organizations

An additional \$25,000 was provided through Wal-Mart for this particular store opening, in light of matching grants contributed through the efforts of Wal-Mart associates in California through Wal-Mart's Good Works community involvement program. In addition, the store is providing \$21,000 in grants, totaling \$46,000 to local organizations this week.

As with all Wal-Mart stores, the Hanford Wal-Mart Supercenter will have a budget to support community organizations throughout the year. Organizations interested in receiving funding or learning about matching grants can contact the store for details.

Groups receiving donations upon the store's opening include:

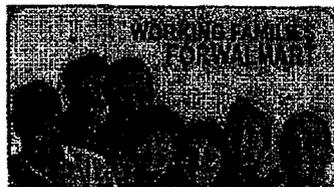
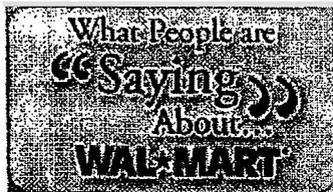
- Big Brothers Big Sisters Foundation
- Church of the Savior "Hanford Soup Kitchen"

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- + Company Overview
 - Community Benefits
- + Wal-Mart on the Web

STATE BY STATE

State





- City of Hanford Fire Department
- City of Hanford
- City of Hanford Police Department
- City of Hanford Recreation Department
- Corcoran Emergency Aid
- Hanford Conference and Visitor Agency
- Kings Co. Commission on Aging
- United Cerebral Palsy Association
- Visalia YMCA

Grand Opening Celebration Details

Associate Raesanne Smith will perform the national anthem and members of the Lemoore Naval Air Station Color Guard will present the colors during the 7:30 a.m. grand opening ceremony. Eighteen associates, who have worked at the Hanford store since its original grand opening in 1991, will cut the ribbon to the new store. Hanford City Manager Jan Reynolds, Hanford Fire Chief Timothy Teronimo, Chief of Police Carlos Metas, members of the Hanford Visitors Center and the Hanford City Council, along with other local dignitaries, will attend the ceremony. Numerous activities are scheduled for the grand opening event including an autograph signing and appearance by Ultimate Fighter Chuck Uddel, a NASCAR simulator and character appearances by Chester Cheetah, the Coca-Cola Polar Bear and the McDonald's Hamburgler. Product samples from Frito Lay, Coca-Cola, Pepsi, Pepperidge Farm and Nabisco will be available as well as several give-aways.

275 New Jobs

More than 3,500 people applied for the 275 new positions available, bringing the total number employed to 600 associates at the store. The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*

"We were thrilled with the opportunity to provide additional jobs in our community," said Andrei. "Our associates are proud to serve our customers and look forward to strengthening our great relationship with the city of Hanford." Andrei started as an hourly associate in 1992 as a toy department sales associate in Fresno. Fifty-five of the Hanford store's associates have worked for Wal-Mart for more than 10 years, and 18 associates have been employed at the store since the original grand opening, added Andrei.

Wal-Mart in California

EDITORS NOTE: See www.walmartfacts.com for more information about Wal-Mart in California.

As of March 2006, Wal-Mart employed 69,221 associates and owned and operated the following facilities in the state of California:

- Supercenters: 14
- Discount Stores: 146
- SAMS CLUBS: 35
- Distribution Centers: 9

In 2005, Wal-Mart collected on behalf of the state of California more than \$783.4 million in sales taxes and paid more than \$139.7 million in state and local taxes.

About Wal-Mart Stores

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EDITOR'S NOTES

- An invitation-only open house for VIPs, Wal-Mart associates and their families is scheduled for Tuesday, May 16, from 7 p.m. until 9 p.m. Preview tours will be provided. Checks will be presented to representatives of the community organizations this evening.
- Wal-Mart store employees are called associates.

- **Cornel Andrei**, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or preview tours. He can be contacted at 559-589-6701. Statements and quotes on behalf of Wal-Mart should not be obtained from or attributed to agency employees.

**Average wages taken yearly (December 2005). See www.walmartfacts.com for more details.*

FACT SHEET
Hanford Wal-Mart Supercenter

store Fast Facts

- Location: 250 S. 12th St., Hanford, Calif.
- 209,860-square-foot Wal-Mart Supercenter; gained additional 84,860 square feet
- **7:30 a.m.** grand opening ceremony, Wednesday, May 17; store Opening 8 am.
- Store manager: Cornel Andrei

Store Features

- Features **36** general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, full line of electronics, Tire & Lube Express, McDonald's, one-hour photo lab, Regal Nail salon, Hair Works hair salon, portrait studio, vision center, pharmacy, family fun center, **Kerry's Medical Center**, Wai-Mart Connect Center
- Open 24 hours a day, seven days a week
- 22 full-service, 10 express check-out lanes

Employment

- 275 new jobs; 600 total associates; 3,500 applicants
- The average wage at Wal-Mart for full-time hourly associates in California is \$10.50 per hour.*
- Wal-Mart benefits - available to full- and part-time associates - include healthcare insurance with no lifetime maximum. Associate premiums begin at less than \$40 per month for an individual and less than \$155 per month for a family, no matter how large, Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.
- Store Manager **Cornel Andrei** started as an hourly associate in 1992 at a store in Fresno as a toy sales associate.

**Average wage taken December 2005. See www.walmartfacts.com for details.*

Charitable Giving

- **\$46,000** in total charitable contributions to **11** area organizations, including:
 - * Big Brothers Big Sisters Foundation
 - * **Church of the Savior** "Hanford Soup Kitchen"
 - * **City of Hanford Fire Department**
 - * **City of Hanford**
 - * **City of Hanford Police Department**
 - * **City of Hanford Recreation Department**
 - * **Corcoran Emergency Aid**
 - * Hanford Conference and Visitor **Agency Kings Co.** Commission on Aging
 - * United Cerebral Palsy Association
 - * Visalia YMCA

For More Information

- Store manager: **Cornel Andrei**, 559-589-6701
- Wal-Mart Information online: www.walmartfacts.com; merchandise sales: www.walmart.com

- # # # -

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- > Merchandising
- > Health Care
- > Financial Results
- > Store Openings
- > Charitable Giving
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- + Community Benefits
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STATE BY STATE

State



Wal-Mart Opens Closest Supercenter to Sacramento

"Holy Cow! It's Grand Opening!" Celebrates Local Dairy Producers, Area Suppliers and 655 New Jobs

ANTELOPE, Calif., May 17, 2006 –The more than 655 associates at the Wal-Mart Supercenter opening this Wednesday, May 17, in Antelope are moo-ving product into position and gearing up for the excitement of their grand opening. Celebrating the store's support of local businesses and dairy products, "Holy Cow" will be evident theme of this grand opening, complete with give-aways and costume cow characters! The ceremony begins just after sunrise at 7:30 a.m., and the doors open to the public at 8 a.m. The store is located at 5821 Antelope N. Road.

Wal-Mart has more than 12 stores in the Sacramento metro-area, but this will be the closest Supercenter to the city center.

Local Economic Impact Already Evident

According to Store Manager Marvin Raps, the store will bring 655 new jobs to the area, which is above average for a new Wal-Mart store. The Antelope Supercenter holds more than 207,000 square feet of general merchandise and grocery departments.

"We know that residents have been anticipating this opening, and our associates have worked hard to impress the community with a terrific new store," said Store Manager Marvin Raps. "While all Wal-Mart stores feature products from local suppliers, we really wanted to emphasize how important area suppliers are to this Supercenter. We want customers to know that they are supporting California businesses while they shop at our store."

Local California suppliers will be a large part of the celebration, from Berkeley Farms to Crystal dairy products. Because it goes great with milk, an Oreo cookie stacking contest by Nabisco will be just one of the fun activities for customers of all ages. Free local and dairy-themed product samples, inflatables, character appearances and other activities will also be at the event.

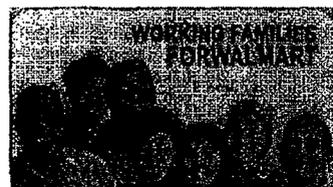
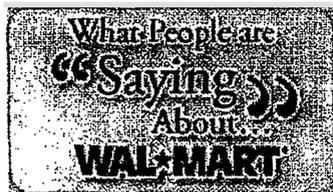
Berkeley Farms out of the Bay-Area will have their "chug mobile" on the scene handing out more than 2,000 samples of chocolate milk and orange juice, hard to miss next to their 15-foot inflatable "Kool Cow." "We're proud to be a supplier of many businesses in this area and are excited to see our relationship continue to grow with Wal-Mart, as this is our 75th Wal-Mart store to service," said Berkeley Farms General Manager Mike Lasky. "It has been a pleasure working with the management team for many weeks to pull together a fun event for Sacramento that really celebrates with the community;"

"Holy Cow" is a cleaning product started by area business owners Bob and Joni Hilton in Rocklin and will be among the sampling of local business products at the grand opening. The product is currently sold in 125 Wal-Mart stores across the state. "We're excited to be working with the store on this grand opening," said Bob Hilton. "It's a fun way to bring local businesses together, and we think the 'Holy Cow' theme is, of course, quite clever!"

There are more than 130 suppliers to Wal-Mart based just in the Sacramento area, so the impact indirectly through the retailer has been growing even before the arrival of this new Supercenter. In its last fiscal year, Wal-Mart spent more than \$20 billion with suppliers located in the state of California, indirectly supporting more than 248,000 jobs with these California businesses.

One-Stop Shopping Conveniences and New Features

Boasting many of the latest store features being introduced by new Wal-Mart stores this year including wider aisles and concrete and wood floors, the Supercenter offers 36 general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, and a full line of electronics. The store also has a full-line of grocery items, including a bakery, a delicatessen, meat,



dairy and fresh produce sections and a frozen food section. It will be open to customers 24 hours a day, seven days a week and will include 22 full-service and 12 express checkout lanes.

Other convenience services include a Tire & Lube Express, a pharmacy, a vision center, a portrait studio, a one-hour photo lab, a McDonald's, a Hair Works hair salon, a branch of Tri-County Bank and a Wal-Mart Connect Center for cellular phone sales.

\$29,000 Donated to Help Area Organizations

With the goal of giving back locally, the new Antelope Wal-Mart Supercenter will provide donations through Wal-Mart's Good Works community involvement program in celebration of their grand opening, announcing \$29,000 in donations to support local community initiatives. "As the newest partner in the Antelope community, we have a responsibility and a desire to help make a positive impact," said Raps.

The store will also have a budget to give donations away locally throughout the year. Organizations interested in receiving funding can contact the store for details.

Groups receiving donations upon the store's opening include:

- American Cancer Society
- Citrus Heights Elementary School
- Citrus Heights Women's Center
- Rio Linda Union School District
- Rotary International
- Sacramento County Metropolitan Fire District
- Sacramento County Sheriffs Department
- Sacramento Medical Foundation
- Sacramento Public Library Foundation
- Veterans of Foreign Wars

Additional Grand Opening Celebration Details

sacramento Metro Fire Department Chaplain Ward Cockerton will lead the invocation at the 7:30 a.m. grand opening ceremony. Assistant Manager Amy Felton and her daughter Emily Kraus will perform the national anthem and Keith Weber of the Antelope Chamber of Commerce will cut the ribbon to the new store. Members of the Veterans of Foreign Wars will present the colors. Other activities planned during the grand opening event include a performance by Center High School band member Duane Anderson as well as product samples, character appearances and giveaways.

Wal-Mart in California

As of March 2006, Wal-Mart employed 69,221 associates and owned and operated the following facilities in the state of California:

- Supercenters: 14
- Discount Stores: 146
- SAMS CLUBS: 35
- Distribution Centers: 9

In 2005, Wal-Mart collected on behalf of the state of California more than \$783.4 million in sales taxes and paid more than \$139.7 million in state and local taxes.

EDITORS NOTE: See www.walmartfacts.com for more information about Wal-Mart in California.

About Wal-Mart Stores

Wal-Mart Stores Inc. operates Wal-Mart Stores, Supercenters, Neighborhood Markets and SAMS CLUB locations in the United States. Internationally, the company operates in Argentina, Brazil, Canada, China, Germany, Japan, Mexico, Puerto Rico, South Korea and the United Kingdom. The company's securities are listed on the New York and Pacific stock exchanges under the symbol WMT. More information about Wal-Mart can be found by visiting www.walmartfacts.com. Online merchandise sales are available at www.walmart.com.

EDITOR'S NOTES

- An invitation-only open house for VIPs, Wal-Mart associates and their families is scheduled for Monday, May 15, from 6 p.m. until 8 p.m. Preview tours will be provided. Checks will be presented to

representatives of the community organizations this evening. Reporters and photographers are welcome.

- Wal-Mart store employees are *called* associates.
- Marvin Raps, store manager, can provide details about the grand opening, offer quotes for interviews and

arrange for photo opportunities or preview tours. He can be contacted at 916-729-6162.

*Average wages taken *yearly* (December 2005). See www.walmartfacts.com for more details.

FACT SHEET

Antelope Wal-Mart Supercenter

store Fast Facts

- Location: **5821** Antelope N. Road, Antelope, Calif.
- 207,000-square-foot Wal-Mart Supercenter
- **7:30** a.m. grand opening ceremony, Wednesday, May **17**; store opening **8 a.m.**
- Store manager: Marvin Raps

Store Features

- Features **36** general merchandise departments including apparel and accessories, fine jewelry, a lawn and garden center, health and beauty aids, full line of **electronics**, Tire & Lube Express, pharmacy, vision center, portrait studio, one-hour photo lab, McDonald's, Hair Works hair salon, Tri-County Bank branch, Wal-Mart Connect Center
- Open **24** hours a day, seven days a week
- 22 full-service, 12 express check-out **lanes**

Employment

- 655 new **jobs**; more than **1,100** applicants
- The average wage at Wal-Mart for full-time hourly associates in California is **\$10.50** per hour.*
- Approximately 76 percent of Wal-Mart store managers started as hourly associates.
- Wal-Mart benefits - available to full- and part-time associates - include healthcare insurance with no lifetime maximum. Wal-Mart offers a choice of **as many as 18** health plans that cost as little as **\$11** a month in some areas. Both full and part-time Wal-Mart **associates** are **eligible** for health care benefits. Wal-Mart also offers a **401(k)** plan and profit sharing **contributions**, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

*Average wage taken December 2005. See www.walmartfacts.com for details.

Charitable Giving

- **\$29,000** in charitable contributions to 10 area organizations, including:
 - * American Cancer Society
 - * C i s Heights Elementary School
 - * Citrus Heights Women's Center
 - * Rio Unda Union School District
 - * Rotary International
 - * Sacramento County Metropolitan Fire District
 - * Sacramento County Sheriff's Department
 - * Sacramento Medical Foundation
 - * Sacramento Public Library Foundation
 - * Veterans of Foreign Wars

For More Information

- Store manager: Marvin Raps, 916-729-6162
- Wal-Mart information online: www.walmartfacts.com; merchandisesales: www.walmart.com

- # # # -

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STATE BY STATE

State



West Sacramento Supercenter Caters to Culturally Diverse Community

Store provides 650 new jobs; supports teens and education with \$28,000 in initial community donations

WEST SACRAMENTO, Calif., June 5 2007 - California's largest Wal-Mart Supercenter will bring more than new shopping opportunities to the residents of West Sacramento. At the Wednesday, June 13, grand opening ceremony, Community members can also celebrate the estimated 650 new jobs planned for the store. The Supercenter merchandise will reflect the diverse shopping needs of area residents, as the floor plan will include expanded shelf space for Hispanic, Asian and Eastern European food sections. During the grand opening festivities, associates of the West Sacramento Supercenter along with local dignitaries will share what the store means to community, including an initial \$28,000 in donations to local organizations with several large grants given to help support local teenagers and education. The grand opening ceremony begins at 7:30 a.m. and doors open at 8 a.m. The store is located 755 River Point Court near the intersection of Interstate 80 at Reed Ave.

Job Impact in California

According to Store Manager David Pressly, the new Supercenter has received a great response from area residents who have applied and has received nearly 2,400 applications.

"We were pleased with the number of applications we have received," Pressly said. "Our associates are excited to serve our customers and we are happy to offer our associates good jobs and opportunities to advance." Seventy-six percent of store managers began their careers as hourly associates. Twelve associates have worked for Wal-Mart for more than 10 years, added Pressly.

The average wage for full-time hourly associates at Wal-Mart in California is \$10.77 per hour.* As of April 2007, Wal-Mart employed 71,023 associates in the state of California. Including the newest Wal-Mart Supercenter In West Sacramento, the company currently owns and operates the following facilities in the state:

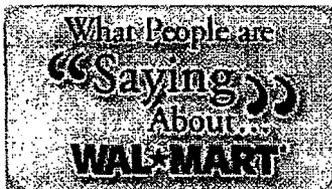
- Supercenters: 24
- Discount Stores: 144
- Sam's Clubs: 37
- Distribution Centers: 9

Store Debuts Latest in Wal-Mart Features

The 237,000 square-foot West Sacramento Supercenter was artfully designed with a modern, unique exterior. Created from a combination of stainless steel and "wooden-look" concrete planks, the facade features towers, steel sculptures over entrance walkways and extensive landscaping with an abundance of newly planted trees. As a store of the community, approximately 20 languages are spoken by store associates, there is navigational signage to guide shoppers easily through the merchandise departments and expanded shelf space for Eastern European, Hispanic and Asian food offerings throughout the store.

For one-stop shopping convenience, the West Sacramento Wal-Mart Supercenter has nearly 80,000 square feet devoted to grocery items, including a bakery, a delicatessen, meat, dairy and fresh produce sections, an assortment of organic selections, and a frozen food section. In addition, shoppers will find an expanded electronics department stocked with the latest MP3 players, DVD players and other popular items such as high-definition and plasma televisions. Family apparel departments will offer Wal-Mart's popular George® clothing line and shoppers will also enjoy the wide selection of health and beauty aids, household needs, toys, fine jewelry, shoes and an expanded lawn and garden center.

Customers will also appreciate the Supercenter's wide aisles, low shelving displays, concrete flooring for environmentally-friendly maintenance, energy-efficient freezer and refrigerator dairy cases that keep foods colder and use less energy, LED lighting, daylight harvesting sky-lights. In addition to Wal-Mart's many



products and services, customers will enjoy the convenience of the store's shopping hours - the new Supercenter will be open **24** hours a day, seven days a week and will include **27** full-service check-out lanes, of which eight are express.

Other store features include a Tire & Lube Express, a vision center, a pharmacy, a one-hour photo lab and a Wal-Mart Connect Center for wireless phone sales. Additional leased space and services include a DaVi nail salon, a Hair Works hair salon, a Blimpie restaurant, a branch of Tri Counties bank.

A Commitment to Community - \$28,000 in Initial Grants to Support Local Organizations

With the goal of giving back locally, the West Sacramento Wal-Mart Supercenter will announce a total of **\$26,000** in donations through Wal-Mart's community involvement program to a number of organizations. Pressly says that as part of the grand opening celebration, a special \$10,000 grant will be given to the Collings Sacramento Teen Center, which will use the donation to help with its graduation night festivities as well as to help fund the creation of a virtual reality database that teaches students life and financial skills. In addition, an **\$6,000** grant will be given to the Washington Unified School District which plans to create two recreational rooms in the local junior high schools.

"As the newest member of the West Sacramento community, we are proud to provide financial support to organizations that are making a positive difference," said Pressly. (Editors note: For a complete list of grant recipients, please see page 3 of this release.)

Like all Wal-Mart stores, the West Sacramento Supercenter will provide grant dollars throughout the year to help local groups. Organizations interested in learning more about receiving funding from Wal-Mart or fundraising at Wal-Mart can contact the store for details or go to www.walmartfoundation.org.

Grand Opening Celebration Details

Local dignitaries including members of the City Council will attend the **7:30 a.m.** grand opening ceremony. Store associates will perform the national anthem during the event and Chamber of Commerce representatives will cut the ribbon to the new Supercenter. Other activities for the grand opening include product samples and giveaways.

About Wal-Mart Stores

Every week, more than **127 million** customers visit Wal-Mart Stores, Supercenters, Neighborhood Markets, and Sam's Club locations across America or log on to its online store at www.walmart.com. The company and its Foundation are committed to a philosophy of giving back locally. Wal-Mart (NYSE: WMT) is proud to support the causes that are important to customers and associates right in their own neighborhoods, and last year gave more than **\$270 million** to local communities in the United States. To learn more, visit www.walmartfacts.com, www.walmartstores.com, or www.walmartfoundation.org.

EDITORS NOTES

- A special invitation-only open house for VIPs, Wal-Mart associates and their families is scheduled for Monday, June 11, from **6 - 8 p.m.** Preview tours will be provided. Reporters and photographers are welcome.

FACT SHEET

West Sacramento **Wal-Mart** Supercenter

Store Fast Facts

- Location: 755 River Point Court, West Sacramento, Calif.
- 237,000-square-foot Wal-Mart Supercenter
- **7:30 a.m.** grand opening ceremony, Wednesday, June 13; doors open at 8 a.m.
- Store manager: David Pressly

Store Features

- General merchandise departments include family apparel with an expanded Infant section, a household organization department, health and beauty aids, household needs, expanded electronics department, toys, jewelry and shoes.
- Other special features: Tire & Lube Express, a vision center, a pharmacy, a one-hour photo lab and a Wal-Mart Connect Center for wireless phone sales. Additional leased space and services include a Quick Health Clinic, DaVi nail salon, a Hair Works hair salon, a Blimpie restaurant, a branch of Tri Counties bank.

- Open 24 hours a day, seven days a week
- Nineteen full-service, eight express check-out lanes

Employment

- 650 total associates, 2,400 applications
- The average wage at Wal-Mart for full-time hourly associates in California is \$10.77 per hour.*
- Wal-Mart benefits - available to eligible full- and part-time associates - include healthcare insurance with no lifetime maximum. Wal-Mart also offers a 401(k) plan and profit sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance.

* Average wage taken December 2006. See www.walmartfacts.com for details.

Charitable Giving

\$28,000 in charitable contributions to six area organizations:

- Collings West Sacramento Teen Center- Campus Life Connection
- Explorit Science Center
- Friends of Meals on Wheels
- Washington Unified Public School District
- West Sacramento Friends of the Library
- West Sacramento Historical Society

For More Information

- David Pressly, store manager, can provide details about the grand opening, offer quotes for interviews and arrange for photo opportunities or preview tours. He can be contacted at 916-373-2200.
- Wal-Mart information online: www.walmartfacts.com; merchandise sales: www.walmart.com

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EXHIBIT G

Wal-Mart eyes new store site in Galt

By Chris Nichols
News-Sentinel Staff Writer

The city may have found its first test case for its proposed "big box ordinance": Wal-Mart.

The retail giant applied last week to build a 132,000 square-foot store at Twin Cities Road and Fermoy Way.

It's the second Galt site Wal-Mart has eyed in the past two years.

They had previously looked at a spot near Boessow Road and Highway 99.

Community Development Director Curt Champion said Thursday night any big box rules — if eventually approved by the City Council — will likely apply to Wal-Mart's new application.

"I believe it will," he said during a break at the Galt Planning Commission meeting.

Commissioners delayed their review of the proposed ordinance, which would ban stores larger than 140,000 square feet that include more than 10 percent of their retail space to non-taxable goods.

The proposed rules would require stores from 100,000 to 139,999 square feet to obtain a conditional use permit. Studies on the project's effect on crime, urban decay, the economy and its general compatibility within a neighborhood would be required before a vote on the permit.

Commissioners wanted more time for themselves and the public to review the rules.

They'll consider them again at their Sept. 27 meeting at 9 a.m.

The City Council will vote on the ordinance later this fall.

Commissioners and several members of the public were mixed on whether to limit future big box stores.

For Donna Healey, having a Wal-Mart nearby would be a big help.

"I think with the right planning, it could be a very big benefit to the community," said Healey, a Galt resident and mother of two young daughters.

Galt's proposed big box rules at a glance

- Would ban stores larger than 140,000 square feet that include more than 10 percent of their retail space to non-taxable goods.
- Would require stores from 100,000 to 139,999 square feet to obtain a conditional use permit. Studies on the project's effect on crime, urban decay, the economy and its general compatibility within a neighborhood would be required before

She added that it's difficult driving out of town every time she needs a new pair of socks for her kids.

"We take all of our money somewhere else, except for groceries," she added.

Wal-Mart spokesman Aaron Rios told Commissioners the store would create

a vote on the permit.
Source: *City of Galt.*

450 jobs, at **an** average wage of **\$1 1.30** per hour.

He noted workers would be eligible for benefits, bonuses, vacation time, childcare discounts and other perks.

"These are great **jobs**," he added.

Commissioner Eugene Davenport, who has previously formed a committee to stop big box stores, said Galt isn't prepared for **this** kind of retail growth.

"Those roads **are** not ready for **this** **and** the **community** is not ready for **this**," he said.

He said Galt retail stores should be limited to less **than** 100,000square feet.

Commissioner Lori Heuer said she realizes many residents want big box stores, but also feels **they** should be evaluated carefully.

"I **think** we do need to look at the effect retail establishments have," she said.

EXHIBIT H

**DRAFT
ENVIRONMENTAL IMPACT REPORT
FOR CITY CENTER II MIXED-USE PROJECT
SCH No. 2006051146**

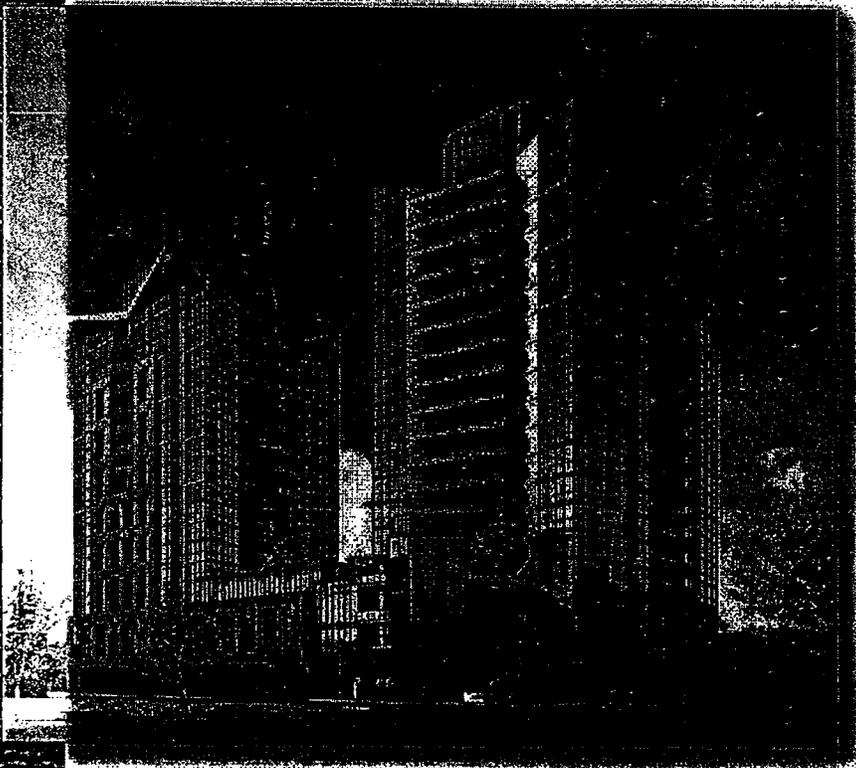
VOLUME I

Prepared for:

Glendale Redevelopment Agency
633 East Broadway, Room 201
Glendale, California 91206-4387

Prepared by:

Impact Sciences, Inc.
803 Camarillo Springs Road, Suite A
Camarillo, California 93012



SEPTEMBER 2007

**DRAFT
ENVIRONMENTAL IMPACT REPORT**

FOR

CITY CENTER II MIXED-USE PROJECT

Sch#2006051146

Volume I

Prepared for:

**Glendale Redevelopment Agency
633 East Broadway, Room 201
Glendale, California 91206-4387**

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September 2007

TABLE OF CONTENTS

Section	Page
VOLUME I	
1.0 INTRODUCTION.....	1.0-1
2.0 SUMMARY	2.0-1
3.0 PROJECT DESCRIPTION.....	3.0-1
4.0 ENVIRONMENTAL IMPACT ANALYSIS	4.0-1
4.1 Land Use and Planning.....	4.1-1
4.2 Population and Housing.....	4.2-1
4.3 Aesthetics.....	4.3-1
4.4 Traffic, Circulation and Parking	4.4-1
4.5 Air Quality.....	4.5-1
4.6 Noise.....	4.6-1
4.7 Hazards and Hazardous Materials	4.7-1
4.8 Hydrology and Water Quality	4.8-1
4.9 Public Services	4.9-1
4.9.1 Fire Protection and Emergency Medical Services	4.9.1-1
4.9.2 Police Protection.....	4.9.2-1
4.9.3 Schools.....	4.9.3-1
4.10 Utilities and Service Systems	4.10-1
4.10.1 Water Service	4.10.1-1
4.10.2 Sewer.....	4.10.2-1
4.10.3 Solid Waste	4.10.3-1
4.11 Recreation.....	4.11-1
5.0 SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES	5.0-1
6.0 GROWTH INDUCEMENT	6.0-1
7.0 ALTERNATIVES	7.0-1
8.0 LIST OF EIR PREPARERS.....	8.0-1
9.0 REFERENCES AND PERSONS CONSULTED	9.0-1

4.2 POPULATION AND HOUSING

INTRODUCTION

This section analyzes the potential population and housing impacts of the Project on the City of Glendale. Information used in this section was obtained from the Southern California Association of Governments (SCAG).

ENVIRONMENTAL SETTING

As discussed in Section 4.1, Land Use and Planning, the City of Glendale is located within the planning area of SCAG, the lead planning agency for the Southern California region. SCAG consists of local governments from Los Angeles, Ventura, Orange, San Bernardino, Riverside, and Imperial counties. To facilitate regional planning efforts, the planning area of SCAG is further divided into 13 subregions. Glendale is located in the Arroyo-Verdugo Subregion, which also includes the cities of Burbank, La Canada-Flintridge, and the unincorporated communities of La Crescenta and Montrose.

One of SCAG's primary functions is to forecast population, housing, and employment growth for each region, subregion, and city. The latest forecast was completed in 2004 as part of the 2004 Regional Transportation Plan (RTP) update. As indicated in Table 4.2-1, SCAG Demographic Projections, both the Arroyo-Verdugo Subregion and the City of Glendale are predicted to undergo sustained growth through the year 2030. Population in the subregion is predicted to increase by 62,130 persons, while the housing stock is projected to increase by 23,109 units. Employment opportunities are also predicted to increase by 69,389 jobs. The City is predicted to increase by 26,908 persons, while the housing stock is projected to increase by 9,568 units. Employment opportunities are also predicted to increase by 27,527 jobs.

Table 4.2-1
SCAG Demographic Projections

	2000	2005	2010	2015	2020	2025	2030	2000-2030 (%)
Arroyo-Verdugo Subregion								
Population	335,438	352,677	360,042	369,816	379,461	388,706	397,568	62,130 (19%)
Housing	127,481	129,327	133,127	137,454	141,860	146,230	150,590	23,109 (18%)
Employment	210,848	203,652	222,135	235,640	248,534	260,336	271,237	69,389 (34%)
City of Glendale								
Population	195,781	204,435	207,182	211,220	215,207	219,028	222,689	26,908 (14%)
Housing	71,806	72,620	74,095	75,896	77,738	79,569	81,404	9,568 (13%)
Employment	85,715	86,136	90,471	96,573	102,469	108,004	113,242	27,527 (32%)

Source: Southern California Association of Governments, Regional Transportation Plan, April 2004.

REGULATORY FRAMEWORK

A number of goals and policies set forth by Glendale's General Plan relate to population and housing growth. An analysis of the consistency of these applicable goals and policies with the Project is provided in Section 4.1, Land Use and Planning. As discussed in Section 4.1, the Project does not conflict with applicable General Plan goals and policies related to population and housing growth.

ENVIRONMENTAL IMPACTS

Thresholds of Significance

The following thresholds for determining the significance of impacts related to population and housing are contained in the environmental checklist form contained in Appendix G of the most recent update of the California Environmental Quality Act (CEQA) Guidelines. Impacts related to population and housing are considered significant if the project would:

- Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through the extension of roads or other infrastructure).
- Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere (issue is addressed within Appendix 1.0(a) of this Draft EIR).
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere (issue is addressed within Appendix 1.0(a) of this Draft EIR).

Impact Analysis

Each applicable threshold of significance is listed below followed by analysis of the significance of my potential impacts and the identification of mitigation measures that would lessen or avoid potential impacts. Finally, the significance of potential impacts after implementation of all identified mitigation measures is presented.

Threshold: Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through the extension of roads or other infrastructure).

Impact **Analysis:** As proposed, the Project would include 184 residential units, a 172-room hotel, and 4,089 square feet of retail commercial space. Based on a mix of 67 one-bedroom and 117 two-bedroom units and an average household size of 1.5 persons per one-bedroom unit and 2.5 persons per two-

4.2 Population and Housing

bedroom unit¹, the residential component of the Project would most likely generate approximately 393 residents (67 units x 1.5 persons per household + 117 units x 2.5 persons per household). Based on 3.0 employees per 1,000 square feet of commercial space and 0.8 employees for every hotel room, the direct employment growth of the Project would be 150 employees (4,089 square feet x 3.0 employees/1,000 square feet + 172 hotel rooms x 0.8 employees). Applying a 24 percent ratio (which is the percent of existing employee that work and reside in the City of Glendale),² the employment positions would result in 36 of these new employees residing in the City of Glendale. If it is conservatively assumed that each of the new employees forms a single household in the City, these households could indirectly add approximately 101 additional residents to the City (36 households x 2.8 persons per household)³. Overall, the increase in population of 393 people that would be associated with the proposed residential units and the possible additional increase in population of 101 people associated with employment opportunities provided by the Project would result in a total population increase of 494 new residents to the City.

When the population increase from the Project is added to the 2007 Arroyo-Verdugo Subregional population of 355,623, the resulting population for the year 2010 is approximately 356,234 persons. In addition, when housing and employment estimates associated with development of the Project are added to 2007 Arroyo-Verdugo Subregional housing and employment figures, the resulting housing and employment figures are 131,134 housing units and 211,054 jobs. All of these demographic increases are well within 2010 Arroyo-Verdugo Subregional projections.

The 2007 State Department of Finance January population estimate for Glendale is 207,1574. When the estimated population increase from the Project is added to the January 2007 population estimate for the City of Glendale, the resulting total population for the City is 207,768 residents. In addition, when the

¹ Population generation rates for units were provided by the applicant and represent a more conservative population estimate than if generation rates were used from the Glendale Downtown Specific Plan.

² The Project would generate 134 employment positions. Based on the existing residence characteristics of the work force in Glendale, it is estimated that approximately one quarter of these employees could relocate to Glendale. Travel time-to-work data collected by the 2000 U.S. Census indicates that approximately 21,800 workers in Glendale aged 16 and over commute less than 15 minutes to their places of employment or work from home. It can be assumed that these workers are employed within the City limits, since it would conceivably take longer than 15 minutes to commute to jobs located outside Glendale. In 2000, the City of Glendale had 91,000 employees based on the number of resident and non-resident employees reported to the State of California Employment Development Division by firms located in Glendale. In 2000, therefore, approximately 21,800 of the 91,000 employees working in Glendale resided in the City, which equates to approximately 24 percent of the worker population.

³ Based on average Citywide household population rate per unit from California State Department of Finance, E-5 City/County Population and Housing Estimates, January 1, 2007, May 2007.

⁴ Based on average Citywide household population rate per unit from California State Department of Finance, E-5 City/County Population and Housing Estimates, January 1, 2007, May 2007.

4.2 Population and Housing

Project's housing and employment increases **are** added to the **2007** SCAG housing and employment projections for the City of Glendale, the resulting housing and employment figures are **73,497** housing units and **87,879** jobs. While the housing and employment estimates are well within SCAG **2010** projections of **74,095** housing units and **90,471** jobs for the City of Glendale, the population figure exceeds the SCAG **2010** population projection of **207,182** persons.

Despite exceeding the **SCAG** projection, the population increase associated with the Project is not considered substantial, **as** the increase would amount to less than a **1** percent increase in population growth. In addition, the population growth and related demand on public services associated with the Project have been assessed in Section **4.9**, Public Services, of this EIR. In **this** manner, the projected population increase already has been assessed and the increase in population is not considered substantial. Importantly, the growth associated with the Project is also accounted for in the Downtown Specific Plan (adopted November **2006**). **To** ensure consistency between the Downtown Specific Plan and the City of Glendale General Plan, the General Plan would be amended to include new population projections as part of the proposed adoption of the Downtown Specific Plan. The City will now submit the new growth projections to SCAG for incorporation into its new population projections, resulting in revisions to the **RTP**, which is to be updated in 2007. In other words, the demographic projections contained within the RTP are based on a "bottom-up" approach in which local agencies generate the projections that provide the basic framework for SCAG analysis. The Project's population generation would **be** consistent with the City's General Plan, upon **which** the SCAG population forecast is based. Therefore, after demographic projections **are** updated, the Project would be even further below future SCAG projections. As a result, impacts associated with population growth would be less **than** significant.

Level of Significance Before Mitigation: **Less** than significant.

Mitigation Measures: None **are** required.

Level of Significance After Mitigation: **Less than** significant.

Cumulative Impacts

The **following** cumulative analysis evaluates the impact **of** the Project and related projects on population in the City of Glendale. The applicable threshold is **listed** below in bold, followed **by an** analysis of the cumulative impact of the Project and related projects and their potential significance.

Threshold: Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through the extension of roads or other infrastructure).

Impact Analysis: Related projects would result in development of an additional 2,641 residential units consisting of one, two, and three bedroom units. Based on an average Citywide household size of 2.8 persons,⁵ these units would directly add 7,395 people to the population of City of Glendale. Related projects would also generate 4,507 employment positions. The number of employment positions generated by related projects is listed in Table 4.2-2, Employment Generation of Citywide Projects. The Project, together with related projects, would directly add 7,788 people to the population of the City. The Project and related projects would also generate 4,657 employment positions. Applying a 24 percent ratio (which is the percent of existing employee that work and reside in the City of Glendale), the employment positions would result in 1,118 of these new employees residing in Glendale. If it is conservatively assumed that each of the new employees forms a single household in the City, these households could indirectly add approximately 3,130 additional residents to the City (1,118 households x 2.8 persons per household). Overall, the increase in population of 7,788 people that would be associated with the proposed residential units and related projects and the possible additional increase in population of 3,130 people associated with employment opportunities provided by the Project and related projects would result in a total population increase of 10,918 new residents to the City.

Table 4.2-2
Employment Generation of Citywide Projects

Retail	631,649 sf	3.0	Employees/ksf	1,895
office	349,146 sf	4.44	Employees/ksf	1,550
Hotel	870 rooms	0.8	Employees/room	696
Banquet Hall	55 msf	2.02	Employees/ksf	111
Cinema	70,000 sf	2.8	Employees/ksf	140
Medical	38,900 sf	2.0²	Employees/ksf	78
Industrial	5,308 sf	3.0	Employees/ksf	16
Community Center	10,600 sf	2.0,	Employees/ksf	21
Total				4,507

Source: Impact Sciences, Inc.

¹ Employment Factors based on based on Southern California Association of Governments' Forecast and Los Angeles Central Business District Database.

² General Employment Factor

sf = square feet; ksf = thousand/kilo square feet

⁵ California State Department of Finance, E-5 City/County Population and Housing Estimates, January 1,2007, May 2007.

4.2 Population and Housing

According to SCAG's regional growth forecasts, Glendale's population is projected to increase by approximately 1,650 between 2007 and 2010. The Project, together with related projects, could increase the City's population by approximately 10,918 residents. The population growth associated with the Project and related projects is considered substantial, as the amount of growth projected for the City would be exceeded, and is considered to be significant.

To ensure consistency between the related projects and the General Plan, the General Plan would be amended to include newly proposed population projections. After the General Plan is amended, new growth projections would be formulated by the City and submitted to SCAG for incorporation into new population projections. This would result in revisions to the RTP, which is to be updated in 2007. In other words, the demographic projections contained within the RTP are based on a "bottom-up" approach in which local agencies generate the projections that provide the basic framework for SCAG analysis. In this manner, the related project and the Project's population projections would eventually be consistent with the City's General Plan, upon which the SCAG population forecast is based. In the interim, the Project's contribution to this impact would be cumulatively considerable and result in a significant impact due to increasing growth over the SCAG projections.

Level of Significance Before Mitigation: Significant.

Mitigation Measures: No feasible mitigation exists.

Level of Significance after Mitigation; Significant and unavoidable.

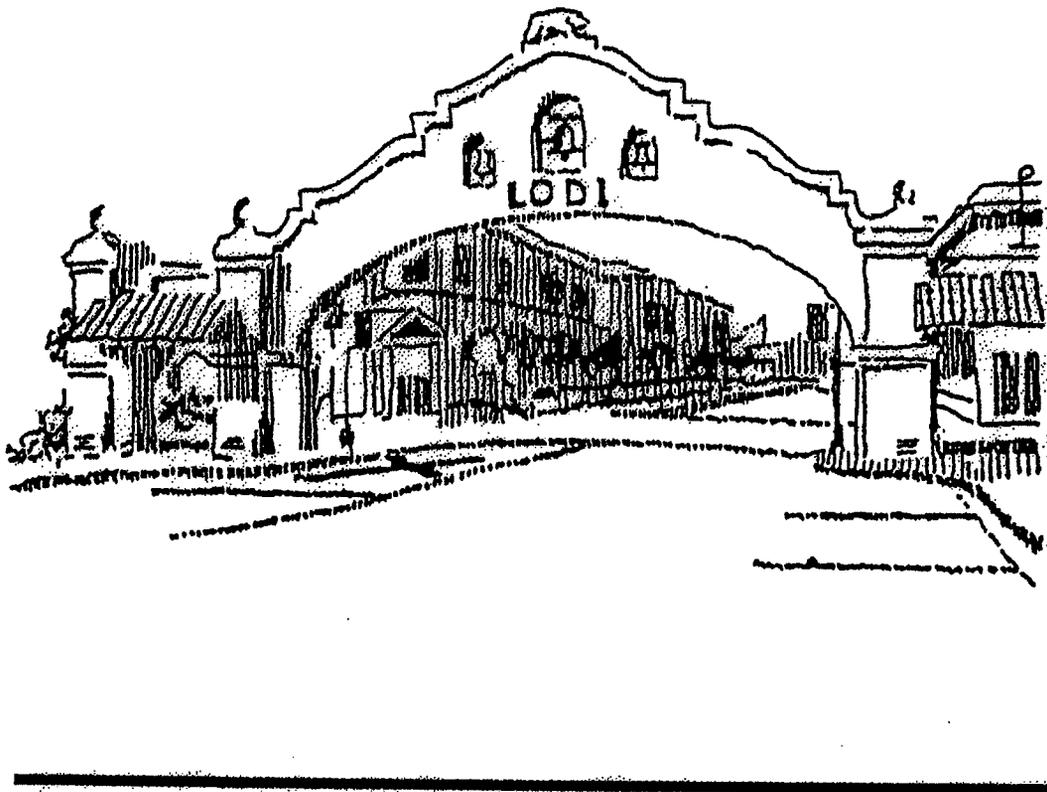
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EXHIBIT I

City of Lodi Draft General Plan



DRAFT ENVIRONMENTAL IMPACT REPORT

SCH #89020206

**City of Lodi
Draft General Plan
Draft Environmental Impact Report**

Prepared for:

City of Lodi
221 West Pine Street
Lodi, CA 95241-1910
209/333-6711
Contact: James B. Schroeder

Prepared by:

Jones & Stokes Associates, Inc.
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With contributions from:

J. Laurence Mintier & Associates
TJKM
Pepper Associates

April 1990

PROPOSED GENERAL PLAN (2007): IMPACTS AND MITIGATION MEASURES

Water Supply

Increased Groundwater Pumping and Overdraft

Impact. Development provided for by the Proposed GP would create demand for approximately 7.8 MGD of municipal water, or a but 67 percent more than current usage. Currently, the City of Lodi uses groundwater as a municipal supply. Because overdraft of the aquifer already exists in the GP area (resulting in lowering the water table at a rate of between 0.5 and 1.75 feet per year), it is unlikely that future water demands can be met without increased overdraft and saltwater intrusion, unless projected growth occurs in agricultural areas where groundwater pumping is occurring at a rate greater than that required for domestic use. Domestic water demand, however, is estimated to exceed agricultural uses by 2.5 times based on daily evapotranspiration rates (University of California Cooperative Extension 1987) and crop coefficients (University of California Agricultural Experiment Station 1985) for grapes. It was assumed that grapes are currently grown on 100 percent of the agricultural land to be developed; this percentage is overstated, but was used to account for leaks in the irrigation systems, leaching if required, and variations in crop management. Based on these assumptions, the crop water demand was calculated to equal 2636 inches per year per crop and total water demand was calculated to equal 1,115 million gallons per year. Projected municipal demand is estimated at 2,847 million gallons per year or 2.55 times the agricultural demand.

The 1978 California Water Atlas contains data indicating that the water demand from grapes is 35 acre-feet per acre. Based on these data, the crop water demand was calculated to equal 42 inches per year per crop, and total water demand was calculated to equal 1,733 million gallons per year. Projected municipal demand is estimated at 1.61 times the agricultural demand.

The following policies from the Proposed GP Conservation Element reduce the impacts of an inadequate water supply, but not to less than significant:

- o **Policy A-4:** The City shall explore the potential development of surface water sources to augment the City's groundwater supply.
- o Policy A-7, as identified above.
- o **Policy B-1:** The City shall require water conservation in both City operations and private development to minimize the need for the development of new water sources and facilities.
- o Policy B-2: The City shall meter all new residential developments.
- o Policy B-3: The City shall develop a program for metering all existing residential uses.

- o **Policy B-4:** The City shall require water-conserving landscaping practices in City projects and private developments, such as the use of drought-tolerant plants and irrigation techniques.
- o Implementation Program 3: The City shall explore the potential use of surface water to augment the City's water supply.
- o Implementation Program 5: The City shall adopt a resolution establishing a program for metering all new residential uses.
- o Implementation Program 6: The City shall evaluate the feasibility of retrofitting existing residential uses with water meters.

This impact is considered to be significantly adverse.

Mitigation Measures

- o The City should add the following policy to the Proposed GP Policy Document:
 - The City shall provide for an adequate high-quality water supply prior to approving future development.

Implementation of this measure would reduce this impact to less than significant.

Water Quality

Establishment of Mechanisms to Partially Reduce the Potential for Surface Water Quality Degradation Caused by Increased Runoff, Effluent Discharge, and Recreational Use of Lodi Lake and the Mokelumne River

Impact, Surface water quality could be degraded by increased urban runoff, increased discharge of treated effluent, and increased recreational use of Lodi Lake and the Mokelumne River.

The paving of land surfaces as provided for by the development allowed under the Proposed GP would increase urban runoff to the Mokelumne River and the WID Canal. Urban runoff is normally contaminated with hydrocarbons (oil, gasoline diesel), heavy metals (lead, cadmium, nickel), fertilizers, and other inorganic and organic chemicals. Temporary increases in sediment load would also occur as a result of erosion related to construction.

The increased population levels provided for by the Proposed GP would increase discharge of secondary treated effluent from the White Slough Water Pollution Control Facility to Dredger Cut, a tributary to White Slough and the San Joaquin Delta.

City shall also monitor the presence of pollutants and other variables that could cause harm to fish, wildlife, and plant species in the Mokelumne River and Lodi Lake. The City shall participate in implementing remedial action as feasible.

See also Chapter 14, "Biological Resources," since this same measure is addressed in this chapter also.

Implementation of these measures would reduce this impact to less than significant.

Minor Reduction in Groundwater Contamination from Agricultural Practices

Impact. Development of the GP area with urbanized uses would reduce contamination of groundwater by agricultural practices. The agricultural practice of leaching is the cause of many of the groundwater quality problems in Lodi. Leaching is the process of applying irrigation water to wash accumulated salts from the root zone. As a result of leaching, large quantities of nitrate (fertilizer) and organic chemicals (such as DBCP, a pesticide) also have to be washed from the root zone contaminating the aquifers that are the source of Lodi's municipal water supply. Conversion of agricultural lands in the GP area to urban uses would decrease leaching of these contaminants to the aquifer. Although urban and industrial pollution may introduce different contaminants to the soils, the greatly reduced infiltration rates would eliminate a major source of groundwater degradation in the GP area. On a regional context, this reduction is relatively small since the amount of land being converted is minor compared to the surrounding agricultural land. This may be considered a net-beneficial impact.

Mitigation Measures

- o None are required.

Potential for Increased Saltwater Intrusion

Impact. The overdraft of groundwater has caused the infiltration of saltwater from the San Joaquin Delta. Although salt-contaminated groundwater is not present in the GP area, it can be found a few miles west. Currently, the City relies on groundwater for municipal supplies. Increases in municipal demand caused by development allowed under the Proposed GP would cause continued overdraft. Continued overdraft of groundwater resulting in saltwater intrusion is a significant adverse impact.

The following policies from the Proposed GP Conservation Element reduce the impacts to groundwater quality, but not to less than significant:

- o Policies A4, A-7, B-1, B-2, B-3, and B-4, as identified above
- o Policy A-5: The City shall regularly monitor water quality in municipal wells for evidence of contamination from DBCP, saltwater intrusion, and other toxic substances that could pose a health hazard to the domestic water supply.

- o **Policy A-6:** The City shall close or treat municipal wells that exceed the action level for DECP.
- o **Implementation Program 2:** The City shall monitor water quality in City wells for evidence of **DBCP**, saltwater intrusion, and other contaminants, and take remedial action as necessary.
- o Implementation Programs 1, 3, 4, 5, and 6, as identified above

Mitigation Measures

- o The City should add the following policy to the Proposed GP Policy Document:
 - The City shall provide for an adequate high-quality water supply prior to approving future development.

Implementation of this measure would reduce this impact to less than significant.

No Development Subject to 100-Year Flood Hazards

Impact. The overcovering of soils resulting from development would reduce infiltration rates, thereby increasing runoff rates. Increased runoff and the nearly level topography of the GP area could lead to localized flooding.

The population provided for by the Proposed GP would not be subject to the 100-year flood, and some would not be subject to any flooding. Most areas would be subject to the 500-year flood.

The following policies from the Proposed GP Health and Safety Element would reduce the impacts of flooding to less than significant:

- o **Policy A-1:** The City shall continue to participate in the National Flood Insurance Program and ensure that local regulations are in full compliance with standards adopted by FEMA.
- o **Policy A-2** The City shall ensure that storm drainage facilities are constructed to serve new development adequate to store runoff generated by a 100-year storm.
- o **Policy A-3** The City shall ensure that storm drainage facilities are provided for all new development to make certain that all surface runoff generated by the development is adequately handled.
- o **Policy A 4** The City shall evaluate the degree of flood protection afforded to currently developed areas compared to standards for new development.

EXHIBIT J



City of Lodi 2005 Urban Water Management Plan

Final Report

Prepared by:
RMC
Water and Environment

March, 2006

Chapter 3 Water Supply

3.1 Current Water Supply

3.1.1 Background

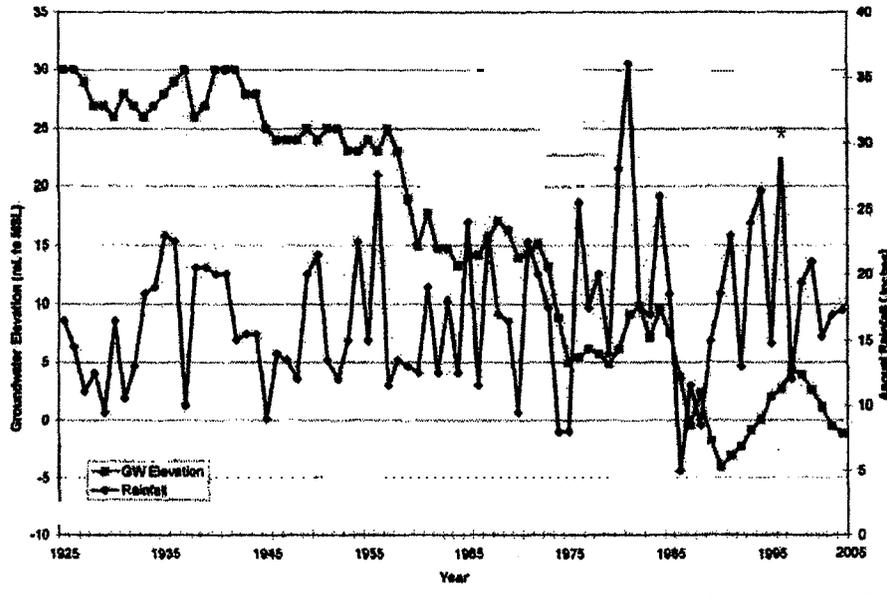
The City currently uses groundwater as its sole source of supply. The City overlies a portion of the San Joaquin Valley groundwater basin, which is not currently adjudicated. The groundwater in the Lodi area exists under unconfined and semi-confined conditions. The Mehrten Formation is the most productive fresh water-bearing unit.

The City is located within the geomorphic province known as the Central Valley, which is divided into the Sacramento Valley and the San Joaquin Valley. The Central Valley is a large, northwestward-trending, asymmetric structural trough that has been filled with several miles of thick sediment (USGS 1986). The City lies within the San Joaquin Hydrologic Basin (DWR, Bulletin 118) which straddles portions of both the Sacramento and San Joaquin Valleys. Sediments of the San Joaquin Valley consist of interlayered gravel, sand, silt, and clay derived from the adjacent mountains and deposited in alluvial-fan, floodplain, flood-basin, lacustrine, and marsh environments. Hydrogeologic units in the San Joaquin Basin include both consolidated rocks and unconsolidated deposits. The consolidated rocks include 1) the Victor Formation, 2) the Laguna Formation, and 3) the Mehrten Formation. The consolidated rocks generally yield small quantities of water to wells except for the Mehrten Formation, which is an important aquifer (DWR). The unconsolidated deposits include continental deposits, 2) lacustrine and marsh deposits, 3) older alluvium, 4) younger alluvium, and 5) flood-basin deposits. The continental deposits and older alluvium are the main water-yielding units in the unconsolidated deposits.

Groundwater flow direction is generally toward the south in agreement with the regional groundwater flow gradient but may vary from south-southwest to south-southeast with local gradients likely influenced by pumping from municipal supply wells. Pumping tests on municipal wells indicate that they possess a large capture zone, and thus have a large influence upon groundwater flow. Pumping of municipal supply wells in the City is performed between 100 and 500 feet below ground surface (Geomatrix, 2006).

DWR has declared that the groundwater basin underlying Eastern San Joaquin County is overdrafted, and groundwater levels in the County and the City are generally decreasing. The groundwater levels also fluctuate over time depending on precipitation, aquifer recharge, and pumping demands. Groundwater elevations relative to mean sea level (MSL), and the corresponding annual precipitation from 1927 through 2004 are shown in Figure 3-1. Overall, the average annual decrease in groundwater levels from 1927 to 2004 has been 0.39 feet per year. Generally, groundwater elevations have decreased with the increase in population and water production. However, annual rainfall also influences groundwater elevation. The groundwater level increase from 1981 to 1984 can be partially attributed to the increase in annual rainfall from 1981 to 1983. Groundwater elevations for the years 1927 to 1961 were obtained from East Bay Municipal Utilities District (EBMUD) for the City's 12 square mile area. Groundwater elevation data from 1962 to the present were obtained from the City's Public Works Department for Well No. 2, one of the oldest production wells in the City.

Figure 3-1: Historical Groundwater Elevation

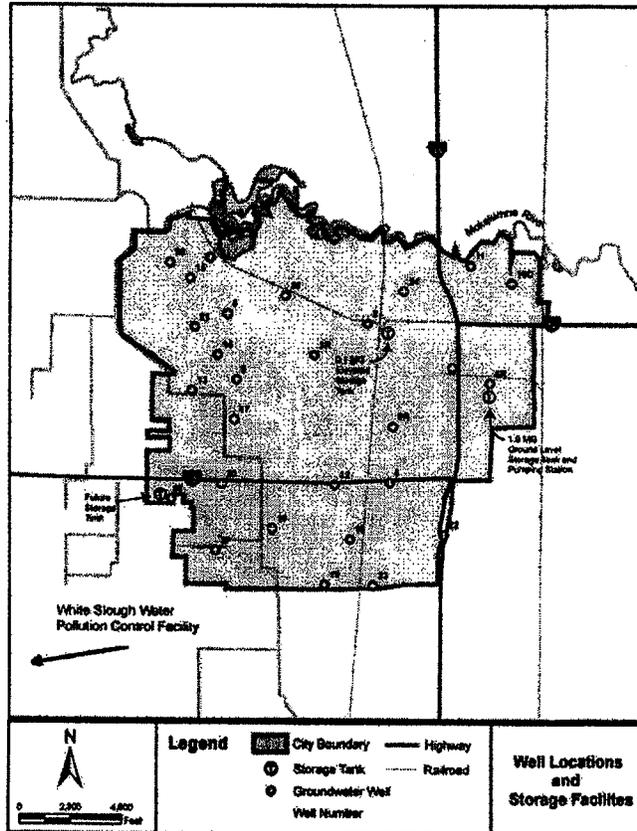


Source: City of Lodi Public Works Department

3.1.2 Water Supply Facilities

The Utility operates 26 groundwater production wells. The locations of the wells are presented in Figure 3-2 and discussed in further detail below.

Figure 3-2: Well Locations and Storage Facilities



3.1.3 Current Groundwater Supply

The 26 wells that currently provide water to the City have a combined capacity of 35,210 gallons per minute (gpm), or 50.7 million gallons per day (mgd). The wells operate automatically on water pressure demand and pump directly into the distribution system. All wells are equipped to provide emergency chlorination as needed. Historically, water has not required chlorination. Six wells are equipped with granular activated carbon (GAC) for the removal of dibromochloropropane (DBCP). Capacity information for the existing wells is summarized in Table 3-1.

Table 3-1: Groundwater Well Capacity

Well Number	Well Capacity, gpm ^b	Well Capacity, mgd ^c
1R	1,130	1.6
2	820	1.2
3R	820	1.2
4R ^a	1,960	2.8
5	1,180	1.7
6R	1,580	2.3
7	1,160	1.7
8	800	1.2
9	900	1.3
10C	1,300	1.9
11R	1,320	1.9
12	800	1.2
13	1,150	1.7
14	1,670	2.4
15	1,500	2.2
16 ^a	1,110	1.6
17	1,800	2.6
18 ^a	1,800	2.6
19	1,110	1.6
20 ^a	2,070	3.0
21	2,050	3.0
22 ^a	1,400	2.0
23 ^a	1,410	2.0
24	1,420	2.0
25	1,580	2.3
26	1,370	2.0
Total	35,210	50.7

Footnotes:

- a. Wells equipped with GAC
- b. gpm = gallons per minute
- c. mgd = million gallons per day

Table 3-2 presents the amounts of groundwater extracted by the City between 1970 and 2004.

Table 3-2: Historical Groundwater Production (Guidebook Table 5)^a

Year	Groundwater Production, AF	Percent of Total Water Supply
1970	11,462	100%
1971	12,303	100%
1972	11,686	100%
1973	12,204	100%
1974	12,002	100%
1975	12,294	100%
1976	13,607	100%
1977	10,578	100%
1978	11,477	100%
1979	12,349	100%
1980	12,312	100%
1981	12,487	100%
1982	11,560	100%
1983	11,538	100%
1984	13,997	100%
1985	14,813	100%
1986	15,080	100%
1987	15,304	100%
1988	15,359	100%
1989	14,653	100%
1990	15,387	100%
1991	13,313	100%
1992	13,985	100%
1993	14,013	100%
1994	14,301	100%
1995	14,390	100%
1996	15,102	100%
1997	16,330	100%
1998	14,461	100%
1999	16,588	100%
2000	16,724	100%
2001	17,108	100%
2002	16,641	100%
2003	16,185	100%
2004	17,011	100%

Footnotes:

- a. The term "Guidebook X" refers to the table in the Guidebook to Assist Water Suppliers in the Preparation of a 2005 Urban Water Management Plan by DWR.

3.1.4 Current Surface Water Supply

In May 2003, the City entered into an agreement with Woodbridge Irrigation District (WID) to purchase 6,000 acre-feet per year (AFY) of surface water for a period of 40 years. However, at the time this UWMP was prepared, the City had not yet begun using water from this supply. A copy of the City's agreement with WID is included in Appendix D.

3.1.5 Current Recycled Water Supply

The City's wastewater discharge permit requires an agronomic application rate. According to discussions with City staff, approximately 2,500 AFY of secondary treated recycled water is currently used, primarily for irrigation in the area surrounding WSWPCF. This represents approximately 35 percent of the total treated wastewater produced at WSWPCF. The City discharges the non-irrigation water, treated to Title 22 tertiary standards, to the Delta. The Utility currently lacks the necessary infrastructure to distribute additional recycled water to more of its customers.

For a more detailed discussion of the City's recycled water supply, as well as the processes by which it is treated, refer to Chapter 8.

3.1.6 Water Distribution System

The City of Lodi's distribution system consists of a 100,000 gallon elevated storage tank, a 1 million gallon (MG) storage facility and pumping station, and the piping system. The 1 MG storage tank, located east of Highway 99 on Thurman Street, stores groundwater from an onsite well to meet peak hour demands and fire flows. The 100,000 gallon elevated storage tank is located on North Main Street. The storage facilities and their capacities are presented in Table 3-3. Their locations are shown in Figure 3-2.

Table 3-3: Water Storage Facilities

Storage Facility	Storage Volume, MG
Elevated storage tank	0.10
Ground level storage tank	1.00
Total	1.10

Distribution mains in the City's piping system range from 14 inches to 2 inches in diameter, and the entire distribution system consists of approximately 225 miles of pipe. The City is in the process of replacing the 2-inch and 3-inch diameter mains as well as other deficient pipes.

A summary of the City's current and planned water supplies is presented in Table 3-5.

3.2 Future Water Supply

3.2.1 Constraints on Existing Supplies

The City's current water supply system is constrained by 1) the pumping capacity of its currently active wells, and 2) a longer-term reduction in supply due to the overdrafting currently taking place in the City's groundwater basin. Although the declining groundwater basin is a result of groundwater extraction by all groundwater pumpers in the area, including other cities, agriculture, private well owners, and the City itself, the City plans to reduce its groundwater pumping in the long term as part of what will have to be a regional effort to stabilize the groundwater basin. A copy of the GBA Groundwater Management Plan is included in Appendix F.

3.2.2 Future Groundwater Supply

The continuing decline of groundwater levels in the aquifer underlying the City means that the sustainable annual groundwater supply available to the City is something less than what is currently extracted. As a member agency of GBA, the City is participating in the development of policies and programs, including groundwater recharge and conjunctive use programs, intended to help eliminate the eastern San Joaquin County groundwater basin overdraft condition. Additionally, the City plans to reduce its overall groundwater pumping in the future. A safe yield of approximately 15,000 AFY (Treadwell and Rollo, 2005) has been estimated for the aquifer serving Lodi based on water balance calculations (see Appendix C) performed using data primarily from the Eastern San Joaquin Groundwater Management Plan (Appendix F). This safe yield estimate reflects an acreage-based relationship. Therefore, as the City's land area increases, the estimated safe yield of the underlying aquifer will likely increase. The safe yield estimate will be revisited in the 2010 UWMP update. For the purposes of this UWMP, 15,000 AFY has been assumed as the amount of groundwater available during all future (post-2005) years. Although rigorous scientific analyses have not been performed, the City projects that some recharge of the groundwater basin will occur as the amount of groundwater pumped annually decreases. This result, however, is contingent on the cooperative efforts of all groundwater users within the basin, including other cities, agriculture, and private well owners, to reduce groundwater extraction. The City does not expect development of cones of depression, significant changes in direction or amount of groundwater flow, changes in the movement or levels of contaminants, or changes in salinity and/or total dissolved solids (TDS) concentrations. The amount of groundwater that is projected to be pumped over the next twenty-five years is presented in Table 3-4.

Comment [AMS1]: Inserted March 15, 2006 per conversation with Charlie Swinley.

Table 34: Projected Groundwater Pumping (Guidebook Table 7)

Year	2005	2010	2015	2020	2025	2030
Annual Volume, AF	17,300	15,000	15,000	15,000	15,000	15,000
Percent of Total Available Supply ^a	57%	52%	51%	50%	49%	48%

Footnote:

- a. Refers to the total supplies shown in Table 3-5.

3.2.3 Future Surface Water Supply

As discussed in Section 3.1.4, in May 2003 the City entered into a 40-year agreement with WID for 6,000 AFY of surface water from the Mokelumne River. The diversion point has not yet been determined. The City is considering options for implementing this source before 2010. Therefore, 6,000 AFY of treated surface water is included in the supply projections presented in Table 3-5 below. The City is also considering the possibility of obtaining additional surface water supplies from WID, these supplies are not included in Table 3-5, however, as they are not yet considered "firm" supplies.

3.2.4 Future Recycled Water Supply

As discussed in Section 3.1.5, the City currently treats approximately 7,200 AFY of wastewater at WSWPCF, of which 2,500 AFY is recycled in the vicinity of WSWPCF. WSWPCF has adequate capacity to treat all wastewater flows to Title 22 standards. The City is in the process of developing a Recycled Water Master Plan (RWMP) that will outline additional distribution of this supply to the Utility's customers. For the purposes of this UWMP, all treated wastewater produced at WSWPCF has been treated as recycled water supply and is included in Table 3-5 below. The amount of recycled water available increases with time, because as the City's population increases, the amount of wastewater available for reclamation will also increase. For a more detailed discussion of recycled water supply projections, refer to Section 8.6

Table 3-5: Current and Planned Water Supplies (Guidebook Table 4)

Water Supply Source	2005	2010	2015	2020	2025	2030
Groundwater ^a , AFY	17,300	15,000	15,000	15,000	15,000	15,000
WID Surface Water, AFY	6,000	6,000	6,000	6,000	6,000	6,000
Recycled Water ^b , AFY	7,200	7,700	8,300	8,940	9,630	10,380
Total ^c, AFY	30,500	28,700	29,300	29,900	30,600	31,400

Footnotes:

- Refer to Section 3.2.2 for more information.
- Based on the amount of wastewater treated during 2004, according to City staff. Future recycled water supplies are extrapolated from the 2004 amount. Assumes that the permitted capacity of WSWPCF will be increased as necessary.
- Rounded to nearest hundred.

3.2.5 Planned Water Supply Projects

At the present time the City does not have approved plans for any additional water supply projects. The City has participated in the Mokelumne River Regional Water Storage and Conjunctive Use (MORE WATER) Feasibility Analysis. The MORE WATER project, if approved, would capture unappropriated flows from the Mokelumne River for storage and beneficial use.

3.3 Exchange or Transfer Opportunities

The City does not currently have any approved plans to pursue exchange or transfer opportunities.

3.4 Desalinated Water

At the present time the City does not foresee any opportunities for the use of desalinated water, which includes ocean water, brackish ocean water, and brackish groundwater, as long-term supplies.

3.5 Wholesale Supplies

Since surface water will be purchased from WID, WID is considered a wholesale water supplier by DWR. As such, the City has provided demand projections to WID for the next 25 years. Similarly, the City has received availability projections from WID for the same time period. These demand and availability projections are presented in Table 3-6 and Table 3-7 below. As discussed previously, the City has not yet begun to use this water supply. As stated in the City's contract with WID, any water not taken by the City during the first three years of the contract (May 2003 to May 2006) may be "banked" and delivered to the City in subsequent years, provided WID has sufficient water available. The banked supply may not exceed 18,000 AF. To date, over 16,000 AF of water has been banked. The City has not made any formal plans at this time to use any of its banked supply, in addition to the normal 6,000 AFY, for any of the years shown in the tables below. However, the projected supplies and demands shown below may increase if and when the City decides to use its banked supply. The magnitude and availability of banked supply to be delivered will be discussed with WID at an appropriate time(s) in the future.

Table 3-6: Demand Projections for Wholesale Supply

Wholesale Supply	Projected Demand ^a					
	2005	2010	2015	2020	2025	2030
WID Surface Water, AFY	0	6,000	6,000	6,000	6,000	6,000

Footnotes:

- a. Subject to change with WID and City approval. Although the City may take water deliveries in excess of 6,000 AFY from its "banked" supply, no formal plans to do so have been developed at this time.

Table 3-7: Availability Projections from Wholesale Supplier

Wholesale Supply	Projected Availability ^a					
	2005	2010	2015	2020	2025	2030
WID Surface Water, AFY	6,000	6,000	6,000	6,000	6,000	6,000

Footnotes:

- a. Subject to change with WID and City approval. Although the City may take water deliveries in excess of 6,000 AFY from its "banked" supply, no formal plans to do so have been developed at this time.
- b. Reliability of WID supply is indicated in the City's contract with WID in Appendix D.

Wholesale supply reliability is presented in Chapter 6. Although changes in deliverable volumes of water for future hydrologic scenarios have not been formally predicted at this time, Chapter 6 presents the most restrictive possible cases for the future.

EXHIBIT K



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Receive Background Information on Implementing Woodbridge Irrigation District Surface Water Program

MEETING DATE: March 1, 2006

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council receive background information on implementing the surface water treatment program utilizing the Woodbridge Irrigation District (WID) **6,000** acre-feet contractual allotment. This material is being provided in advance of the March 15, 2006 Council meeting at which staff will request preliminary approvals as described.

BACKGROUND INFORMATION: On several past occasions, the Council has received information regarding the acquisition and usage of **6,000** acre-feet per year of Mokelumne River water from Woodbridge Irrigation District. In May 2003, the City contracted with WID to provide untreated surface water to Lodi for 40 years. At the September 21, 2004 Shirtsleeve meeting, the Water Supply Options Report was presented to the Council. At the April 19, 2005 Shirtsleeve meeting, staff again presented alternatives for implementing the 6,000 acre-feet per year surface water supply. On April 20, 2005, Council approved hiring a consultant to further study and develop a recommendation for full implementation of the WID surface water supply. On June 9, 2005, Council was given a copy of the WID Surface Water Implementation Study. On November 1, 2005, Council received a presentation from the consultant and the recommendation that the City go to a conjunctive use water supply system — one that utilizes both groundwater and treated surface water to serve the demands of Lodi's customers.

Over the course of the past three years, a number of alternatives have been considered with the most feasible options being "treat and drink" and "groundwater recharge". Some of the other alternatives studied include: 1) injection well recharge, 2) raw water irrigation of parks and schools, 3) recharge ponds within the City limits, 4) recharge ponds using North San Joaquin Water Conservation District facilities, 5) East Bay Municipal Utility District banking, and 6) interim supply to Stockton recharge ponds. These alternatives were ruled out primarily due to high costs and regulatory uncertainties.

At the regional level, City of Lodi has been participating in several water supply activities that will, hopefully, bring additional water supplies to the City and the other agencies in the region. Examples include the Mokelumne River Water and Power Authority MORE Project that seeks to capture unappropriated peak flows in the Mokelumne River. Also, Lodi is collaborating with Stockton East Water District, North San Joaquin Water Conservation District and WID on a pilot-scale recharge project near Mickle Grove Park. North San Joaquin Water Conservation District recently passed a groundwater recharge assessment for their groundwater recharge and is evaluating multiple sites in its district. Note that a large part of the City (generally, the area east of Mills Avenue) is within the District and pays this nominal assessment.

APPROVED 
Blair King, City Manager

Receive Background Information on Implementing Surface Water Treatment Program Utilizing
Woodbridge Irrigation District Contractual Allotment

March 1, 2006

Page 2

The recently-completed 2005 Urban Water Management Plan concisely presents the *C i s* existing and future water supply vs. demand outlook (see Exhibit A). As shown on Exhibit A, the safe long-term yield of the groundwater basin underlying the *C i* is estimated at 15,000 acre-feet annually (afa). At present, the City is using 17,300 afa to meet the demands of existing customers, reflecting a current need for additional water supply and/or conservation.

The UWMMP anticipates that through a combination of conservation (the on-going Citywide installation of water meters is expected to conserve approximately 2,400 afa upon completion) and adding 6,000 afa of WID treated surface water, the City's sustainable water supply will meet or exceed the projected water demands up to the year 2029.

The *C i* Council will be asked to support staff's recommendation to pursue the "treat and drink" alternative on the basis it is the "highest and best use" of the WID water given a number of factors that are compared below.

Cost

The estimated construction cost for a surface water treatment facility and associated facilities is estimated to be up to \$29.5 million. These costs are inclusive of site acquisition, surface water diversion piping, ultrafiltration (without pretreatment) using membrane technology, chlorine disinfection, transmission piping, and storage tanks. This alternative does eliminate the need to construct additional wells to serve future demands.

The construction cost for a groundwater recharge program is estimated to be \$30.3 million. This assumes a recharge field 88 acres in size adjacent to the WID canal at \$300,000 per acre, including site improvements and pipe appurtenances. Construction of five new wells is included in the estimate.

These costs are different from other numbers that have been discussed in the past. A comparison of former and current estimates is provided in Exhibit B.

In neither scenario, new development is expected to fund the capital improvements. Operating and maintenance costs are considerably higher for the "treat and drink" alternative, when compared to the recharge option. The change to current rates would be an increase of approximately 15% (very rough estimate), if the burden was shared City-wide.

Benefit

Criteria to evaluate benefits to the City of Lodi and the region include: 1) direct benefit to the groundwater resource, 2) long-term water quality, 3) sharing the regional burden, and 4) time of use. Each is discussed below.

Benefit to the Groundwater Resource

In the context that the water demands of existing Lodi are matched by the safe yield of the groundwater resource, the "treat and drink" alternative eliminates further mining of the groundwater and, thereby, results in the highest direct benefit to the groundwater basin currently serving the City.

Groundwater recharge programs have a number of inherent losses including evaporation, uptake by plant materials, and capture within the soil column. These losses can be as high as 30 percent, meaning

the process is about 70% efficient. In addition, the recharge water, once it reaches the groundwater, moves away from the Lodi point of use and toward the central/eastern-County groundwater depression. A map of the County groundwater contours is provided in Exhibit C.

Long-Term Water Quality

Lodi has long enjoyed a high quality of water that is pumped from the ground through wells that are clustered in relatively close proximity to the Mokelumne River. Not only has the quality of water been excellent, but the yield from each well has been relatively high, with an average yield of approximately 1,400 gallons per minute. Based upon experience and water quality information for areas southerly and westerly of the City, new wells in these areas are expected to have a higher salinity level and lower yields.

For the "treat and drink" alternative, the salinity levels in the treated surface water will be lower than levels currently found in the groundwater. Combining these two sources for potable use will result in a lowering of salinity levels in both our drinking water and our wastewater. This provides a long-term tangible benefit to the City as the State is expected to impose limits on salinity for discharges to the Delta. Lowering the salinity of our "source water" will help avoid very costly improvements to remove salinity at the wastewater end of the use cycle.

A groundwater recharge program will essentially not alter the water quality characteristics of the City's groundwater resource.

The "treat and drink" alternative will result in chlorination of the entire City water system as is required by State regulation. Most in the industry agree that chlorination requirements will also be imposed upon all groundwater users in the foreseeable future.

Sharing the Regional Burden

On a regional basis, the various cities and agencies are collaboratively working to enhance the supply side of the region's groundwater resource. The groundwater basin Lodi shares with other agencies and individual property owners is being mined by over 150,000 afa. This results in declining water levels in wells, which reduces yield, increases pumping costs, and impacts water quality as more saline water is drawn into the basin, rendering wells unfit for use. 150,000 afa and more is needed to meet the goal to reverse and stabilize this problem. On a conceptual level, the principal strategies to achieve this goal include: 1) securing additional surface water resources, 2) elimination or deferral of further groundwater pumping, 3) banking through recharge or deferral of pumping, and 4) regional recharge. The MORE project was described above. The Stockton Delta Water Supply Project includes a treatment plant that will begin treating 56,000 afa within three years. Lodi's water treatment plant can begin producing 6,000 afa of treated drinking water within 45 years. A recharge program would provide somewhat less regional benefit by virtue of the losses described above.

Time of Use

Water demands within the City are highest in the spring, summer and fall. Conversely, the lowest demands are in the winter. Our WID water is available from March 1 through October 15, and this perfectly matches our highest demand period. Lodi has secured high quality surface water deliveries that meld with demands, both in quantity and in time. To store such water in the ground during periods of peak demands does not make a lot of sense.

March 1, 2006

Page 4

As is the Strategy of many of the regional recharge programs, excess water, that usually becomes available in the winter months, is diverted to fallow fields for percolation. Often times, this water is sediment laden and well suited for groundwater recharge. The City of Lodi could pursue a similar strategy by diverting storm drainage water to recharge areas and/or by altering designs for new developments to incorporate recharge facilities.

Staff Recommendation

At the March 15 meeting, staff will be requesting City Council approval to move forward with the "treat and drink" alternative and that the City Council authorize staff to solicit proposals for Preliminary Water Treatment Master Planning work required to prepare preliminary design alternatives and further recommendations. Design alternatives could include partnerships with other agencies.

Among the tasks to be done are:

1. Watershed Assessment
2. Process Evaluation and Pilot Testing
3. Alternative Site Evaluations
4. Cost Estimates
5. Financing Alternatives
6. Environmental and Regulatory Considerations

Staff recognizes that this recommendation is not what we anticipated when the WID water purchase agreement was made. Since then, a number of factors have made groundwater recharge a less desirable alternative. Regulatory requirements on recharge projects have increased in the last few years and, most recently, water rights and underground storage permit requirements are making recharge projects more uncertain in the long-run. However, as noted earlier, recharge may be a viable alternative for the irregular peak flows associated with local storms and high river runoff events.

Due to the design complexity, regulatory requirements and cost of projects of this nature, major design decisions today are no longer made unilaterally by a project team. Instead, a consensus is reached only after participation by members of the design team and individuals outside the team, including owners, operators, regulatory agencies and the general public. Therefore, a process of measured steps, of which this is the first, is our recommendation.

FISCAL IMPACT: Information only. None at this time.

FUNDING AVAILABLE: Not applicable

For 
Richard C. Prima, Jr.
Public Works Director

Prepared by Richard Prima, Public Works Director and F. Wally Sandelin, City Engineer

RCP/FWS/pmf

Attachments

EXHIBIT A

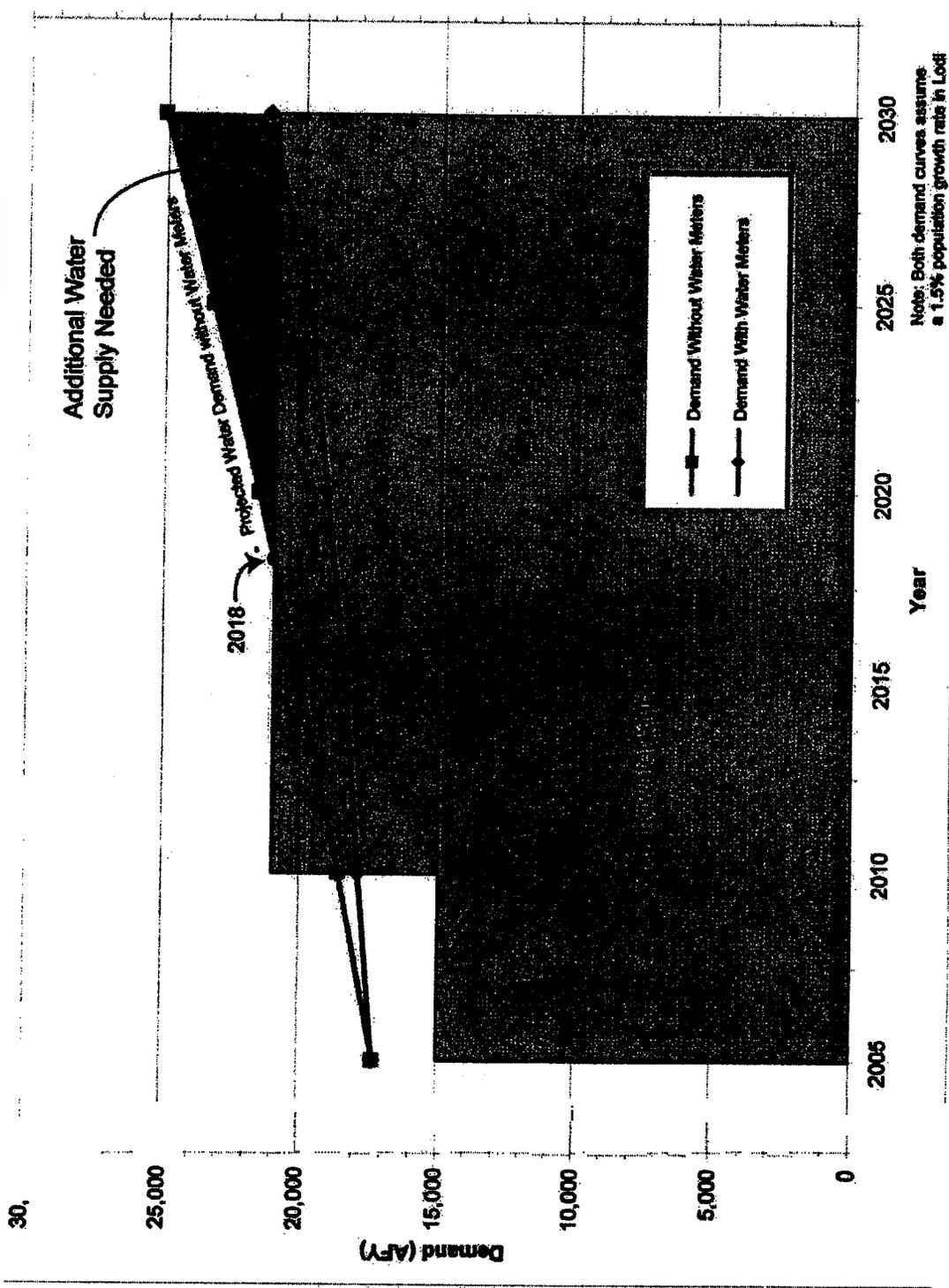


EXHIBIT B

Comparison of Planning Cost Estimates

Recharge Basin

	2005	2006
Construction of Recharge Basin	\$593,000	\$593,000
Construction Contingency (20%)	\$119,000	\$119,000
Engineering and Other Fees (15%)	\$89,000	\$89,000
Subtotal	\$801,000	\$801,000
Purchase Land for Basin	\$17,600,000	\$26,400,000 ⁽¹⁾
CEQA/NEPA	\$100,000	\$100,000
Water Wells		\$3,000,000 ⁽²⁾
Total	\$18,501,000	\$30,301,000

Surface Water Treatment Plant

	2005	2006
Surface Water Treatment Plant and Associated Transmission Facilities	\$25,700,000	\$20,000,000 ⁽³⁾
Construction Contingency (20%)	\$5,100,000	\$4,000,000
Engineering and Other Fees (15%)	\$3,900,000	\$3,000,000
Subtotal	\$34,700,000	\$27,000,000
Purchase Land for Plant	\$1,000,000	\$1,500,000 ⁽⁴⁾
CEQA/NEPA	\$1,000,000	\$1,000,000
Total	\$36,700,000⁽⁵⁾	\$29,500,000

- (1) The land cost for 88 acres is assumed to be \$300,000 per acre compared to \$200,000 per acre as reflected in the West Yost Lodi Surface Water Implementation TM. (West Yost TM)
- (2) Five new wells are required for the groundwater recharge alternative and the estimated construction cost is \$600,000 per well or \$3,000,000. This cost was not included in the West Yost TM.
- (3) Further research into the type of treatment processes and after visitation to three Northern California plants, a better planning estimate has been determined to be \$20,000,000 for constructing a 10 MGD treatment plant and associated transmission facilities.
- (4) The land cost for 5 acres is assumed to be \$300,000 per acre, compared to \$200,000 per acres as reflected in the West Yost TM.
- (5) The West Yost TM presented a \$50 million number that was \$36.7 million adjusted to the forecast mid-point of construction.

Eastern San Joaquin Groundwater Basin Groundwater Management Plan

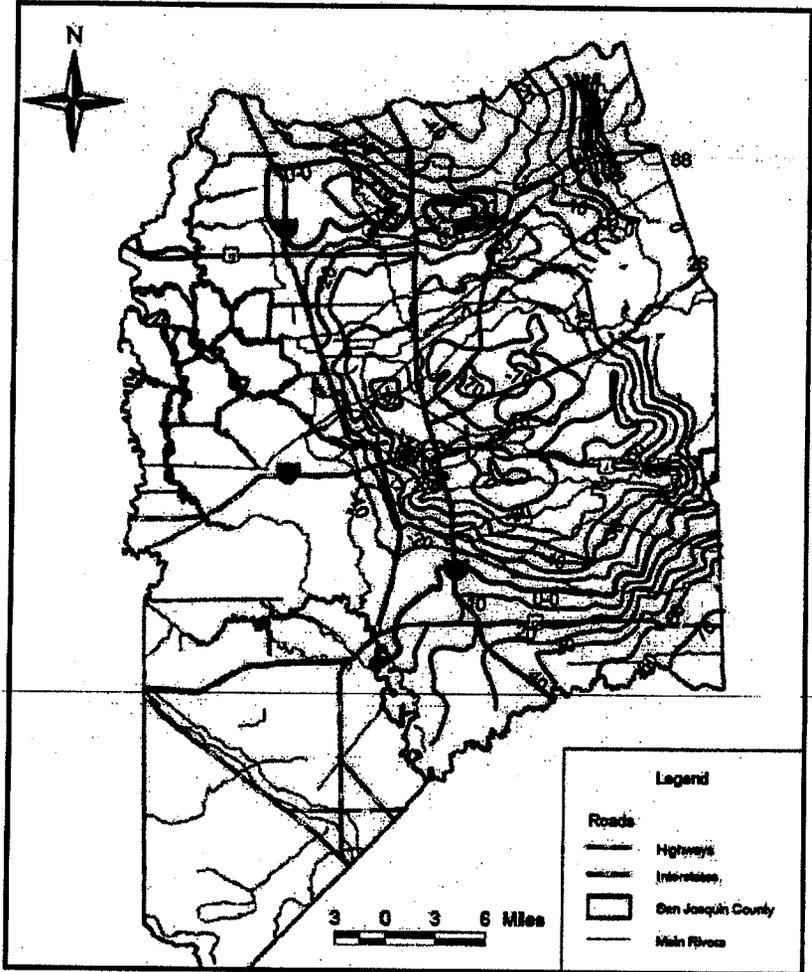


Figure ES-2 Fall 1993 Groundwater Contours
Source: Camp Dresser & McKee Inc.

EXHIBIT L

**ASSOCIATION FOR SENSIBLE
AND INFORMED PLANNING**

V.

**CITY OF CLOVIS, CLOVIS CITY COUNCIL,
PAYNTER REALTY, ET AL.**

**FRESNO COUNTY SUPERIOR COURT
CASE NO. 03 CE CG 01576**

(Lead Case consolidated with No. 07 CECG 03817)

**SECOND SUPPLEMENTAL ADMINISTRATIVE RECORD
ON RETURN TO WRIT OF MANDATE FOLLOWING
THE PREPARATION OF AN EIR**

(CLOVIS-HERNDON SHOPPING CENTER PROJECT)

March 4, 2008

VOLUME 1

Nos. IN-CAM 000001 to IN-CAM 000289

From: David Wolfe
To: Montesinos, Miriam
Data: 11/30/2006 11:45 AM
Subject: RE: Clovis: EIR status

CC: Fey, David
Hi Miriam, I hope you had a wonderful Thanksgiving as well.

We met yesterday with Tom Skinner and made it up to the Alternatives section. We are meeting tomorrow to review that section.

Tom read the latest comment letter you sent to us from September 06 and he is familiar with the issues.

Some of the issues we discussed were the fact that there is no project specific noise study, no energy consumption study, and no health risk assessment. NR has global warming been discussed as you mentioned.

We can try and deal with all of those issues now, or simply make the document as strong as possible with what we have, wait for the comment letters to arrive, and build in the possibility of having to do additional studies and possibly recirculating all or a portion of the Draft EIR if the comment letters make an adequate record to warrant such.

What are your thoughts?

Also, we had a frank discussion with Tom and I think the reality is we (City staff) are going to have to play a major role in completing this document, responses to comments, and any additional studies. So any canned language or model studies, reports, etc you have, would be great. Please send anything directly to me.

Thanks,

Have a great day.

David

David J. Wolfe
LOZANO SMITH
Attorneys at Law
7404 N. Spalding Avenue
Fresno, CA 93720-3370
559-431-5600, Ext. 123
dwolfe@lozanosmith.com

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>>> "Montesinos, Miriam" <MMontesinos@steefel.com> 11/29/2006 11:46 AM >>>

Hi David -

A couple of additional thoughts re: issues to discuss in the DEIR given recent opposition:

1) Global warming - I know this seems far fetched but it has become a topic of discussion as of late, and we anticipate it will start being raised by opposition forces. We therefore are encouraging EIR

IN-CAM 000152

consultants to include a discussion re: how the project would not have significant impacts on global warming, at least so that the issue is discussed and then it can be expanded upon as necessary in the FEIR if comments are made on that issue. (Otherwise, the opposition might state it is new information in the FEIR.)

2) CO hot spot - This issue has been raised previously by opposition forces in various projects. I can try to dig up some prior EIR discussion on the issue if you think that would be helpful, but Tom might be familiar enough with the issue to have the necessary info for a short discussion.

I think that's all for now, but will let you know if I think of any additional issues based upon prior experiences. up to now, the big ones they typically hit are traffic, economics, and noise; therefore, he needs to be certain that he has VERY good discussions on those issues. Hopefully, he has reviewed the opposition materials we have provided to date and is incorporating discussions as appropriate based upon those documents..

Thank you as always, and I hope you had a great Thanksgiving!
Miriam

Miriam Montesinos
Attorney At Law
Steeffel, Levitt & Weiss
A Professional Corporation
One Embarcadero Center, 30th Floor
San Francisco, California 94111
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Direct: (415) 403-3347
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mmontesinos@steeffel.com
www.steeffel.com

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-----Original Message-----

From: David Wolfe [<mailto:DWOLFE@lozanosmith.com>]
Sent: Tuesday, November 21, 2006 1:47 PM
To: David E. AICP Fey; Montesinos, Miriam
Cc: Dave Paynter; Davidoff, Judy V.
Subject: Re: Clovis: EIR status

Miriam,

We met today and started page by page review. We made it through chapter 2 Air Pollution and will pick up again on Wednesday November 29th. We blocked out that entire day. Tom will work on revisions reviewed to date prior to the November 29th meeting.

David

David J. Wolfe
LOZANO SMITH
Attorneys at Law
7404 N. Spalding Avenue
Fresno, CA 93720-3370

559-431-5600, Ext. 123
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>>> "Montesinos, Miriam" <MMontesinos@steeffel.com> 11/21/2006 12:07 PM

>>> >>>

Hi Fey and Wolfe (too many Davidst) -

Just wondering if you'd have a *chance* to speak with Skinner and, if so, if he gave you a *sense for timing* re: turning around the next version - which hopefully will be the Screencheck and will be very close to being ready for public release.

Thank you!
Miriam

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IN-CAM 000154

From: "Montesinos, Miriam" <MMontesinos@steefel.com>
To: "David Wolfe" <DWOLFE@lozanosmith.com>
Date: 11/30/2006 3:00 PM
Subject: RE: Clovis: EIR status
Attachments: PDF File - 3_7_20Utilities_pdf; PDF File - Wal-Mart_20FEIR_20Sept_2006_pdf;
PDF File - Wal-Mart_20FEIR_20Sept_2006_pdf

CC: "Davidoff, Judy V." <JDavidoff@steefel.com>

Hi David-

Thanks so much for your hard work with Tom. We truly do appreciate it as we realize it has turned out to be much harder than it should!

With respect to whether to include information in the EIR now or wait to see if it is raised in the DEIR comments and recirculate if necessary, we should include as much information as possible at this point justifying why a project-specific analysis was not necessary and, therefore, not required; that way, in the FEIR all we need to do is restate that, and not have to worry about providing new information (hopefully).

To that end, I believe we've previously provided possible language to include re: energy - specifically, why a project-specific analysis was not required per the CEQA Guidelines and therefore is not provided, but nonetheless the following information is included... Just in case, I am attaching some examples of energy discussions in EIRs.

Regarding global warming, similar to energy, at least some discussion re: the issue and why a project-specific analysis is not being included should be provided. I'll try to work on something but would like for Tom to take a first stab.

With respect to noise, I guess I don't understand why he didn't do a project-specific noise analysis" and am sorry I didn't catch that before. Given he hasn't done one, though, my initial reaction is that he should clearly state in the DEIR why he didn't do a project specific analysis" what was his reason for not doing one. A question for Tom is does he think he can address all the types of issues raised by the opposition - such as in Santa Rosa" without needing to do a project-specific analysis? Short of having the analysis, we would need to have information in there addressing why the noise sources they typically bring up (trucks, loud speakers, forklifts, etc.), don't create significant noise impacts. Also, what did he do for Hanford and is there anyway to incorporate some of that information into this DEIR by way of analogy short of having to do a new analysis for this project?

As for the health risk assessment, we also need to include a clear discussion as to why a quantitative health risk assessment was not conducted, and in the discussion include as much qualitative information as possible. (I can't recall off the top what information he has in there about health risks at this point.) As with noise, what did he do for Hanford? How can he address issues raised by the opposition for other projects without needing to do a project-specific quantitative analysis?

Sorry that this is going to turn out to **be so much work** on the *C i s* end, David. Unfortunately, there really seems to be no way around it given Tom's performance to date, though. We **are** obviously happy to help in any way we can, including providing discussions in prior EIRs, etc. (To that end, I'll try to get something to you by early next week **on** health risk assessment and noise, as well as global warming - although the latter is such a *new* issue **that** finding **canned** language will be a challenge.)

Thank you,
Miriam

Miriam Montesinos
Attorney At Law
Steefel, Levitt & Weiss
A Professional Corporation
One Embarcadero Center, 30th Floor
San Francisco, California 94111
Tel: (415) 788-0900
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mmontesinos@steefel.com
www.steefel.com

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—Original Message—

From: David Wolfe [mailto:DWOLFE@lozanosmith.com]
Sent Thursday, November 30, 2006 11:45 AM
To: Montesinos, Miriam
Cc: David Fey
Subject: RE: Clovis: EIR status

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Tom read ~~the~~ latest comment letter you sent to us from September 06 and ~~he~~ is familiar with the issues.

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IN-CAM 000156

Draft EIR if the comment letters make an adequate record to warrant such.

What are your thoughts?

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Thanks,

Have a great day.

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- which hopefully will be the Screencheck and will be very close to being ready for public release.

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Randi Johl

From: Randi Johl
Sent: Wednesday, December 17, 2008 11:16 AM
To: 'jnblocke@sbcglobal.net'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Wal-Marts opposition Legal intrigue

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Jim & Betty Mae Locke [mailto:jnblocke@sbcglobal.net]
Sent: Wednesday, December 17, 2008 10:33 AM
To: Rich Hanner; Marty Weybret; Randi Johl; Bob Johnson; JoAnne Mounce; Larry Hansen; Phil Katzakian; Susan Hitchcock
Subject: RE: Wal-Marts opposition Legal intrigue

To Our Honorable City Council and the Lodi News-Sentinel:

I just read in the Lodi News-Sentinel that Tracy, which approved a Wal-Mart Supercenter last month, has been sued over claims that its impact studies are incomplete and inaccurate. The City was sued by the same law firm that sued Lodi over this project three years ago as well as on other Wal-Mart projects in several different California cities over the past few years.

Interestingly enough, this law firm represented Reynolds Ranch in their dealings with the City, helped them get their approvals quickly and no litigation has been filed. Something is not right here.

I would feel differently if litigation like this was motivated by local residents but that is clearly not the case in Tracy, Lodi or any of the other cities where this law firm has been active. If our Lodi elected officials feel that the studies and work done by City Staff and the consultants they have chosen is sufficient then I am personally offended that an outside law firm would file a suit like this. From what I have heard, this firm appears to go from city to city filing lawsuits like this against Wal-Mart projects as though they know what's best. But they don't know what's best for Lodi.

It should be up to our elected officials and residents to decide and not for outside groups to turn to the courts to stop Council approved projects because they don't like Wal-Mart. They don't live here. We do and I want to have a Supercenter in Lodi.

Jim Locke
 511 Willow Glen Drive
 Lodi, CA 95240
 368-9009

P.S. Note the name of the organization created to play the "front" (representation) like they are local Tracy people. e.g. Tracy First, quite similar to: Lodi First
 My, what a coincidence.

Randi Johl

From: Randi Johl
Sent: Tuesday, January 13, 2009 2:59 PM
To: City Council
cc: Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: Wal-Mart Citizen Correspondence
Attachments: scan.pdf

The attached correspondence was received today.

*Randi Johl, JD, CMC
City Clerk, City of Lodi
221 West Pine Street
Lodi, California 95240
(209) 333-6702*

Jan. 13, 2009

To the City Council.

My name is Betty Libert, and I am 75 years old, & been a voter a long time. I do not want a Super Walmart built here in Lodi. So please vote no for me. It'll be terrible for us people here to have a Super Walmart like that as the traffic on Kettleman Lane is already so bad. There'll be so much congestion you'll have to build a bigger Highway, & probably a lot of accidents too. Then that will cost us residents, who are trying to survive the ever increasing bills of electric & gas. Our last month electric bill was \$88.80 and water was \$40.28, waste water was \$27.74 & solid waste was \$21.94 to a total of 178.76 for 2 people. What are you trying to do to us - run us out of Lodi? Plus, the electric bill in the paper, today, said there'll be an increase of 4.64 added to January's bill. What can you do about that? I feel it's high time that the big spenders get off the City Council, if that's what they are keep doing to us in the future. I've lived in Lodi most of my life. My unmarried name was Betty Lind & you all have heard of us I'm pretty sure. Well now I've said my piece.

Sincerely with Honesty
Betty Libert.

Planning Commission
City of Lodi
P.O. Box

I am writing to have my vote
heard regarding final plans for
Lodi Supercenter. My vote
is NO!

Please notify the City Council
of my vote as mentioned above.

Thank you

James D Libert
821 Dianna Dr
Lodi, Cal
368-6028

Noticing Requirements



DECLARATION OF MAILING

**PUBLIC HEARING TO CONSIDER APPEALS OF BROWMAN DEVELOPMENT COMPANY
AND WAL-MART STORES, INC. REGARDING THE DECISION OF THE PLANNING
COMMISSION TO NOT CERTIFY THE FINAL REVISED ENVIRONMENTAL IMPACT
REPORT REGARDING THE LODI SHOPPING CENTER PROJECT LOCATED AT
2640 WEST KETTLEMAN LANE**

On Friday, February 6, 2009, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing to consider appeals of Browman Development Company and Wal-Mart Stores, Inc. regarding the decision of the Planning Commission to not certify the Final Revised Environmental Impact Report regarding the Lodi Shopping Center project located at 2640 West Kettleman Lane, attached hereto marked Exhibit A. The mailing list for said matter is attached hereto marked Exhibit B.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 6, 2009, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI


JENNIFER M. PERRIN, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK



CITY OF LODI
Hutchins Street Square
125 S. Hutchins St., Lodi

NOTICE OF PUBLIC HEARING

Date: March 11, 2009

Time: 6:30 p.m.

For information regarding this notice please contact:

Randi Johl

City Clerk

Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, March 11, 2009**, at the hour of 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at Hutchins Street Square, 125 South Hutchins Street, Lodi, to consider the following item:

- a) Appeals of Browman Development Company and Wal-Mart Stores, Inc. regarding the decision of the Planning Commission to not certify the Final Revised Environmental Impact Report regarding the Lodi Shopping Center project located at 2640 West Kettleman Lane.**

Information regarding this item may be obtained in the Community Development Department, 221 West Pine Street, Lodi, (209) 333-6711. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: February 4, 2009

Approved as to form:

D. Stephen Schwabauer
City Attorney

EXHIBIT B

**APPEALS REGARDING DECISION OF THE PLANNING COMMISSION TO
NOT CERTIFY THE LODI SHOPPING CENTER EIR**

Mailing List

* Judy V. Davidoff, Esq.
Sheppard Mullin Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111

* Andrea K. Leisy, Esq.
Remy Thomas Moose & Manley LLP
455 Capitol Mall, Suite 210
Sacramento, CA 95814

* Mailed 2/17/09 - jmt

Lodi Shopping Center REIR 300 ft Mailing list for City Council Meeting March 11, 2009

EXHIBIT B

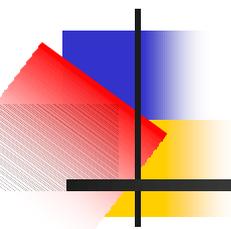
APN	OWNER	ADDRESS	CITY	STATE	ZIP
02741007	SACRAMENTO KETTLEMAN LLC ETAL	1954 MT DIABLO BLVD #A	WALNUT CREEK	CA	94596
02742001	GEWEKE FAMILY PTP	PO BOX 1420	LODI	CA	95241
02742003	IN N OUT BURGERS CORP	13502 HAMBURGER LN	BALDWIN PARK	CA	91706
02742013	GEWEKE VIII LP ETAL	PO BOX 1210	LODI	CA	95241
	RANCH LTD		WOODBRIDGE	CA	95258
05803009	REICHMUTH, THOMAS E TR	2541 LYNCH WAY	LODI	CA	95242
05803011	BDC LODI III LP	100 SWAN WAY SUITE 206	OAKLAND	CA	94621
05803012	WAL MART REAL EST BUSINESS TRU	MAIL STOP 0555	BENTONVILLE	AR	72716
05814001	TESORO SIERRA PROPERTIES LLC	300 CONCORD PLAZA DR	SAN ANTONIO	TX	78216
05814004	FRAME, DEAN K & SHARON L TR	212 RUTLEDGE DR	LODI	CA	95242
05814006	HERRMANN, CHARLENE K TR ETAL	1200 GLENHURST DR	LODI	CA	95240
	SANTIAGO M & RAMONA T	HOERL RD	LODI	CA	95240
05814011	GREVER, ZANE M & PATSY R TR	1432 PARK ST	LODI	CA	95242
05814012	PETERSON, M BILL	PO BOX 473	LOCKEFORD	CA	95237
05814014	PETERSON, RUTH SUSAN	PO BOX 331	SUTTER CREEK	CA	95685
05814042	BARBER VALLEJO PROPERTIES LP	2595 AUTO MALL PKWY	FAIRFIELD	CA	94533
05814044	FIRST LODI PLAZA ASSOCIATES	1556 PARKSIDE DR	WALNUT CREEK	CA	94596
	FAMILY LTD PTP	MAGGIO CIR	LODI	CA	95240

Kari Chadwick - sent e-notification to these individuals

Distribution **List Name:** Lodi Shopping Center EIR redo

Members:

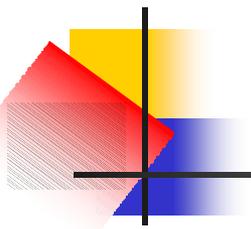
Alex Aliferis	aaliferis@aheworld.org
Alexis Pelosi	APelosi@sheppardmullin.com
Amy Kaida	akaida@tusd.net
Barbara Spencer	BSpencer@BrowmanDeveloprment.com
Barbara Transon	btranson@sbcglobal.net
Bill Selling	bselling@comcast.net
Brett Jolley	BJolley@herumcrabtree.com
Brian Kortuem	briankortuem@hotmail.com
Bruce & Connie Schweigerdt	schweig2@comcast.net
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Don Mooney	dbmooney@dcn.org
Gerry & Jane Gandt	gerjane@sbcglobal.net
James & Alice	aaacompsvc@sbcglobal.net
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Jeanette Bedford	sjrnmbedford@yahoo.com
Jerry & Shirley Schmierer	evencouple@sbcglobal.net
Jim & Betty Mae Locke	jnblocke@sbcglobal.net
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Joe & Olivia Trifiro	ntrifiro@hotmail.com
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Shelley Toy	srctoy@sonic.net
Sue McCombs	osmccombs@sbcglobal.net
Susan Williams	Susan.Williams@doucet-ca.com
Travis Beckett	t.beckett@gmx.com
Ty Murphy	Tymurphy001@yahoo.com



Lodi Shopping Center

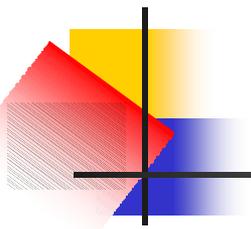
Applicant: **Browman Development Company**

File No.: **EIR-03-01-Final Revised EIR**



Lodi Shopping Center

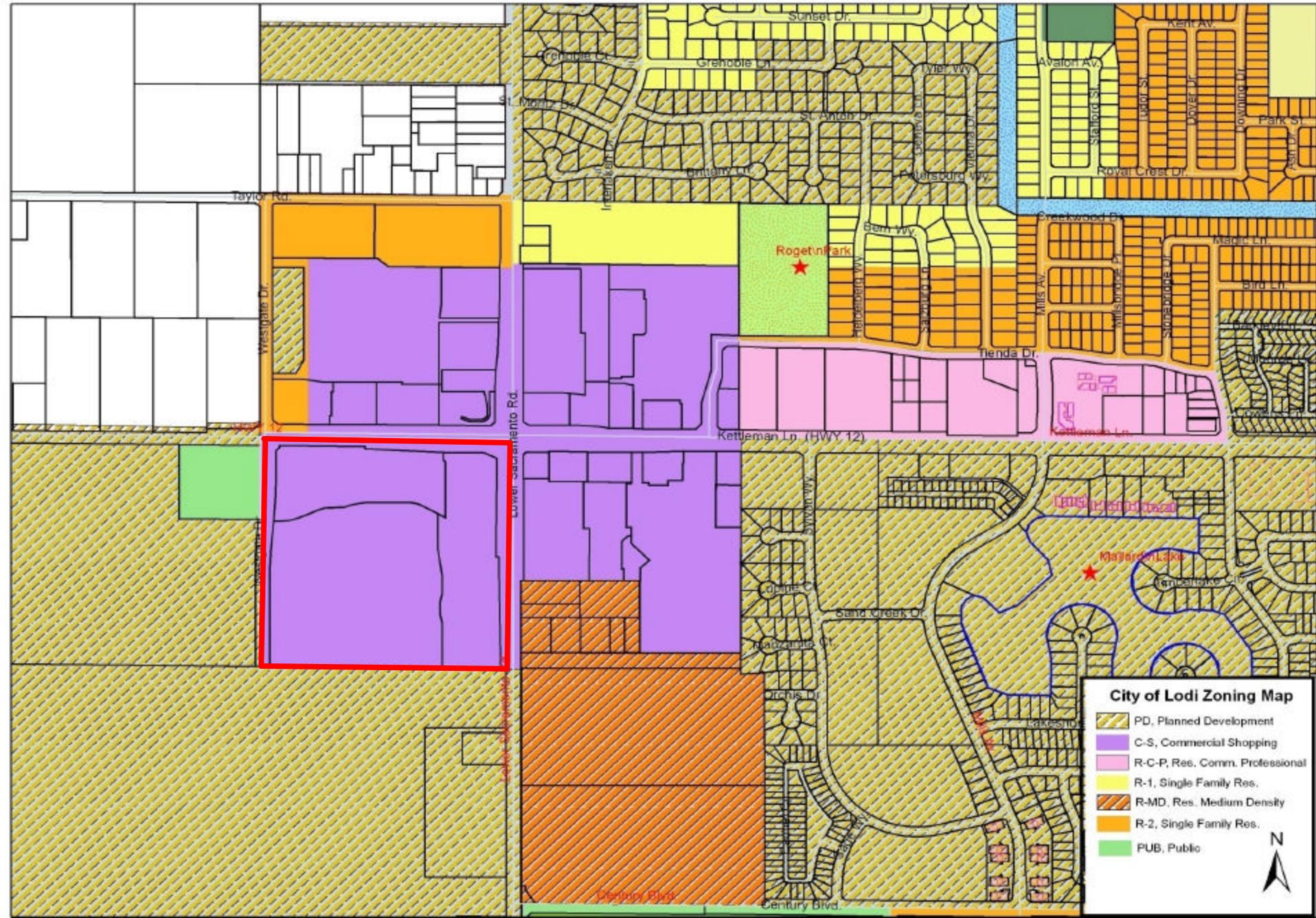
- **Final Revised Environmental Impact Report:**
 - The Revised EIR includes the five (5) sections which were subject to revision or augmentation as directed by the Court.
 - Cumulative Urban Decay Impacts
 - Energy Impacts
 - Agricultural Resource Impacts
 - Project Objectives
 - Project Alternatives



Lodi Shopping Center

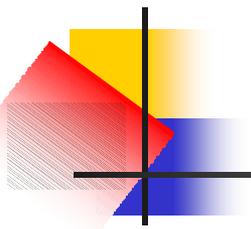
- **Background:**
 - **Planning Commission approval:** December, 2004
 - **City Council approval:** February, 2005
 - **EIR found deficient for cumulative urban decay and energy impacts:** December, 2005
 - **City Council rescinds original approvals:** May, 2006
 - **Draft Revised EIR:** October, 2007
 - **Final Revised EIR:** March, 2008
 - **Planning Commission denial of FREIR:** October, 2008

Lodi Shopping Center: Zoning & Vicinity Map



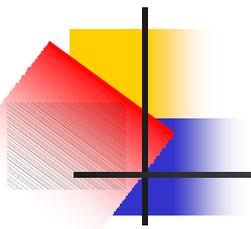
Lodi Shopping Center: Aerial View





Lodi Shopping Center

- **Summary of Environmental Impacts:**
 - Cumulative Urban Decay
 - The project would include new retailers who would compete with existing retailers in the City of Lodi.
 - There is insufficient evidence to suggest that this increased competition would result in any business closures, and consequently would not indirectly result in substantial deterioration of properties or urban decay.
 - This is considered less than significant.

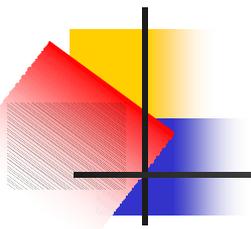


Lodi Shopping Center

- **Summary of Impacts:**

- Energy

- The project would increase energy consumption in the construction and operational phases of the project.
 - Energy conservation measures incorporated into the design, construction and operation of the project would avoid wasteful, inefficient or unnecessary consumption of energy.
 - This is considered less than significant

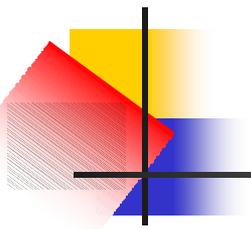


Lodi Shopping Center

- **Summary of Impacts:**

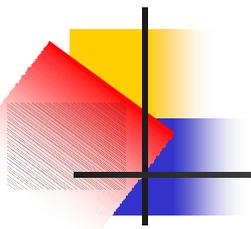
- Energy Cont.

- The increased demand for energy resulting from the project would not be substantial enough to require new or expanded sources of supply or the construction of new or expanded energy delivery systems or infrastructure capacity.
 - This is considered less than significant



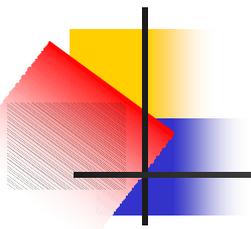
Lodi Shopping Center

- **Summary of Impacts:**
 - Agricultural Resource
 - The project would convert approximately 40 acres of prime agricultural land to urban area.
 - No mitigation is available which would reduce this impact to a less than significant level. This is considered a significant impact.
 - As partial mitigation, the applicant shall obtain a permanent Agricultural Conservation Easement covering 40 acres of prime farmland within San Joaquin County.



Lodi Shopping Center

- **Additional Project Objectives:**
 - To expand the existing Wal-Mart to a Wal-Mart Supercenter.
 - To develop the proposed project site in conformance with City standards.
 - To help reverse leakage of retail spending from Lodi.
 - To provide commercial development which does not negatively affect Downtown.



Lodi Shopping Center

- **Alternative Project Location:**
 - An alternative project location was analyzed.
 - Site located at northeast quadrant of Hwy. 12 & Thornton Rd.
 - Analysis found that impacts would be somewhat greater.
 - Alternative site does not meet all of the project objectives.

**Public Comments
Received by the City Clerk's
At or After the Public Hearing
on March 11, 2009**

Provided to Council,
CM + CA, CC on
3/4/09 (B)

WAL-MART ARTICLES

(Tab 1)

Columbus Business First

January 9, 2009

Area Construction Firm Wins Suit Against Wal-Mart

An Ohio construction firm could be entitled to more than \$2 million from Wal-Mart after winning a breach of contract suit against the company. The construction firm accused Wal-Mart of failing to disclose pertinent information in a report the store provided before construction. Extra construction costs were incurred and Wal-Mart refused to pay for them.

(Tab 2)

New York Times

December 24, 2008

Wal-Mart Settles 63 Lawsuits Over Wages

Wal-Mart has agreed to pay at least \$352 million to settle lawsuits filed across the country by hundreds of thousands of current and former employees. The suits accused Wal-Mart and its managers of various illegal tactics including forcing employees to work off the clock, erasing hours from time cards and preventing workers from taking lunches or breaks required by law. This is not the first time Wal-Mart has been accused of wage-and-hour violations by its employees. Wal-Mart is currently appealing two verdicts where California and Pennsylvania juries ordered the company to pay almost \$400 million for making employees miss breaks and work off the clock. 12 wage-and-hour lawsuits are still pending.

(Tab 3)

Hartford Courant

December 7, 2008

Wal-Mart Fined, Fesses Up to Charging Illegal Taxes in Connecticut

Per an agreement with the Connecticut Department of Consumer Protection Wal-Mart will change its practice of charging a second tax on merchandise exchanged in the store. Wal-Mart has also agreed to refund all customers who are able to show they were charged a second tax on an even exchange.

(Tab 4)

Reuters

November 24, 2008

Wal-Mart and California Settle Pricing Suit for \$1.4 Million

Wal-Mart has agreed to pay **\$1.4** million to settle a lawsuit over price scanning errors. The suit followed an investigation by California authorities who discovered that Wal-Mart check-out counters were scanning items at higher prices than what was advertised on store signs and shelves. Investigators found pricing irregularities at **164** stores across California. The settlement also requires Wal-Mart to implement a price accuracy program in its California stores.

(Tab 5)

SFGate.com

October 15, 2008

Some Bottled Water Toxicity Shown to Exceed Law

The Environmental Working Group, a nonprofit organization, tested brands of bottled water and found that Wal-Mart's Sam's Choice contained chemical levels that exceeded legal limits in California and the voluntary standards adopted by the industry. The tests discovered an average of eight contaminants in each brand.

“(Our study was a snapshot of the marketplace. We found some brands that provided good quality and other brands that contained various chemical pollutants. What this shows is that the consumers cannot have confidence. They don't know what they're getting.”

The environmental group filed a notice of intent to sue Wal-Mart alleging the company failed to warn the public of illegal concentrations of cancer-causing chemicals.

(Tab 6)

ABC15.com

August 29, 2008

Recalled Bassinets Found on Valley Wal-Mart Shelves

Bassinets blamed in the deaths of two infants remained on Wal-Mart store shelves even after the store was notified of their recall. The Consumer Product Safety Commission issued a notice stating that Wal-Mart and other retailers had agreed to remove the bassinets from their shelves. However, after two days the retailer continued to sell the product and was also selling it on clearance at some locations.

(Tab 7)

USNews.com

August 11, 2008

Critics Blast Wal-Mart for Lobbying Against Carbon-Offset Guidelines

Wal-Mart Watch, a group that tracks the company's growth and influence, reports that Wal-Mart has been lobbying against defining and standardizing carbon off-sets for proposed cap-and-trade programs. This move is being seen as hypocritical since the company is conducting a public campaign to cut its carbon footprint.

(Tab 8)

NewsDaily.com

August 1, 2008

Wal-Mart warns managers about labor bill

Wal-Mart is warning store managers about the consequences of a labor-friendly bill, the Employee Free Choice Act, backed by presidential candidate Barack Obama. At meetings held by Wal-Mart executives, employees are told that, "unionization could force Wal-Mart to cut jobs as labor costs rise, and that employees would have to pay hefty union dues and get nothing in return." While the employees are not being told how they should vote, it is made clear "that voting for Obama is tantamount to inviting unions" into the store.

(Tab 9)

Bloomberg.com

July 1, 2008

Wal-Mart Faces \$2 Billion Labor Law Trial, Judge Says

A Minnesota judge ruled that Wal-Mart broke state labor laws and handed the retailer its third-straight defeat in a wage-class action trial. It is possible that a jury could now order the company to pay \$2 billion in damages. In his opinion, District Judge Robert Kings Jr., wrote that "Wal-Mart's failure to compensate plaintiffs was willful," and that the company "was on notice from numerous sources of the wage and hour violations at issue and failed to correct the problem." The lawsuit is one of more than 70 cases, including class action and group suits in which Wal-Mart has been accused of wage-law violations.

(Tab 10)

The Morning News, Northwest Arkansas

June 21, 2008

Like Clock Work

At the time the article was written, at least 80 class-action lawsuits in **41** states were pending against Wal-Mart for alleged labor violations and discrimination. The article examines five of these cases and provides summaries and updates.

(Tab 11)

Los Angeles Times

December 21, 2005

Wal-Mart Probed on Hazardous Materials

The US attorney in Los Angeles is conducting a criminal investigation into Wal-Mart's transportation, handling, and disposal of hazardous waste. This is not the first time Wal-Mart has been accused of environmental violations. In August 2005 Wal-Mart agreed to pay a \$1.2 million settlement to the state of Connecticut for alleged environmental violations. In 2001 the company paid \$1million to settle claims that it illegally discharged water at construction sites in **4** states.

(Tab 12)

USA Today

November 8, 2005

*Affidavit Says Wal-Mart **Execs Knew** of Illegal Workers*

According to an affidavit filed by the Bureau of Immigration and Customs Enforcement, senior Wal-Mart executives knew cleaning contractors were hiring illegal immigrants from Eastern Europe and elsewhere. The affidavit was part of a federal immigration investigation that led to the 2003 raid of 60 Wal-Mart stores in 21 states across the country.

(Tab 13)

CNN Money

March 18, 2005

Wal-Mart Pays \$11M Over Illegal Labor

Wal-Mart will escape criminal sanctions and pay \$11 million to settle claims resulting from a federal investigation into illegal workers hired by the company's cleaning contractors. The settlement follows a four-year criminal investigation by Immigration and Customs Enforcement and federal prosecutors in Pennsylvania that resulted in the arrest of 245 undocumented workers.

(Tab 14)

American Canyon Community United for Responsible Growth v. City of American Canyon

May 2005

Second Supplemental Declaration of Arthur J. Friedman and Consent Decree

In this case Wal-Mart claimed it could not comply with a Stop-Work Notice issued by the Napa Superior Court because doing so would cause it to be in violation of the General Permit issued for the site. This would in turn violate a Consent Decree between Wal-Mart and the United States Environmental Protection Agency (EPA).

The Consent Decree (Decree) was the result of a suit brought against Wal-Mart by the United States EPA and nine states alleging violations of the Clean Water Act. The Decree requires Wal-Mart to comply with the requirements of the applicable Permit issued for any construction site and to implement various programs and procedures with regard to storm waters. The company was also required to pay over \$3 million in damages, the largest civil penalty ever collected in a storm-water run-off matter.

COLUMBUS BUSINESS FIRST

Friday, January 9, 2009

Area construction firm wins suit against Wal-Mart

Business First of Columbus - by [Matt Burns](#)

A Central Ohio construction company could be in line for a more than \$2 million payout from **Wal-Mart Stores Inc.** after winning a jury trial in a breach of contract lawsuit against the retail giant.

Thomas & Marker Construction, which has offices in Bellefontaine and Marysville, was awarded \$1.55 million Dec. 23 under a unanimous jury verdict in Dayton federal court. The company had sued Bentonville, Ark.-based Wal-Mart (NYSE:WMT), alleging the retailer breached a \$9.6 million contract by not paying for extra costs for removing bedrock during construction of a Springfield store,

Thomas & Marker accused Wal-Mart of failing to indicate the hard-to-remove bedrock in a geotechnical report it provided before construction. Wal-Mart countersued, alleging a subcontractor didn't properly install a water line during construction, but the jury also ruled in the firm's favor on that count.

Randy Marker, the firm's president, said in a statement that the company is "extremely pleased."

Wal-Mart spokeswoman Michelle Bradford said the retailer is disappointed in the verdict and is reviewing its options. She declined to speculate on a possible appeal.

John Bodin, an associate with Bellefontaine-based **Thompson Dunlap and Heydinger Ltd.** who represented the firm, said the proposed \$1.55 million judgment was submitted to the court Thursday and should be signed soon. A final judgment including interest and attorney fees likely will top \$2 million when handed down within the next two months, he said.

The December verdict ended more than two years of litigation over the June 2005 contract. The store opened on schedule in spring 2006, the firm said in a release.



December 24, 2008

Wal-Mart Settles 63 Lawsuits Over Wages

By **STEVEN GREENHOUSE** and **STEPHANIE ROSENBLOOM**

Wal-Mart said on Tuesday that it would pay at least \$352 million, and possibly far more, to settle lawsuits across the country claiming that it forced employees to work off the clock. Several lawyers described it as the largest settlement ever for lawsuits over wage violations.

After years of being embarrassed by lawsuits over its wage practices, the company agreed to settle 63 cases pending in federal and state courts in 42 states.

The workers and their lawyers will receive at least \$352 million, and the payments could reach \$640 million, depending on how many claims affected workers submit.

Union critics of Wal-Mart, the world's largest retailer, saw the settlement as proof of their view that the company achieves its low prices in part by cheating workers. But the company rejected that characterization, saying it had already corrected wage practices that it has long attributed to local managers acting without authority.

"Many of these lawsuits were filed years ago, and the allegations are not representative of the company we are today," Tom Mars, general counsel and executive vice president at Wal-Mart Stores, said.

The newly settled cases involved hundreds of thousands of current and former hourly employees. It is unclear how much the average employee will receive, but the sum could be several hundred dollars.

Several lawyers said that Wal-Mart had reached the settlement to help end an embarrassing chapter as its chief executive, H. Lee Scott Jr., turns his position over to Michael T. Duke in February.

The dozens of wage-and-hour suits against Wal-Mart accused the company and its managers of various illegal tactics. Those included forcing employees to work unpaid off the clock, erasing hours from time cards and preventing workers from taking lunch and other

breaks that were promised by the company or guaranteed by state laws.

The settlement — which wipes out all but 12 pending wage-and-hour lawsuits against Wal-Mart — also gives the company a cleaner slate as a new administration enters the White House. President-elect Barack Obama has indicated he will make wage-and-hour enforcement a priority, and groups critical of Wal-Mart suggested that the company had reached the settlement to avoid becoming a target of stepped-up enforcement.

“Wal-Mart is scared with what they’re going to face in an Obama administration,” said David Nassar, of Wal-Mart Watch, a union-financed advocacy group. “You clean **up** your house before the in-laws come over. That’s what they’re trying to do.”

Mr. Nassar said that settling the suits would also aid Wal-Mart in battling any renewed drive toward unionization at its stores.

With labor leaders and Congressional Democrats pushing for legislation that would make it far easier for unions to organize workers, union supporters see Wal-Mart, with 1.4 million workers in the United States, as a prime target of their efforts.

Frank Azar, a lead lawyer representing workers in lawsuits in 14 states, said in a statement on Tuesday that he was pleased with the settlement and thought it was fair for his clients.

“We are equally pleased that Wal-Mart has made tremendous strides in wage-and-hour compliance,” he said, “and that it has implemented and agreed to continue to follow state-of-the-art compliance programs so that these improvements will continue into the future.”

Wal-Mart announced the settlement less than two weeks after it reached a \$54.25 million settlement covering a group of 100,000 current and former employees in Minnesota who asserted they were owed money over missed breaks and off-the-clock work.

In a case still pending, Wal-Mart has appealed a 2005 verdict in which a California jury ordered it to pay \$172 million for making employees miss meal breaks.

In 2006, a jury in Pennsylvania awarded \$78 million against Wal-Mart in a lawsuit over rest breaks and off-the-clock work. Last year, a judge increased that award to \$188 million to include damages, interest and lawyers’ fees. Wal-Mart has also appealed that ruling.

Brad Seligman, the lead lawyer in a large sex discrimination lawsuit against Wal-Mart — one involving some two million current and former female employees — said that the verdicts in California and Pennsylvania had hurt Wal-Mart’s image and bottom line. He said the

company was also worried by the unsympathetic language in a recent ruling by the Massachusetts Supreme Judicial Court in a wage lawsuit there,

“They saw the way the wind was blowing,” Mr. Seligrnan said.

The lawyers in the sex discrimination lawsuit, who are said to be seeking several billion dollars, have held intermittent settlement talks with Wal-Mart, as the company seeks to put that lawsuit behind it as well.

The settlement announced on Tuesday is subject to approval by scores of judges overseeing the individual cases. Lawyers representing the Wal-Mart employees are expected to receive tens of millions of dollars, though the amount has not been determined.

Several lawyers who had brought wage-and-hour lawsuits against Wal-Mart acknowledged that the total value of the newly announced settlement might seem modest in light of the California and Pennsylvania verdicts. But those lawyers also said that in some states, the wage lawsuits have not gone their way, with judges refusing to allow them to proceed as class actions.

Wal-Mart officials say that in recent years, they have taken strong steps to reduce wage violations, ordering managers not to demand off-the-clock work and threatening to fire employees rwho work off the clock or do riot take their designated lunch and rest breaks. Wal-Mart has even programmed its cash registers and other equipment to stop working when employees are not on the clock.

Robert Bonsignore, co-counsel in nearly 40 of the cases, said that as a result of the settlement, “Wal-Mart can now say that it has taken action to make its stores a great place to shop and work.” Wal-Mart said it would take a charge of \$250 million, or 6 cents a share, in this quarter to help finance the settlement.

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George Gombossy | CT Watchdog

Consumer payback.

Wal-Mart fined, fesses up to charging illegal taxes in Connecticut

By George Gombossy on December 7, 2008 7:47 AM | [Permalink](#) | [Comments \(0\)](#)

After denying for weeks that it was violating Connecticut laws by charging a second tax on exchanges, Wal-Mart has agreed to change its practice and pay a \$2,500 fine.

Wal-Mart also agreed to refund all customers who can show that when they returned an item for an even exchange they were charged a second tax.

The agreement between Wal-Mart and the state Department of Consumer Protection was made last week.

It came after state tax officials refused to look into more than a dozen complaints I had forwarded them from customers who were required to pay sales taxes when they bought an item and again when they exchanged that item for a similar one. Most of the complaints involved Wal-Mart.

Wal-Mart charged the tax for people who didn't have receipts as well as some who had credit card statements proving that they had bought the item recently. The taxes were turned over to the state.

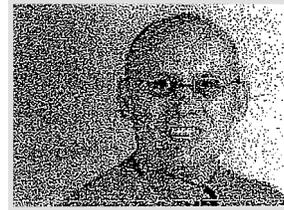
Customers wrote that this illegal policy was being followed in at least a dozen of its stores in Connecticut, a fact I verified at several stores.

Stores even had posters behind courtesy desks blaming the state for its policy.

"State law PROHIBITS Wal-Mart from refunding SALES TAX to any customer returning or exchanging merchandise without an original purchase receipt," the "tax refund laws" posters said.

However, state tax laws clearly say the opposite, state Consumer Protection Commissioner Jerry Farrell Jr. said Wednesday in an interview explaining the out-of-court settlement he reached with Wal-Mart.

State laws mandate that if a company has an exchange policy, it cannot charge a second sales tax on the new item. Wal-Mart's website clearly says it has such an exchange policy.



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[rental \(1\)](#)

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[bailout \(1\)](#)

[Boats](#)

[Cars \(1\)](#)

[towing \(1\)](#)

[Cell phones \(5\)](#)

[Connecticut government \(22\)](#)

[Lottery \(1\)](#)

[health club fund \(2\)](#)

[labor \(1\)](#)

[state police \(1\)](#)

[Credit cards \(11\)](#)

[Debit cards \(3\)](#)

[Digital communications \(12\)](#)

[AT&T \(7\)](#)

[Charter Communications \(1\)](#)

[Cox \(1\)](#)

[Verizon \(2\)](#)

[comcast \(1\)](#)

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Besides Wal-Mart, Farrell said state Director of Trade Practices Richard E. Maloney and his unit investigated return and exchange policies at Target, Best Buy, Home Depot, Lowe's, Babies "R" Us, Sam's Clubs and Toys "R" Us.

As the result of the investigation, Farrell and Maloney said Babies "R" Us, Home Depot and Target are being sent letters asking the companies to improve training because they found uneven procedures in implementing state laws on taxes. None faces sanctions.

Lowe's, Sam's Clubs, Toys "R" Us and Best Buy were found to be following tax laws properly.

The issue arose when Gerald Dierman of Manchester questioned whether Home Depot was following state laws when the store charged him sales tax on his original purchase of a bag of grout and again when he returned it the next day for the same grout, but of a different color. Home Depot told him they could not give him a refund on his sales tax without a receipt.

After printing his issue, I received numerous complaints about other Home Depot stores, Wal-Mart and Babies "R" Us.

Home Depot officials conceded that their stores erred and said they would train their personnel to follow state laws consistently. They also gave gift certificates to those who were charged a second tax.

Wal-Mart, on the other hand, insisted its stores were doing nothing wrong.

"I believe I've answered your question already, but I'll gladly do it again. Walmart's policy is to satisfy the customer and follow the law. Thanks again," Wal-Mart spokeswoman Ashley Hardie wrote me Oct. 14 after I sent her additional complaints.

On Friday, Wal-Mart was singing a different tune.

"We thoroughly reviewed our practices and have taken steps to ensure that our associates are fully complying with Connecticut law when processing even exchanges," Hardie said in an e-mail.

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Wal-Mart and California settle pricing suit for \$1.4 million

Moil N o 24, 2008 5:10pm EST

LOS ANGELES (Reuters) - Wal-Mart Stores Inc ([WMT.N: Quote, Profile, Research, Stock Buzz](#)) agreed to pay \$1.4 million and refund \$3 per customer for future pricing mistakes to settle a lawsuit by California authorities over price scanning errors at the chain's stores statewide, the California Attorney General said on Monday.

An investigation into allegations that Wal-Mart checkout counters were scanning items at higher prices than those advertised on store's shelves and signs began in 2005, followed by a fraud lawsuit filed earlier this year in San Diego.

Through random price checks, state investigators found that 164 Wal-Mart stores in 30 California counties had made scanning errors, which averaged \$8.40 per customer, according to California Attorney General Edmund Brown and San Diego District Attorney Bonnie Dumanis.

The investigators found that customers were overcharged on a variety of items, ranging from sports bras to cereal.

A Wal-Mart spokesman had no immediate comment on the settlement.

As part of the settlement, Wal-Mart agreed to implement a pricing accuracy program in its California stores for at least four years. The chain must designate employees to handle consumer complaints and do weekly price accuracy checks.

The company also must post signs describing the refund program at each cashier's stand, and must offer immediate discounts of \$3 for every item that is priced incorrectly.

If the accurate price is less than \$3, the overcharged customer will receive it for free, the attorney general said.

Wal-Mart has agreed to pay \$1.4 million in restitution, civil penalties and reimbursement for the cost of the probe, plus \$50,000 to the state Consumer Protection Prosecution Trust Fund.

(Reporting by Gina Keating, editing by Leslie Gevirtz)

SFGate.com**Some bottled water toxicity shown to exceed law**

Jane Kay, Chronicle Environment Writer

Wednesday, October 15, 2008



(10-14) 18:41 PDT -- Bottled water brands do not always maintain the consistency of quality touted in ads featuring alpine peaks and crystalline lakes and, in some cases, contain toxic byproducts that exceed state safety standards, tests show.

The Environmental Working Group, a nonprofit organization with offices in Oakland, tested 10 brands of bottled water and found that Wal-Mart's Sam's Choice contained chemical levels that exceeded legal limits in California and the voluntary standards adopted by the industry.

The tests discovered an average of eight contaminants in each brand. Four brands besides Wal-Mart's also were contaminated with bacteria.

The environmental group filed a notice of intent to sue Wal-Mart Tuesday, alleging that the mega-chain failed to warn the public of illegal concentrations of trihalomethanes, which are cancer-causing chemicals.

"The investigation has uncovered that consumers cannot be assured of the quality of their bottled water," said Olga Naidenko, a toxicologist at the Environmental Working Group and lead author of the bottled-water study.

"Our study was a snapshot of the marketplace. We found some brands that provided good quality and other brands that contained various chemical pollutants. What this shows is that consumers cannot have confidence. They don't know what they're getting," she said.

The group also singled out Giant Supermarket's brand Acadia for excessive levels of disinfection byproducts, but it didn't sue because the Mid-Atlantic chain's water isn't sold in California.

Some of the Sam's Choice bottled water purchased from Wal-Marts in Mountain View and Oakland came from Las Vegas Valley Water District's sometimes-chlorinated public water supply, the group found.

Wal-mart responds

Shannon Frederick, senior communications manager at Wal-Mart's corporate headquarters in Bentonville, Ark., said the corporation stands by its product. Wal-Mart owns 4,200 stores in the

United States.

"Both our suppliers' tests and tests from an additional external laboratory are not showing any reportable amounts of chlorine or chlorine byproducts. We're disappointed that the EWG has not shared more details with us as we continue to investigate this matter," Frederick said.

"We're puzzled by the EWG's findings."

The Las Vegas water supply meets federal standards for toxic chemicals that form when disinfectants such as chlorine react with organic matter, sometimes in reservoirs. The federal standard is 80 parts per billion. But in California, the by-products standard in bottled water is eight times as strict, possibly making Wal-Mart liable for action under Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986. In 1995, after animal tests showed that the byproducts could cause cancer and reproductive damage in lab animals, California added the bottled water provisions to the health and safety code, setting a standard at 10 parts per billion.

The Food and Drug Administration requires bottled water to meet the same standards as tap water from public systems - which is 80 ppb. The FDA doesn't require bottled water companies to inform consumers of the source and presence of contaminants. Yet by law, public water companies must send customers annual information about sources and the presence of contaminants such as trihalomethanes, arsenic, nitrates and fluoride in the water supply.

Study findings

In the Environmental Working Group study, the University of Iowa Hygienic Laboratory screened for 170 possible contaminants. The lab found 38 pollutants in 24 samples from 10 major brands purchased by the group in California, Washington, D.C., and eight other states.

The environmental group won't release the names of eight other brands it tested, saying it would do so only after it conducts more-extensive testing.

Scott Huntley, a spokesman for the Las Vegas Valley Water District, said he had no knowledge that Wal-Mart was using Las Vegas's water supply for bottling.

After some checking, he said a local water-bottling company that sells to the Strip could be supplying Wal-Mart as well.

Some findings from the study:

-- Three samples of Sam's Choice bought in Oakland, Mountain View and Fayetteville, N.C., contained levels of total trihalomethanes between 14 ppb and 37 ppb, exceeding the state and industry standard of 10 ppb.

-- One of the byproducts, bromodichloromethane, also a carcinogen, is even more toxic to lab animals and is more strictly controlled. The state's cancer safety standard is 2.5 ppb. Three bottles of Sam's Choice purchased in Mountain View and Oakland contained the contaminant at levels from 7.7 ppb and 13 ppb.

-- Also present in bottled water were caffeine and the pharmaceutical Tylenol, as well as arsenic, radioactive isotopes, nitrates and ammonia from fertilizer residue. Industrial chemicals used as solvents, degreasing agents and propellants were also found in the tests.

-- Trace amounts of synthetic chemicals or degradation products from the manufacture of PET, or polyethylene terephthalate, plastic bottles were found, including acetaldehyde, isobutane and toluene. At those low levels, scientists can't ascertain the health effects.

Bottled vs. tap

Americans drank more than 9 billion gallons in 2007, and fewer than half of 228 brands of bottled water reveal their source. Typical cost is \$3.79 per gallon, 1,900 times the cost of public tap water. Green campaigns have focused on steering away from bottled water because manufacturing, transporting and sending unrecycled bottles to the landfill use natural resources and create an environmental burden.

San Francisco Mayor Gavin Newsom issued an executive order in June 2007 barring use of city funds to purchase bottled water.

"The primary reason is that it can cost a thousand times more, and you're not even getting better quality water," said Tony Winnicker, spokesman for the city Public Utilities Commission.

"There have been hundreds of millions of dollars spent to market the myth that bottled water is purer and safer than the tap water. The study is further evidence that the myth is often a lie."

Guide to safe drinking water

Filters: Drink filtered tap water instead of bottled water. Use carbon filters, pitcher or tap-mounted. They reduce lead and disinfection byproducts. Install a reverse osmosis filter if you can afford it.

Containers: Carry water in stainless steel containers.

Research: Learn what's in your tap water. Suppliers publish water-quality tests.

Find the full report on bottled water quality by the Environmental Working Group at www.ewg.org.

E-mail Jane Kay at jkay@sfchronicle.com.

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/10/15/MNGV13H0L4.DTL>

This article appeared on page **A - 1** of the San Francisco Chronicle

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Recalled bassinets found on Valley Wal-Mart shelves



Reported by: Joe Ducey
Email: jducey@abc15.com
Produced by: Jodie Heisner

Last Update: 8/29 4:38 pm



Bassinets blamed for the death of two infants are still on store shelves at two local Wal-Mart stores. The Consumer Product Safety Commission is recalling 66 models of Simplicity Three in One, Four in One and Co-sleeper bassinets.

A 4-month-old from Missouri and a 6-month-old from Kansas both died when they became trapped between the bassinet's metal bars. The 6-month-old's aunt has this plea for parents.

I would urge anyone who has the Simplicity Four in One bassinet to remove your child and do not put 'em back in

Related Links

- ◆ [Consumer Product Safety Commission Notice](#)

Wal-Mart was among the six retailers that agreed to remove the recalled Simplicity bassinets from their shelves.

But both yesterday and today we found recalled models

This is one of the Government's largest efforts in years to get a children's product off the market. Usually the CPSC will work with the manufacturers to do a voluntary recall of the products, however it says lack of cooperation has forced them to rely on retailers.

The manager at the Scottsdale Wal-Mart told us they removed what they believe to be the recalled model last night. The manager at the Phoenix store says they will check into the situation.

Below you'll find a list of the recalled model numbers. The model number can be found on a label on the bottom of the bassinet.

RECALLED Simplicity Bassinet Model Numbers

- 3000CL 3112DOH6 3011WHE 9250A 3016LAU 3046GTM
- 3010BIJ 3112DOH7 3011WHK 3012SOM 3016MIR 3046HAN
- 3010HAV 3122BAN 3012BIJ 5750SAR 3017NCB 3047MON
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So, what do you think? Is Wal-Mart being hypocritical, or are its green efforts in good faith?

1. Make our truck fleet 25% more efficient by 2008; and 100% more efficient by 2015
2. Reduce GHG from 2005 and earlier existing stores, clubs and DC's by 20% by 2012
3. Open a viable store prototype that is up to 25-30% more energy efficient by 2009

Their statement also included these three goals to reduce their footprint:

When blogger Boia O'Carroll of the *Christian Science Monitor* asked the company outright why they didn't support a strong definition, "Wal-Mart believes that a well-designed cap-and-trade system will foster competition, innovation, and business-to-business-to-consumer transactions."

Environmental blog Crits explains the decision: "FTC's definition of carbon offsets could most affect the retailer's ultra-ambitious goal to someday run on 100 percent renewable energy—a huge amount of which would likely have to come from offsets or renewable-energy certificates."

to choose one reasonable approach over another.

insist that all carbon offset claims are supported by a reasonable basis. FTC precedent provides no reason and expert institutions have adopted different, but reasonable, approaches. Although the Commission should fact that there is no consensus about what does, or should, constitute a carbon offset. Different authoritative "reasonable basis doctrine." The fact that standards may differ from one seller to another simply reflects the Rather than attempting to define offsets or RECs, the Commission should rely on the flexibility inherent in the an eligible offset or REC (Renewable Energy Certificates). Doing so would require the Commission to resolve highly technical environmental debates that are beyond its expertise.

Although some may urge otherwise, the Commission should resist the temptation to define what constitutes document filed to the Federal Trade Commission, Wal-Mart says:

programs—a move some deem hypocritical in light of the company's public campaign to cut its footprint. In a the company is lobbying against defining and standardizing carbon offsets for proposed cap-and-trade

Despite this, critics from Wal-Mart Watch, a group that tracks the company's growth and influence, report that them.

selling sustainable products or local produce—make a big difference, and the company has been commended for Wal-Mart is one of the largest consumers of electricity in the United States and presides over one of the largest truck fleets in the world. And for these reasons, even the little steps the company takes to go greener—such as

August 11, 2008 02:40 PM ET | Maura Judkis | Permanent Link

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Although some may urge otherwise, the Commission should resist the temptation to define what constitutes an eligible offset or REC (Renewable Energy Certificates). Doing so would require the Commission to resolve highly technical environmental debates that are beyond its expertise.

Rather than attempting to define offsets or RECs, the Commission should rely on the flexibility inherent in the "reasonable basis doctrine." The fact that standards may differ from one seller to another simply reflects the fact that there is no consensus about what does, or should, constitute a carbon offset. Different authoritative and expert institutions have adopted different, but reasonable, approaches. Although the Commission should insist that all carbon offset claims are supported by a reasonable basis. FTC precedent provides no reason to choose one reasonable approach over another.

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Wal-Mart warns managers about labor bill

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Posted 2008/08/01 at 1:19 pm EDT

NEWYORK, Aug 1, 2008 (Reuters) — Wal-Mart Stores Inc said on Friday it has warned U.S. store managers in recent weeks about the possible consequences of a labor-friendly bill backed by Democratic presidential hopeful Barack Obama that would make it easier for workers to form unions.

But the retailer, which has kept its U.S. stores free of unions, stressed it was not telling employees how to vote

The Wall Street Journal reported that about a dozen employees who attended meetings in seven states said executives had told them that unionization could force Wal-Mart to cut jobs as labor costs rise, and that employees would have to pay hefty union dues and get nothing in return

The Journal said Wal-Mart human-resources managers who run the meetings do not specifically tell attendees how to vote in November's presidential election but they make it clear that voting for Obama would be tantamount to inviting unions in

"If anyone representing Wal-Mart gave the impression we were telling associates how to vote, they were wrong and acting without approval," Wal-Mart spokesman David Tovar said

Wal-Mart opposes proposed legislation called the Employee Free Choice Act that would make it easier for workers to unionize, by signing a card rather than holding a vote

Obama, a co-sponsor of the original bill, has called for passage of the act. Last June,

presumptive Republican presidential nominee John McCain voted against it

"We believe EFCA is a bad bill and we have been on record as opposing it for some time," Tovar said. "We feel educating our associates about the bill is the right thing to do."

Wal-Mart has long been the target of union-backed groups that criticize the retailer for everything from its pay practices to its health care benefits



Shoppers leave a Wal-Mart store in a file photo. Wal-Mart said on Friday it has held meetings with U.S. store managers warning them of issues that could arise if Democrats win power and pass a law that would make it easier for workers to unionize, but stressed it was not telling workers how to vote. REUTERS/John Gress

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News of the store manager meetings drew the ire of Wal-Mart critic groups Wal-Mart Watch and WakeUpWalMart.com, as well as the AFL-CIO labor federation.

"Wal-Mart has once again been exposed for what it really is: a corporation that will go to any length to put profits ahead of its workers." Meghan Scott, spokeswoman for WakeUpWalMart.com, said in a statement.

"Wal-Mart has talked a lot about changing its ways on health care, the environment and workers rights, but this article shows that all that talk hasn't translated into action," she said.

(Reporting by N i l e Maestri; editing by Ted Kerr)

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Wal-Mart Faces \$2 Billion Labor Law Trial, Judge Says (Update4)

By Margaret Cronin Fisk

July 1 (Bloomberg) -- Wal-Mart Stores Inc. broke Minnesota labor laws, a state judge ruled, handing the world's largest retailer its third-straight defeat in a wage-class action trial and the possibility a jury may order it to pay \$2 billion.

The company required hourly employees to work off-the-clock during training and denied full rest or meal breaks in violation of state wage and hour laws, Hastings, Minnesota, District Judge King ruled today following a non-jury trial. King ruled Wal-Mart broke labor laws more than 2 million times and ordered the company to give employees \$6.5 million in back-pay.

"Wal-Mart's failure to compensate plaintiffs was willful," the judge wrote in his 151-page decision. "Wal-Mart was on notice from numerous sources of the wage and hour violations at issue and failed to correct the problem."

The lawsuit is one of more than 70 cases, including class actions, or group suits, in which Wal-Mart has been accused of wage-law violations. The retailer lost a \$78 million jury verdict in Pennsylvania in 2006 over rest breaks and unpaid work and a \$172 million verdict in California in 2005 over meal breaks. Both verdicts have been appealed.

"They are involved in more litigation over alleged violations of wage and hour laws than any other Company," said Professor Charles O'Connell, of the University of Richmond School of Law in Virginia, who has been following the lawsuits. "They might want to re-evaluate their policies."

Second Trial

King's decision means Wal-Mart will face a second trial in Minnesota state court, this time before a jury. Minnesota labor law allows a fine of up to \$1,000 per violation of wage and hour rules. With 2 million violations, that may total as much as \$2 billion. At the Oct. 20 trial, jurors will determine how much each violation is worth, and also consider punitive damages.

Wal-Mart, based in Bentonville, Arkansas, is considering an appeal, said company spokeswoman

"Our policies are to pay every associate for every hour worked and to make rest and meal breaks available," Moore said in an e-mailed statement. "Any manager who violates these policies is subject to discipline."

King "found that Wal-Mart is lacking in many respects," workers' attorney Robert Moore said in an interview. "Not only does this help our individual clients, but it sends a message to Wal-Mart that there are consequences for willfully depriving its hourly workers of their contractual and statutory rights."

Composite Trading

Wal-Mart fell 20 cents to \$56 at 12:29 p.m. in New York Stock Exchange composite trading.

The lawsuit was filed by four women on behalf of about 56,000 Wal-Mart and Sam's Club workers. The workers claimed company managers denied breaks to keep down labor costs. The Minnesota suit was granted class-action status in 2003, allowing the workers to sue together.

The company also faces class-action suits in state courts in New Jersey, Washington and Missouri. It fought off class certification in multiple states including New York, Illinois and Maryland. Denial of class-action status means individuals must spend more to sue the company on their own.

Wal-Mart won a federal court ruling June 20 denying class status to workers in four states who claimed the company denied rest breaks and manipulated time cards to "shave" their pay. The ruling was likely to kill about 35 such actions filed in federal court, according to plaintiffs' lawyers.

Minnesota Plaintiffs

The Minnesota plaintiffs are Nancy Braun, who worked at a Wal-Mart store in Apple Valley; Debbie Simonson and Cindy Severson, who worked in Brooklyn Park; and Pamela Reinert, who worked at stores in the Minneapolis-St. Paul area. Each said she worked off the clock and was denied meal and rest breaks.

Wal-Mart's own audits found that its hourly workers were missing rest and meal breaks, King said. Wal-Mart argued at trial the audits were unreliable, he said.

"Wal-Mart management responded to the audits with no action," he wrote. "They put their heads in the sand."

King said the evidence didn't support workers' allegations that Wal-Mart managers falsified records by inserting meal breaks into employee records.

The case is Braun v. Wal-Mart Inc., 19-CO-01-9790, District Court, Dakota County, First Judicial District, Minnesota (Hastings).

To contact the reporters on this story:

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The Morning News

Local News for Northwest Arkansas

Print Page

Like Clock Work

By *Kimberly Morrison*
THE MORNING NEWS

Wal-Mart has worked overtime to show its kinder, gentler side, but accusations of workplace misdeeds are surfacing in a slew of class-action lawsuits that continue to challenge the retailers new image.

There are at least 80 class-action lawsuits in 41 states pending against the Bentonville-based retailer, 76 of which stem from wage and off-the-clock issues, according to Wal-Mart's 10K filing with the Securities and Exchange Commission.

There are more cases against the Bentonville-based retailer than those disclosed in Wal-Mart's federal filings. Companies are not required to disclose all legal proceedings, just those that may result in "material" financial losses, or more than 10 percent of the current assets of the company.

Among the lawsuits facing Wal-Mart, The Morning News examined five cases. The cases represent potentially the largest judgments or potential financial impact, or the highest number of plaintiffs.

Dukes v. Wal-Mart is a standout. It's being called a landmark case in employment discrimination. The suit's 1.6 million plaintiffs, representing all of Wal-Mart's female employees, makes it the largest sex-bias case in U.S. legal history.

"The company can not reasonably estimate the possible loss or range of loss that may arise from these lawsuits," Wal-Mart stated in its federal filing with the SEC.

There are, however, a few suits from which the retailer might expect to take a blow.

Wal-Mart is facing a \$198 million lunch tab from Savaglio v. Wal-Mart, a class-action lawsuit in which employees said they were not provided meal and rest breaks in accordance with California state law.

A similar case in Pennsylvania involved complaints of missed meal and rest breaks and other failures to pay employees for all time worked. That case -- Braun/Hummel v. Wal-Mart -- resulted in a judgment against Wal-Mart of nearly \$188 million.

Wal-Mart has consistently denied wrongdoing in these and other cases.

Both Savaglio and Braun/Hummel cases are tied up in appeals, delaying the payout to 301,000 current and former employees that make up the two lawsuits.

It also means the retailer hasn't yet footed the combined \$251 million bill.

But can any of these lawsuits financially threaten a retailer that made \$12.8 billion in net income in its more recent fiscal year?

"It's not like they wouldn't be able to pay the light bill if they had a billion dollar settlement," said Patricia Edwards, fund manager with San Francisco-based Wentworth, Hauser and Violic. "It wouldn't be good, don't get me wrong. But the low point in cash last year at quarter end was just short of \$5 billion."

Edwards said Wal-Mart reserves cash for potential future lawsuit payouts so there would be a reduced impact on shareholders in the event of such a case. With Wal-Mart's ability to absorb some of the impact, a billion dollar payout may show up in earnings as a loss of 5 cents per share, Edwards said.

There's also consolation, Edwards said, that there doesn't seem to be a lot of new cases in the pipeline, an indication that Wal-Mart may have changed its ways.

"If you're dealing with things that happened three to five years ago and you've changed and are not doing those things anymore, then you have to look at the company on a go-forward basis rather than what's happened before," Edwards said.

But the ghosts of Wal-Mart have yet to haunt the retailer.

The following are summaries and updates of the largest cases facing Wal-Mart.

DUKES V. WAL-MART

Among all the cases facing Wal-Mart, this one is the mother lode.

Dukes v. Wal-Mart represents a whopping 1.6 million female employees and alleges Wal-Mart systematically discriminated against women in promotions, pay, training and job assignments.

"Wal-Mart has strong equal employment opportunity policies, and fosters female leadership both among its associates and in the larger business world," Daphne Moore, Wal-Mart spokeswoman, said in an e-mail statement. "Wal-Mart has consistently maintained that class certification is inappropriate because the alleged experiences of the six women who brought this suit are not representative of our female associates."

The case was brought on behalf of all past and present female employees in the company's U.S. retail stores and warehouse clubs since 1998. Six women, including two who still work at Wal-Mart stores, originally filed the suit in 2001.

Wal-Mart in December lost its second bid to have a federal appeals court in San Francisco reconsider a lower-court decision to grant class-action status.

Wal-Mart is still fighting the court's decision.

A three-judge panel of the federal appeals court split 2-to-1 in the decision to uphold the class-action status. The retailer on Jan. 8 filed a petition for "rehearing en banc," or, by the full 15-judge panel.

Both sides are waiting on the Ninth Circuit to set a briefing schedule so they can respond to arguments.

After briefing, the court could still take several months to resolve the panel and "en banc" reviews, said Brad Seligman of Berkeley, Calif.-based The Impact Fund and lead attorney for the eight firms representing the plaintiffs.

"At root, this is not a novel case," Seligman said. "It is a very straightforward case about whether Wal-Mart is paying women less than men and not promoting them as often as they should."

The plaintiffs seek, among other things, injunctive relief, front pay, back pay, punitive damages, and attorney's fees. And the final tally on that, should the plaintiffs win their case, could amount to more than a billion dollars.

"Based on the analysis we presented to the court in 2003, it didn't take any mental gymnastics to get to the billion dollar range," Seligman said. "I'm sure it's more now."

HALE V. WAL-MART

A case that began in 2002 with five former employees in Missouri has since swelled to more than 200,000.

The plaintiffs, who worked for the company's stores and discount warehouses between 1996 and 2003, allege systematic understaffing and overtime limits were enforced through the retailer's corporate policies and a bonus incentive plan for managers based on strict payroll and staffing controls. The understaffing caused employees to miss breaks and work off the clock without compensation, the plaintiffs allege.

The Missouri Court of Appeals last June upheld the suits' class-action status, originally granted in 2005. A trial has been set for April 6, 2009.

It will be a trial nine years in the making since plaintiffs first filed the suit. But it's time that Steve Long, lead trial attorney with Denver-based Shughart, Thomson & Kilroy and one of the 12 attorneys representing the plaintiffs, said was well-spent.

"I think the Missouri courts took a long time to make sure they got it right and making sure this was a proper class action," Long said. "Hopefully it will allow us to avoid a lot of post-trial issues because so much has been decided already."

Long has gone up against Wal-Mart before. Colorado-based attorneys Gerald Bader and Franklin Azar tapped Long for help representing Wal-Mart workers in Colorado in a similar off-the-clock lawsuit. That case reportedly settled for \$50 million.

Long's career in business litigation spans more than 30 years and 60 jury trials, but said facing off with Wal-Mart is a daunting task.

"Wal-Mart is a formidable defendant," Long said. "They fight very hard for what they believe, and they fight very hard to protect the way they practice their business in order to preserve their profits. Since they make a lot of money, they can fight very hard."

BRAUN/HUMMEL v. WAL-MART

The class-action lawsuit initially filed by Michelle Braun in 2002 was soon followed by another lawsuit

filed by Dolores Hummel in 2004. The litigants proceeded separately until the estimated 186,000 plaintiffs were consolidated for trial in September 2006, according to court documents.

The plaintiffs alleged that they were forced to miss rest breaks and work off the clock from March 1998 through May 2006.

A three-month, 32-day trial ended in a jury siding with the plaintiffs, and found that Wal-Mart failed to pay workers for all the work they performed and refused to allow workers to take their paid mandatory rest breaks.

The jury awarded damages of \$78.8 million.

A Pennsylvania judge later awarded \$62.3 million in damages, \$10.2 million in interest and \$36.5 million in attorney's fees for the five firms representing the plaintiffs.

The final judgment was \$187.6 million.

"The company believes it has substantial factual and legal defenses to the claims at issue," Wal-Mart said in its federal filing. The company filed a notice of appeal in December.

SAVAGLIO V. WAL-MART

The largest verdict to date against the retailer is Savaglio v. Wal-Mart, which also grabbed the No. 10 spot on The National Law Journal's list of top verdicts from 2005.

The allegations in this case are like the others -- they were not provided meal and rest breaks in accordance with state law. In California, employees working more than 6 hours receive a 30-minute meal break or an additional hour pay. Wal-Mart, the workers allege, did neither.

The 2005 jury trial of the case resulted in a verdict of \$57 million in statutory penalties and \$115 million in punitive damages. The judge later in 2006 awarded the plaintiffs an additional \$26 million in costs and attorney's fees.

Wal-Mart stated in its federal filing that "the company believes it has substantial factual and legal defenses to the claims at issue."

The retailer in January filed its notice of appeal.

"We won and Wal-Mart has appealed virtually everything under the sun," said Michael Christian, attorney with Minneapolis-based Zelle, Hofmann, Voelbel & Gette LLP. "Nothing happens during the pendency of that appeal. The briefing will be completed within the next months and at that point, the court will likely set an oral argument for some point in the fall."

Christian is still working with the case, but has since moved to Zelle Hofmann from San Francisco-based The Furth Firm, which maintains control of the case.

BRAUN v. WAL-MART

A verdict is waiting in the wings for a Minnesota class-action suit representing 56,000 Wal-Mart and Sam's Club employees.

The trial began in January. Over the next two and a half months of trial, attorneys for the plaintiffs argued that Wal-Mart owes employees more than \$50 million for unpaid work, including 8 million missed meal and rest breaks, and falsified time cards.

Wal-Mart attorneys have denied the allegations.

"Wal-Mart did not force anybody to do anything," company attorney Neal Manne said as the trial concluded April 1.

Plaintiffs claimed stores were understaffed and managers were pressured to meet store performance goals. They allege that store managers falsified timecards and asked employees to work before clocking in and after clocking out.

Debbie Simpson, a former employee and original plaintiff in the suit, testified she missed breaks because there was too much work and no one was available to cover for her. She eventually resigned from her position as a department manager.

"Wal-Mart is chronically understaffed and we have a significant amount of evidence showing that -- not just ours, but Wal-Mart's own records," said Justin Per!, who leads the case for Minneapolis-based Maslon, Edleman, Bonnan & Brond LLP. "Wal-Mart is now contending that its own time records are inaccurate."

The workers are seeking back pay to 1998 and as much as \$1,000 per violation.

Judge Robert King Jr. said he would issue a decision on liability, back pay and willfulness by July 1. A jury trial would decide damages in a second trial to start Oct. 20, should King rule in favor of Wal-Mart's employees.

BEYOND THE FIVE

Wal-Mart has argued in the cases that circumstances are individual and not representative of worker's conditions at its stores, and has vigorously challenged the class-action certifications for every case.

"Wal-Mart is committed to treating its associates fairly and in accordance with the law," Moore said in an e-mail statement. "It is our policy to pay every associate for every hour worked, and any manager who violates that policy is subject to discipline, up to and including termination. The great majority of courts across the nation have ruled that cases like this are not properly suited for treatment as class actions because every individual's circumstances are unique."

Wal-Mart additionally stated in its March 31 federal filing with the SEC that class certification has yet to be addressed in a majority of cases, but where it has, the company's tally goes like this -- certification was denied in nine cases, granted in 11 cases, conditionally granted in three cases, denied in nine cases and in two cases, certification was granted, but the case was subsequently dismissed.

AT A GLANCE

Wal-Mart faces more than 80 lawsuits filed by current and former employees, most of whom allege the retailer required them to work off the clock. Five of the largest class-action lawsuits include:

Betty Dukes v. Wal-Mart

Class size: 1.6 million female plaintiffs

Filed: 2001

Location: San Francisco, Calif.

Next action: Court to set briefing schedule on an appeal. Wal-Mart is seeking a rehearing on the class-action status

Potential financial impact: More than a billion dollars

Celia Hale v. Wal-Mart

Class size: 200,000 plaintiffs

Filed: 2002

Location: Jackson County, Mo.

Next action: Trial set for April 6

Potential financial impact: Unknown

Michelle Braun/Dolores Hummel v. Wal-Mart

Class size: 186,000 plaintiffs

Filed: 2002/2004, consolidated in 2006

Location: Philadelphia, Penn.

Next action: Wal-Mart to appeal, filed notice in December

Potential financial impact: \$187.6 million

Andrea Savaglio v. Wal-Mart

Class size: 116,000 plaintiffs

Filed: 2001

Location: Alameda County, Calif.

Next action: Wal-Mart's appeal pending

Potential financial impact: \$172 million

Nancy Braun v. Wal-Mart

Class size: 56,000 plaintiffs

Filed: 2003

Location: Hastings, Minn.

Next action: Judge to decide liability, back pay and willfulness by July 1

Potential financial Impact: Unknown

Sources: Wal-Mart Stores Inc. federal filings with U.S Securities & Exchange Commission, attorneys for respective plaintiffs.

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Archive for Wednesday, December 21, 2005

Wal-Mart Probed on Hazardous Materials

By Abigail Goldman

December 21, 2005 in *print edition C-1*

The U.S. attorney's office in Los Angeles is conducting a criminal investigation into Wal-Mart Stores Inc.'s handling of merchandise classified as hazardous waste.

The world's largest retailer said in a regulatory filing that prosecutors were probing potential violations of the federal Resource Conservation and Recovery Act, which regulates the transportation, handling and disposal of waste.

The investigation involves merchandise returned to California stores and trucked to the company's return center in Las Vegas.

Wal-Mart previously reported that it had received a grand jury subpoena from the U.S. attorney seeking documents and information relating to the company's handling of merchandise that contained hazardous materials. Such products could include perfumes, aerosols, nail polish, plant food and cleaning solvents, among other things.

The California Department of Toxic Substances Control requested similar documents, the company said, and other state and local officials in California and Nevada have launched investigations.

In a statement Tuesday, a Wal-Mart spokeswoman said the company believed it had complied with all state and federal environmental regulations.

"We are once again reviewing our transportation procedures, taking the necessary action to correct any regulatory problems, and fully cooperating with federal and state officials in California," Wal-Mart spokeswoman Sarah Clark said.

The U.S. attorney's office declined to comment. Wal-Mart disclosed the investigation in a filing Monday with the Securities and Exchange Commission,

A spokeswoman for Toxic Substances Control said the agency was assisting federal authorities in the investigation into the allegedly improper transportation of hazardous materials from California to Nevada.

"They are not registered with the state of California to handle or transport any hazardous wastes,"

spokeswoman Jeanne Garcia said. "They are not supposed to be dealing with hazardous wastes at all."

An official familiar with the state probe, who spoke on condition of anonymity because of the ongoing investigation, said regulators were looking into several potential violations of California law, including whether Wal-Mart had been using employees not trained in the proper handling of hazardous materials to load, unload and transport potentially dangerous products.

The state is also examining whether Wal-Mart has kept proper records of the hazardous materials it keeps in stores and transports on California roads and freeways, the official said.

"What if they were to get into an accident?" the official asked.

In its SEC filing, Wal-Mart said the company historically had consolidated certain returned merchandise at its return centers and then taken hazardous waste products to a certified waste disposal facility.

Cindy Anderson, a spokeswoman for the Nevada Division of Environmental Protection, said the Las Vegas return center was permitted to dispose of hazardous waste generated there, but wasn't allowed to take such material from elsewhere.

The Nevada investigation stems from unspecified "compliance issues" discovered during the last inspection of the facility, Anderson said.

Although the types of returned merchandise that might be considered hazardous waste might seem relatively benign, an environmental lawyer said regular household products could still be extremely dangerous, especially when mixed, damaged or exposed to pressure or heat.

"It's a legitimate concern, that's why the law exists," said Pat Gallagher, legal director of the Sierra Club. "If there's a car crash and stuff spills on the street, responders need to know what it is so not to create a dangerous fire or pollution situation"

And because federal authorities have the option of resolving such complaints informally or by filing a civil complaint, the fact that they are proceeding with a criminal investigation suggests that they consider it to be a fairly serious matter, Gallagher said.

Wal-Mart in August agreed to pay a \$1.2-million settlement with the Connecticut Department of Environmental Protection for alleged violations in that state.

In 2004, Wal-Mart paid \$3.1 million in fines to settle allegations that it violated the federal Clean Water Act in nine states, the largest civil penalty ever collected in a storm-water runoff matter.

In 2001, the company paid \$1 million to settle claims that it illegally discharged water at construction sites in four states.

Wal-Mart shares fell 36 cents to \$48.60 on Tuesday.

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Affidavit says Wal-Mart execs knew of illegal workers

SPRINGFIELD, Mo. (AP) — A pair of senior Wal-Mart executives knew cleaning contractors were hiring illegal immigrants, many of whom were housed in crowded conditions and sometimes slept in the backs of stores, according to a federal agency's affidavit.

The affidavit, unsealed last week, was part of an investigation of Wal-Mart by federal immigration officials that led to the 2003 raid on 60 Wal-Mart stores in 21 states, and the arrests of 245 illegal workers. The retailer agreed to pay \$11 million in March to settle the case. It has maintained that top executives neither knew of nor encouraged the practice, but that is contradicted by the newly released documents.

The affidavit was filed by the Bureau of Immigration and Customs Enforcement to secure search warrants for a 2003 raid on Wal-Mart Stores Inc. headquarters in Bentonville, Ark.

The document was unsealed Nov. 2 by a U.S. district judge in Fayetteville, Ark. at the request of a New York attorney representing more than 200 former employees in a civil lawsuit against the world's largest retailer.

In the affidavit, investigators said testimony and taped conversations from 2003 showed two executives at Wal-Mart headquarters knew that contractors and subcontractors cleaning its stores in several states employed illegal immigrants from eastern Europe and elsewhere.

The lawyer who asked that the affidavit be unsealed said it shows Wal-Mart knew it had illegal janitors in its stores.

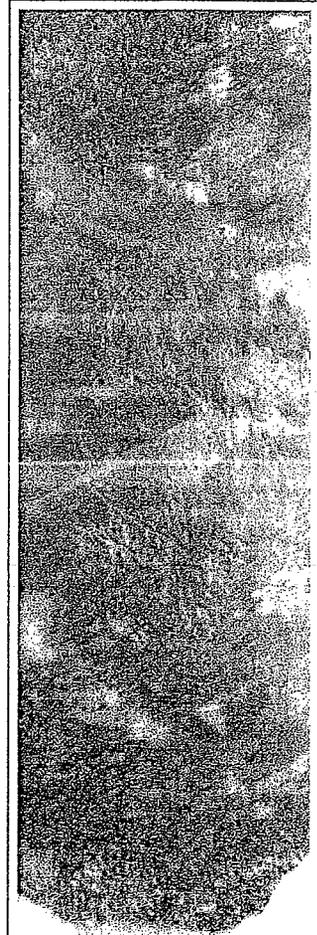
"The sworn testimony (in the affidavit) establishes that top Wal-Mart executives conspired with contractors to exploit undocumented immigrants," said James L. Linsey, a New York attorney leading a class-action lawsuit on behalf of former janitors.

Wal-Mart denied there was any incriminating evidence in the affidavit and said the comments by executives that it contained were "bits and pieces of information from larger conversations."

"As we have maintained all along, no company senior official had any direct knowledge that undocumented workers were working in our stores," Wal-Mart spokesman Marty Heires said in an e-mail to The Associated Press.

According to the affidavit, one cleaning contractor, Christopher Walters, told INS investigators that his company, IMC Associates of St. Louis, had been dropped by Wal-Mart in 1997 after INS raids in the St. Louis area found illegal workers cleaning the

Advertisement



retailers' stores.

Walters told the INS that a Wal-Mart vice president, identified in the affidavit as Leroy Schuetz and Leroy **Shutz**, advised him to set up multiple subsidiaries so that if one of them were found using illegal workers, he could continue to do business with the retailer through the others.

The affidavit said another conversation took place in April 2003 at Wal-Mart headquarters between Steve Bertschy, a Wal-Mart vice president who managed maintenance of all Wal-Mart stores, and *two* contractors accompanied by an undercover INS investigator.

After one of the contractors repeatedly mentioned that many cleaning subcontractors were known to be using illegal immigrants at Wal-Mart stores, the affidavit said Bertschy commented: "And they load them up into one or *two* apartments and they take a family of five and pay them \$1,000 a week, that's probably a dollar an hour if they're there seven days a week and they're not paying taxes because they're not getting paid a fair rate compared to U.S. standards, then they start stealing from the store to make up the difference."

Bertschy did not immediately return a call seeking comment. Schuetz could not be reached for comment.

Federal raids later found immigrants crowded into small apartments or trailers in sleeping bags and, in some cases, sleeping in the backs of Wal-Mart stores, carrying their personal belongings from job site to job site.

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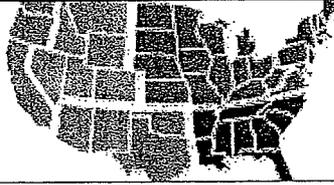
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Wal-Mart pays \$11M over illegal labor

No **criminal** sanctions, but retailer will pay \$11M in **case** tied to cleaning contractors' hirings.

March 18, 2005 2:35 PM EST

NEW YORK (CNN/Money) - Wal-Mart will escape criminal sanctions and pay \$11 million to settle claims stemming from a federal investigation of illegal workers hired by the company's cleaning contractors, the company said Friday.

The agreement came after the government concluded its more than four-year criminal investigation and said it would not pursue charges against Wal-Mart or any Wal-Mart associates, the world's largest retailer said.

"We acknowledge we should have had better safeguards in place to make sure our (floor-cleaning) contractors hired only legal workers," Mona Williams, vice-president of corporate communications at Wal-Mart said during a conference call Friday.

Williams added that the company has "taken steps to put its house in order," like having all floor-cleaning now done by Wal-Mart employees and requiring written contracts for all maintenance agreements.

However, the company will still use outside contractors for other maintenance jobs.

The more than four-year investigation was led by Immigration and Customs Enforcement agents and federal prosecutors in Pennsylvania. It produced 245 arrests of undocumented workers in 2003.

At the time of the raids, the government said they had wiretaps showing that Wal-Mart executives knew the company was using illegal workers. However, as part of the settlement the company will not admit any wrongdoing or liability.

Yes No

Yes No

Yes No

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Williams said no criminal charges have been pressed against the executives mentioned at the time of the raids and that those officials have not been impacted by the investigation. She added that Wal-Mart did not know about the use of illegal labor until the arrests of, undocumented workers.

Attention getting settlement

Wal-Mart, which posted a fourth-quarter profit of \$3.16 billion, said the \$11 million settlement fee was a large sum "designed to get attention."

"It is a reminder to businesses everywhere that they have a duty to make sure their outside contractors are following immigration and labor laws," said Williams.

"The government can now use the funds for training and other initiatives that lead to better detection and prosecution of individuals and companies that prey on undocumented individuals," Tom Mars, Wal-Mart's general counsel, said in a statement.

The settlement also calls for \$4 million in criminal forfeitures by 12 firms Wal-Mart (Research) hired to provide janitorial services, people familiar with the agreement told CNN. These people said some individuals associated with the contractors have agreed to plead guilty to federal violations, but no details were available Thursday night.

Gil Garcia, a lawyer for those arrested in the raids, said the settlement will result in pending criminal cases against his clients being dropped.

"I believe justice has been served," Garcia said in a statement issued to CNN.

"I think this is very good for the government, because it shows that the law has been enforced. I also believe that this is good for Wal-Mart, because it demonstrates that Wal-Mart is no longer adhering to the practice of hiring undocumented immigrants. And I also believe that it is good for the undocumented workers, because by their cooperation they may have a way to remain in the United States."

Wal-Mart stock edged lower in afternoon New York Stock Exchange trading Friday.

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Find this article at:

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7 STREET VENTURES, LLC

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF NAPA

10 AMERICAN CANYON COMMUNITY
11 UNITED FOR RESPONSIBLE
GROWTH,

12 Petitioner,

13 v.

14 CITY OF AMERICAN CANYON, BY
15 AND THROUGH THE CITY COUNCIL;
and DOES 1 THROUGH XXX,

16 Respondent.

CASE NO. 26-27462

Lead Case No. 26-27462 (Consolidated with case
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**SECOND SUPPLEMENTAL
DECLARATION OF ARTHUR J.
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MART STORES INC.'S EX PARTE
APPLICATION FOR MODIFICATION OF
AND/OR TEMPORARY RELIEF FROM
STAY TO SECURE AND STABILIZE THE
PROJECT SITE**

Hearing Date: May 24, 2005
Time: 3:00 p.m.
Department C

Date Filed: November 12, 2004

23 LAKE STREET VENTURES, LLC, a
24 California Limited Liability company;
25 WAL-MART STORES, INC., a Delaware
corporation; and DOES XXXI THROUGH
XXXXXX, inclusive,

26 Real Parties in Interest.
27
28

STEEFEL, LEVITT & WEISS
A PROFESSIONAL CORPORATION
ONE EMBARCADERO CENTER, 30
SAN FRANCISCO, CA 94111-3719
Telephone: (415) 788-0900 · Facsimile: (415) 788-2019



CASE NO. 26-27534

Date Filed: November 17, 2004

CITIZENS AGAINST POOR PLANNING
and STACY SU,

Petitioners and
Plaintiffs,

v.

CITY OF AMERICAN CANYON, CITY
OF AMERICAN CANYON CITY
COUNCIL; and DOES 1 through 10,

Respondents and
Defendants.

LAKE STREET VENTURES, LLC;
NAPA JUNCTION I, LLC; WAL-MART
STORES, INC., a Delaware corporation;
and DOES 11 through 20,

Real Parties in Interest.

I, Arthur J. Friedman, declare 'as follows:

1. I am an attorney and shareholder of the law firm of Steefel, Levitt & Weiss, counsel for Wal-Mart Stores, Inc. in this matter.

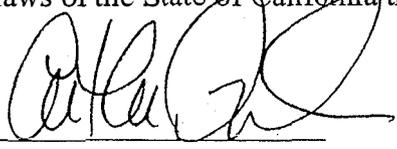
2. Attached to this declaration as Exhibit A is a true and correct copy of "State Water Resources Control Board Order No. 99-08 – DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity." ("the General Permit.") Wal-Mart is legally obligated to comply with the requirements of the General Permit. The General Permit provides that prior to termination of construction activity, the discharger/operator (i.e. Wal-Mart) must implement erosion and sediment control measures, and "stabilize" disturbed areas of the construction site. Stabilization occurs if "a uniform vegetative cover with 70 percent coverage has been established." These requirements are described at Sections A.6 and A.7 respectively (pages 14 and 15) of the General Permit. Section B.16 (page 27) of the General Permit describes the potential penalties for each day of non-compliance with the General Permit's requirements

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3. Attached to this declaration as Exhibit B is a true and correct copy of the Consent Decree signed by the United States Environmental Protection Agency ("EPA"), the states of Utah and Tennessee and Wal-Mart. Wal-Mart is required under the Consent Decree to comply the terms of the General Permit, as set forth in paragraphs 11.2 and II.6 of the Consent Decree.

4. Attached to this declaration as Exhibit C is a true and correct copy of an e-mail I sent to all counsel at 4:20 p.m. on Monday, May 23, 2005, attaching copies of Exhibits A and B described above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Arthur J. Friedman

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

2004 MAY 12 AM 10:13

Civil Action No. 04 - 301

UNITED STATES OF AMERICA,

Plaintiff,

STATE OF UTAH, and
STATE OF TENNESSEE,

Plaintiff-Interveners,

vs.

WAL-MART STORES, INC.,

Defendant.

CONSENT DECREE

TABLE OF CONTENTS

I.	DEFINITIONS	2
1.	<u>Definitions</u>	2
II.	WAL-MART'S COMPLIANCE PROGRAM	5
2.	<u>Compliance with the Permit</u>	5
3.	<u>Designation of Wal-Mart's Director of Storm Water Compliance</u>	5
4.	<u>Wal-Mart's Construction Managers</u>	6
5.	<u>Inclusion of Decree in Bid Package</u>	7
6.	<u>Permits</u>	7
7.	<u>SWPPPs</u>	7
8.	<u>Notice of Wal-Mart's Director of Storm Water Compliance's Phone Number</u> ..	9
9.	<u>Training Program</u>	10
10.	<u>Annual Seminars</u>	11
11.	<u>Notice to Plaintiffs of Construction Projects</u>	12
III.	WAL-MART'S SUPERVISION OF ITS CONSTRUCTION CONTRACTORS	13
12.	<u>Contractor Checklist</u>	13
13.	<u>Provision of Guidance Materials</u>	13
14.	<u>Designation of Responsible Contractor's Compliance Officer</u>	13
15.	<u>Designation of Project Superintendent</u>	13
16.	<u>Pre-Construction Meetings</u>	14
17.	<u>Weekly Meeting Plan</u>	16
18.	<u>Availability of _____ and Permit</u>	16
19.	<u>Inspections</u>	16
20.	<u>Wal-Mart's Director of Storm Water Compliance Review and Report</u>	20
21.	<u>Temporary Alteration of BMPs</u>	21
22.	<u>Final Wal-Mart Inspection</u>	21
IV.	CIVIL PENALTY	22
23.	<u>Civil Penalty</u>	22
24.	<u>Agreement Not to Seek Indemnification or Insurance Coverage</u>	22
25.	<u>Method of Payment</u>	22
V.	GENERAL PROVISIONS	23
26.	<u>Jurisdiction and Venue</u>	23
27.	<u>Parties Bound</u>	23
28.	<u>Responsibility for Acts of Contractors or Agents</u>	24
29.	<u>No Warranty by the Plaintiffs</u>	24
30.	<u>Headings</u>	24
31.	<u>Final Judgment</u>	24
32.	<u>Purpose of Decree</u>	24
33.	<u>Right of Entry</u>	24
34.	<u>No Limitation on Other Rights of Entry</u>	25
35.	<u>Preservation of Records</u>	25
36.	<u>Claims of Confidentiality</u>	26
37.	<u>Authority to Sign Decree</u>	26
38.	<u>Designation of Agent for Service</u>	26
39.	<u>Notification</u>	26
40.	<u>Certification of Reports and Submissions</u>	28
41.	<u>Entire Agreement</u>	28
42.	<u>Modification</u>	29

43.	<u>Costs of Suit</u>	29
44.	<u>Public Notice</u>	29
45.	<u>Agreement to Entry of Decree</u>	29
46.	<u>Termination of Decree</u>	29
VI.	EFFECT OF DECREE	30
47.	<u>Covenants Not to Sue by Plaintiffs</u>	30
48.	<u>No Effect on Third Parties</u>	33
49.	<u>Plaintiffs' Reservations of Rights</u>	33
50.	<u>Wal-Mart's Reservation of Rights: Effect of Decree</u>	34
51.	<u>Not a Permit Modification</u>	34
VII.	STIPULATED PENALTIES	34
52.	<u>Stipulated Penalty Amounts</u>	34
53.	<u>Payment of Stipulated Penalties</u>	35
54.	<u>Accrual of Stipulated Penalties</u>	37
55.	<u>No Effect on Obligation to Comply</u>	38
56.	<u>Effect of Dispute Resolution</u>	38
57.	<u>Interest on Late Payment</u>	38
58.	<u>Non-Exclusivity of Remedy</u>	39
VIII.	DISPUTE RESOLUTION	39
59.	<u>Exclusive Remedy</u>	39
60.	<u>Informal Dispute Resolution</u>	39
61.	<u>Formal Dispute Resolution</u>	39
62.	<u>Petitions to the Court</u>	40
63.	<u>Effect on Other Obligations</u>	41
64.	<u>Computation of Time</u>	41
IX.	FORCE MAJEURE	41
65.	<u>Definition of Force Majeure</u>	41
66.	<u>Required Notification for Force Majeure</u>	42
67.	<u>Procedures for Extension</u>	42
68.	<u>Effect on Other Obligations</u>	43
X.	SUPPLEMENTAL ENVIRONMENTAL PROJECT	43
69.	<u>Performance of Supplemental Environmental Projects</u>	43
70.	<u>Public Statements Regarding the Supplemental Environmental Project</u>	44
71.	<u>Completion Report</u>	45
72.	<u>EPA Response to Completion Report</u>	45
73.	<u>Wal-Mart's Certification of Eligibility</u>	46

Appendix 1: Inspection Report Form

A. Whereas, the United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), has filed the Complaint in this matter alleging that Wal-Mart Stores, Inc. (“Wal-Mart”) has violated the Clean Water Act, 33 U.S.C. §§ 1251-1331 and the regulations promulgated pursuant to that statute, including the conditions and limitations of the Federal General Permit, the California General Permit, the Colorado General Permit, the Delaware General Permit, the Michigan General Permit, the New Jersey General Permit, the South Dakota General Permit, the Texas General Permit, the Tennessee General Permit, and the Utah General Permit,

B. Whereas, the States of Utah and Tennessee have filed complaints in intervention alleging Violations of the Utah General Permit and the Tennessee General Permit (the “Coinplaints in Intervention”).

C. Whereas Wal-Mart neither admits nor denies the allegations in the Complaint and the Complaints in Intervention, and nothing in this Decree shall constitute or be construed as an admission of liability, fact or law, or of any wrongdoing on the part of Wal-Mart.

D. Whereas, the Plaintiffs and Wal-Mart have consented to the entry of this Decree without trial of any issues.

E. Whereas, Wal-Mart intends to invite EPA to attend its annual seminars and other meetings under this Decree;

F. Whereas, the parties recognize, and this Court finds by entering this Consent Decree, that the parties have negotiated this Consent Decree in good faith, that implementation of the Consent Decree will avoid prolonged and complicated litigation between the parties, and that it is fair, reasonable, and in the public interest;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication or admission of any issue of fact or law and upon consent and agreement of the parties, it is hereby ORDERED, DECREED, and ADJUDGED as follows:

IV. CIVIL PENALTY

23. Civil Penalty. Within 30 days after entry of this Decree, Wal-Mart shall pay a civil penalty of \$3,100,000.

24. Agreement Not to Seek Indemnification or Insurance Coverage, Wal-Mart shall **pay** the civil penalty out of its own funds and shall not seek indemnification or insurance coverage for the civil penalty from any contractor or third party. Except **as** expressly provided in Paragraph 53(b) (Payment of Stipulated Penalties), nothing in this Paragraph shall prevent Wal-Mart from seeking contractual indemnification, insurance coverage, stipulated penalties or liquidated damages from any Responsible Contractor at any Site at which construction is initiated after entry of this Decree in connection with violations of any applicable Permit or the Clean Water Act committed by any Responsible Contractor or Wal-Mart. Nothing in this Paragraph shall be construed to prevent any Plaintiff from asserting in any future action that Wal-Mart must pay a civil penalty out of its own funds.

25. Method of Payment. Payment of such penalty shall be made in the following manner:

a. Payment of \$2,480,000 of the penalty shall be made payable to the "Treasurer of the United States" by Electronic Funds Transfer ("EFT" or wire transfer) to the United States Department of Justice lock box bank, referencing DOJ # 90-5-1-1-4510/3 and the USAO File Number. **A confirmation of such transfer shall be forwarded to the United States at the addresses specified in Paragraph 39 (Notification).**

b. Payment of \$62,000 of the penalty shall be made by certified check made out to the State of Tennessee and mailed to

Chris Moran
Enforcement and Compliance Section
Division of Water Pollution Control
6th Floor L& C Annex
401 Church Street
Nashville, Tennessee 37243-1534

Wal-Mart shall send a copy of the check and cover letter to Tennessee in accordance with Paragraph 39 (Notification).

c. Payment of \$558,000 of the penalty shall be made by certified check made out to the "Utah Hazardous Substances Mitigation Fund" and sent by overnight courier to:

Dianne Nielson, Executive Director
Utah Department of Environmental Quality
168 North 1950 West
Salt Lake City UT 84116

Wal-Mart shall send a copy of the check and cover letter to Utah in accordance with Paragraph 39 (Notification).

V. GENERAL PROVISIONS

26. Jurisdiction and Venue, This Court has jurisdiction over the subject matter of this action and over the parties pursuant to 33 U.S.C. § 1319 and 28 U.S.C. §§ 1331, 1345 and 1355. The Complaint states a claim upon which relief may be granted under 33 U.S.C. § 1319. Venue is proper under 28 U.S.C. § 1391(b) and (c). For purposes of the Decree, Wal-Mart consents to and will not contest the jurisdiction of this Court over this matter. The Court shall retain jurisdiction to enforce the terms and conditions of this Decree, to resolve disputes arising hereunder and for such other action as may be necessary or appropriate for construction or execution of the Decree.

27. Parties Bound. In accordance with the provisions of Federal Rule of Civil Procedure 65, the provisions of this Decree shall apply to and be binding upon the United States, the State of Utah and the State of Tennessee, and upon Wal-Mart, its officers, directors, agents, trustees, servants, employees, successors and assigns and upon those persons in active concert or participation with Wal-Mart who receive actual notice of the Decree by personal service or otherwise. Within 10 days of entry of this Decree, Wal-Mart shall provide a copy of this Decree to each Compliance Officer, each Project Superintendent, and each person or firm retained by Wal-Mart to implement this Decree. If a Compliance Officer, Project Superintendent, or person

or firm is retained more than 10 days after entry of the Decree, Wal-Mart shall provide such person or firm a copy of the Decree within 10 days of retention.

28. Responsibility for Acts of Contractors or Agents. In any action to enforce this Decree, Wal-Mart shall not assert as a defense the failure of its officers, directors, agents, trustees, servants, employees, successors, assigns, and contractors to take actions necessary to comply with this Decree unless Wal-Mart establishes that the failure resulted from a Force Majeure event as defined in Section IX (Force Majeure).

29. No Warranty by the Plaintiffs. The Plaintiffs do not, by their consent to entry of this Decree, warrant or aver in any manner that Wal-Mart's compliance with this Decree will result in compliance with the provisions of applicable federal or state laws, regulations, or permit conditions, Notwithstanding the Plaintiffs' review and approval of any data, reports or plans formulated pursuant to this Decree, Wal-Mart shall remain solely responsible for compliance with this Decree, the Clean Water Act, any Permit, and any other applicable state, federal, or local law or regulation.

30. Headings. Headings in this Decree are provided for convenience only and shall not affect the substance of any provision.

31. Final Judgment. Upon approval and entry of this Decree by the Court, this Decree shall constitute a final judgment between and among the Parties.

32. Purpose of Decree. It is the express purpose of this Decree to further the objectives of the Clean Water Act as well as regulations and permits issued pursuant to that Act. All obligations in this Decree shall have the objective of causing Wal-Mart to be and remain in full compliance with the Act, the regulations and permits issued pursuant to the Clean Water Act, as well as state laws, regulations, and permits authorized pursuant to the Clean Water Act.

33. Right of Entry.

a. Until termination of this Decree, Plaintiffs, their representatives, contractors, consultants and attorneys and their contractors and consultants shall each

CBRE CONSULTING, INC.

City of Lodi
January 12, 2009
Page 3



Among its conclusions, Bay Area Economics indicated that: "The net capture of sales from existing retail outlets in 2008 is estimated at approximately \$55 million."* In other words, there may be a diversion of sales from existing retail outlets in the trade area to the new Center, which would result in a decrease in sales tax to the City from those outlets. Because the trade area defined by Bay Area Economics is larger than the City of Lodi (it includes surrounding areas outside the city limits), not all of the \$55 million in diverted sales will impact the City. However, for the purpose of this analysis, it is reasonable to note that since most of the existing trade area retailers are located within the City, one can conservatively estimate that if all of these diverted sales were at the expense of City of Lodi retailers, then the loss of \$55 million in sales would equate to a loss of \$55 million x 1% = \$550,000 in sales tax revenue to the City of Lodi.

Conclusion

The estimated net gain to the City of Lodi from property, sales, and business license taxes is summarized below.

Type of Tax	Total Taxes Generated	Taxes-Lost	Incremental Tax Gain
Sales Tax			
Lodi Shopping Center	\$1,491,241		
Existing Lodi Wal-Mart		(\$548,217)	
Replacement Tenants	\$421,000		
Diverted Sales		(\$550,000)	
Property Tax (<i>Wal-Mart</i> only)	\$40,920		
Business License Tax	\$145,225		
Total	\$2,098,386	(\$1,098,217)	\$1,000,169

Sources: CBRE Consulting.

² Ibid, p. 68.

From: Sacramento Supercuts [scsltd@sbcglobal.net]
Sent: Wednesday, March 11, 2009 8:35 AM
To: Dan McNeer
Subject: City Council Meeting

City of Lodi , City Council:

Attached is my letter of December 9, 2008, in which I stated my appreciation and respect for Browman Development Company and the professional and successful manner in which they operate their shopping centers.

I am reconfirming my support for the new Super Wal-Mart shopping center with additional retail shops to be developed by Browman Development Company. In my opinion I feel the EIR is adequate and I believe that the new project can only enhance and strengthen the existing retail corridor along Kettleman Lane and Lower Sacramento Rd. Having a strong retail base of successful businesses will help the City of Lodi to continue to prosper by keeping retail dollars being spent in Lodi and bringing new dollars from outside Lodi to be spent in our community!

Sincerely,

Michael James

SuperCuts Franchisee, Lodi CA

SUPERCUTS®

December **9,2008**

To Whom It May Concern:

I am writing **this** letter in Support of the Browman Development Company **in** their efforts to bring a Super Wal-Mart to the Lodi Community.

I have been a Supercuts franchisee for **23** years, and own eighteen stores **in** and around the Sacramento area. We have never owned our own buildings, so in that time I have worked **with** many landlords. I can say without question that Browman Development Company has **been** a pleasure to **work** with. **They own** the centers that are home to **two of** our stores, and in my opinion, have **always** done an excellent job of running **them**.

The centers are well maintained, clean, and have very low vacancy **rates**. Their people are easy to **work** with, **and** very professional. They do a great job of supporting their **tenants**, and make it easier for me to be successful. We have been in our Lodi location for twelve years **now**, and look forward to a long and continued relationship with the people of the Browman Development Company.

Sincerely,



Michael James
Supercuts Franchisee



1620 S. ACKERMAN DRIVE LODI, CA 95240
(209) 369-8592 OR (800) 359-8592 FAX (209) 369-8681

March 11, 2009

To: Lodi City Council
From: Gary Markle

Re: Environmental Impact Report ("EIR") and Super Wal-Mart

Dear Lodi City Council,

On December 10, 2008, I submitted a letter stating my support for the development of the new Super Wal-Mart and retail shops to be located at the southwest corner of the Kettleman Lane and Lower Sacramento Rd. intersection.

I want to again emphasize the value I see that Browman Development Company brings to our community by developing and maintaining in a high standard its retail properties. They have great curb appeal, they are always fully leased, and they are very successful.

I feel that the EIR is adequate and that the project will only add to the success of Lodi's retail commercial base and especially now increase the jobs and prosperity to the great community of Lodi.

Sincerely,

Gary D. Markle
President, Gary's Signs

BDC

BROWMAN DEVELOPMENT COMPANY, INC.
Development • Leasing ■ Management

DATE: March 11,2009
TO: City Council Members, City of Lodi
FROM: Daniel R. McNeer, CSM/CMD
RE: Super Wal-Mart Retail Shops
REF: New Shopping Center Project at 2640 W. Kettleman Lane

Dear City Council Members:

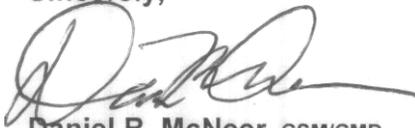
I am Daniel McNeer, a Property Manager for Browman Development Company. I am here tonight to present letters from our tenants and vendors who were unable to be here and who are in support of the new Super Wal-Mart Retail Shops project to be built by Browman Development.

In summary, many of our tenants are frustrated that this project is nbt moving **forward** and want to see it underway as it is time to move ahead! Feelings are that the EIR is adequate and that Browman should have this property under construction by now as Browman has over the years demonstrated to be a very successful developer of retail properties, especially here in Lodi.

Tenants and vendors see the value of strengthening Lodi's existing kuccessful retail corridor with additional and successful businesses that want to do business in Lodi. And, of course, the bonus is that the consumer dollars spent in Lodi will benefit the needs of Lodi.

Here are some of the tenants and vendors who have asked to have letter submitted....

Sincerely,



Daniel R. McNeer, CSM/CMD

Property Manager

BROWMAN DEVELOPMENT COMPANY, INC.

1556 Parkside Drive, Walnut Creek, CA 94596

Voice: (925) 588-2212 ■ Fax: (925) 588-2230 -Cell: (510) 846-1092



March 10, 2009

To: City of Lodi
City Council

I am writing to you expressing my continued support of Browman Development Company's new shopping center development that will include a Super Wal-Mart and additional retailers that will further develop and strengthen the existing commercial corridor by bringing more and new customers to spend their dollars in our city!

Browman has exhibited a great track record for developing highly successful retail shopping centers and based upon that record we can count on another long term successful retail development in the heart of our commercial corridor. The properties are well maintained, they have high occupancy levels and offer fine places to eat and a broad variety of goods and services.

I believe that the EIR is adequate and that the new development can only enhance the existing retail and commercial businesses, so let's move ahead.

Respectfully,

Curt Page
President



ARROW STRIPE INC. CONTRACTOR'S LICENSE #811964 →
2085 Fairway Court, Woodbridge, CA 95258 – Office 209.334.6644 / Fax 09.334.9134

Date: March 11,2009

To: City of Lodi, the Mayor and City Council Members

**RE: Super Wal-Mart Shopping Center at intersection of Lower
Sacramento Road and West Kettleman Lane, Lodi, CA**

I am Jason Elliot a resident of Lodi and one of the owners of the Arrow Stripe Company which has been in business in Lodi for 14 years.

I have included a copy of my letter to you dated December 9, 2009, in which I confirmed our company is in strong support of Browman Development Company's new Super Wal-Mart shopping center to be built in our commercial corridor at the corner of West Kettle Lane and Lower Sacramento Road.

I am here again tonight to show my continued and support for this development and that it be started as soon as possible. There have been many delays and I feel that this project should be on its way to be constructed by now. The EIR seem very acceptable and we need to move ahead and please let's end the delays!

Sincerely,
ARROW STRIPE COMPANY

Jason Elliot



DATE: December 9, 200X

TO: City of Lodi
City Counsel

I am Jason Elliot, a resident of Lodi and one of the owners of **Arrow Stripe Company** which has been in business and located in **the** City of Lodi for 14 years.

Our company has been working for Browman Development for approximately the last 2 years and has found Browman Development to be a property developer with successful, high standards that requires those same high standards of success from its contractors and vendors. Our experience is that Browman does its best **to** use highly qualified, local companies where its properties are located.

We understand that the Walmart may relocate across the street with a Super Walmart. We are confident that the new retail development will strengthen the retail corridor along Kettleman Lane and Lower Sacramento Road especially **because** a successful, experienced company like Browman Development is **doing** the development. It is our opinion that this commercial area will continue to prosper as **this** retail corridor of Lodi continues to grow. The City of Lodi and its population **base** should benefit from all the new business that will be created and professionally developed and run by Browman Development.

Sincerely,

ARROW STRIPE COMPANY, INC.

Jason Elliott

/jpk

ARROW STRIPE INC. CONTRACTOR'S LICENSE #811964 →
2085 Fairway Court, Woodbridge, CA 95258 – Office 209 334 6644 / Fax 09.334 9134

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ARROW STRIPE COMPANY, INC.

Jason Elliott

/jpk

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Jason Elliot

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TO: City of Lodi
City Counsel

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Sincerely,

ARROW STRIPE COMPANY, INC

Jason Elliott

/jpk

LAW OFFICES OF DONALD B. MOONEY

DONALD B. MOONEY

129 C Street, Suite 2
Davis, California 95616
Telephone (530) 758-2377
Facsimile (530) 758-7169
dbrnoonev@dcn.org

March 11, 2008

VIA ELECTRONIC MAIL AND HAND DELIVERED

City Council
City of Lodi
221 West Pine Street
Lodi, California 95241-1910

Re: Appeal of Lodi Planning Commission's Determination Not to Certify the
Final Environmental Impact Report for the Lodi Shopping Center

Dear Honorable Council ~~Members~~:

On behalf of the Citizens for Open Government ("Citizens"), we urge you to affirm the common sense decision of the Planning Commission to not certify the City of Lodi's ("City") Final Environmental Impact Report ("FEIR") for the Lodi Shopping Center project (or the "Project"). The Citizens base their opposition to the Wal-Mart/Browman appeals on the following grounds.

1. The Record Fails to Support Certification

Our October 2007 comments on the Revised Draft EIR, our October 2008 comments to the Planning Commission on the FEIR and our December 10, 2008 letter to the City Council detail the numerous flaws in the FEIR that render it not certifiable. We will not repeat those comments here but rather incorporate them by reference. As the decision of the Planning Commission to not certify the FEIR is, in fact, the only appropriate decision, we urge the City Council to a f f i .

2. Changed Circumstances Render EIR Invalid and Require Recirculation

Significant time has passed since the EIR was prepared. Two events have occurred which undermine basic conclusions in the EIR. First, the economic downturn renders the EIR's economic impact and urban decay analysis unreliable without further work. As explained in the attached memorandum from Economic & Planning Systems, fundamental assumptions regarding economic growth that undergird the EIR's analysis simply are now longer true. (Attachment 1.) In addition, the economic downturn has caused the City to radically adjust its budget, slashing some \$3,000,000 in just the last eight months. The EIR's conclusions on urban decay candidly rely upon heightened City staff code enforcement. How will that occur in light of massive budget cuts, a hiring

freeze and furloughs? In light of the substantially altered economic climate, the City must conduct a realistic assessment of the impact of adding so much new commercial floor space in an era when existing business are hanging on by a thread, a tight to nonexistent credit market and the City lacking additional resources to increase code enforcement.

Second, the City must review its Hydrology and Water Quality conclusions in light of the State Water Resources Control Board's December 23, 2008 a Draft Water Quality Order that may restrict the capacity of the White Slough Water Pollution Control Facility and therefore preclude the approval of large new development within the City. (Attachment 2.) The City must take into account the numerous findings of environmental degradation documented in the SWRCB's Draft Water Quality Order and possible impacts of the order will have on development within Lodi.

3. Consistent Illegality Pervades the Process

Citizens are very concerned regarding Browman and Wal-Mart's undue pressure to obtain approval for the Lodi Shopping Center and the new Wal-Mart Supercenter that has resulted in repeated legal violations. First the City, over the objection of many parties, certified a fundamentally flawed EIR. After the San Joaquin County Superior Court unsurprisingly held the EIR inadequate, the City produced another flawed document, again thumbing its nose at legitimate comments from Citizens and many others. After the Planning Commission rejected the EIR, the City Council proceeded to reverse the Planning Commission's decision on December 10, 2008 at a meeting rife with Brown Act violations. Faced with these stark errors, the City on February 4, 2009, reversed course and rescinded its approval of the appeals, and reset a special meeting. Now, we recently learn that Browman and Wal-Mart violated the Subdivision Map Act, as described in Lodi First's February 24, 2009 letter, by recording a final map without appropriate City approval. (The Citizens incorporate as their own, the issues raised by Lodi First in its February 24 letter). Lastly, as explained below, the proposed resolution granting the appeals and overturning the Planning Commission's decision presents more Brown Act and CEQA violations. This pattern of illegal and questionable conduct arises from the overriding desire by Browman and Wal-Mart to obtain approval of this project notwithstanding sound, fundamental process and substantive objections.

4. Proposed Resolution Overturning the Planning Commission is Illegal

CEQA contemplates a two steps process when a public agency considers a project in reliance on an EIR. First, the public agency determines whether to certify the EIR pursuant to CEQA Guidelines Section 15090(a). In this step, the public agency decides whether the EIR has been completed in compliance with CEQA, that the public agency decisionmakers have reviewed and considered the EIR, and that certification represents these decisionmakers' independent judgment. (*Id.*) After the public agency certifies the EIR, it then turns its attention to project specific findings under Guidelines Section

15091, whether to approve the project under Section **15092** and, if necessary overriding significant but unavoidable environmental impacts under Section **15093**. This second step is distinct from EIR certification. (See Kostka & Zischke, *Practice under the California Environmental Quality Act*, § 17.22.)

On October 8, 2008, the Planning Commission voted not to certify the Lodi Shopping Center EIR as it did not meet the minimum CEQA requirements. The Planning Commission specifically did not take action on any CEQA findings or project approval. (See Minutes from October 8, 2008 Planning Commission Meeting, at 11.) Thus the only action the Planning Commission took was under CEQA Guidelines Section **15090**. Wal-Mart and Brownman thereafter appealed this decision only. (See October 10, 2008 letter from Sheppard Mullin; October 13, 2008 letter from Remy Thomas Moose & Manley.) In addition, the public notices for this meeting specify that the City Council will only take up the question of whether to certify the EIR. (See February 4, 2009 Public Notice at 1; October 11, 2009 Agenda at 1.) In short, as noted in the Staff Report, the project is simply not before the City Council at this time. (See March 11, 2009, Council Communication.)

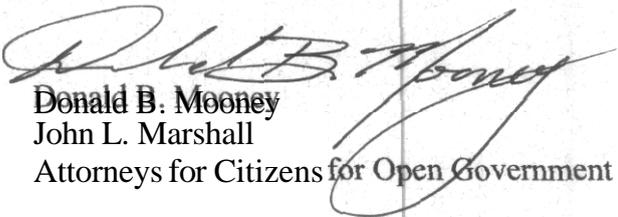
Unfortunately, the draft resolution granting the appeals goes beyond the Planning Commission's action (denial of Section **15090** certification), the scope of Wal-Mart and Brownman's appeals (seeking to reverse the denial of certification) and the City's public notice (limited to consideration of certification). The draft resolution contains project-related findings under Section **15091** and statements of overriding consideration pursuant to Section **15093**. Because the Planning Commission did not make or find that it could not make either of these sets of findings, the Wal-Mart/Brownman appeals did not address and the public notice did not include action on these issues. Indeed, under the City's own ordinances, the City Council may only "uphold, uphold in part or reverse" the decision of the Planning Commission. (Lodi Municipal Code § 17.88.060(D)(1)(b).) The draft resolution seeks to do more: adopt findings not made or considered by the Planning Commission. The City Council cannot make these inherently project related findings as the specifics of the Lodi Shopping Center project is not before the Council at this time. If the City adopts the resolution certifying the EIR as drafted, it will do so in violation of its own code, CEQA, and the Brown Act.

The draft resolution also contains other infirmities. For example, the certification portion of the resolution addresses only the "Final Revisions to the Environmental Impact Report" ("Final Revisions to the EIR") (Draft resolution at 2.) However, as recited by the draft resolution, the City decertified the entire EIR on May 3, 2006 and the Draft (at 1) and the Final Revisions to the EIR (at i) specifically note the scope of the Revision to the EIR did not include only those elements either remanded by the court or voluntarily undertaken by the City. As drafted, the City cannot rely upon the certification to make findings articulated in the resolution because the full EIR would lack Certification.

Similarly, the draft finding on global warming/GHG emissions lacks legal support. The City raised global warming concerns in the Energy section of the Draft and Final Revisions to the EIR. The Planning Commission thereafter considered the absence of a legitimate analysis as one of its basis to reject certification of the FREIR. The City cannot now say that the issue has not been fairly raised in the context of EIR before the City. Moreover, the City's ultimate reliance on a last minute Wal-Mart submitted study without subject to CEQA processes is simply contrary to law.

In conclusion, the Citizens urge the City Council to affirm the Planning Commission's sound decision to not certify the FEIR.

Sincerely,



Donald B. Mooney
John L. Marshall
Attorneys for Citizens for Open Government

Attachment 1: Memorandum dated March 11, 2009 from Jason Moody and Garrett K. Gray, Economic & Planning Systems to Donald B. Mooney and John L. Marshall.

Attachment 2: Letter from State Water Resources Control Board dated December 23, 2008 Regarding Waste Discharge Requirements and Master Reclamation Permit (City of Lodi), and attached Draft Order.

Attachment 1

MEMORANDUM

To: Donald B. Mooney and John Marshall
From: Jason Moody and Garrett K. Gray
Subject: Lodi Shopping Center Economic Impact/Urban Decay
Analysis Peer Review; EPS #17166
Date: March 11, 2009

The Economics of Land Use



This memorandum updates the key findings from a "Peer Review" conducted by Economic & Planning Systems (EPS) on the Lodi Shopping Center Economic Impact/Urban Decay Analysis prepared by Bay Area Economics (BAE) in October 2007. This update is designed to refine the original EPS conclusions in light of evolving economic conditions since 2007. It also addresses the adequacy of BAE's subsequent update in October 2008 to account for a proposed adjustment in the Lodi Shopping Center development program.

Summary of Key findings

The following summarizes key EPS findings upon reviewing the applicability of the BAE Report and subsequent updates to current economic conditions.

- 1. The original BAE Analysis suggests that the Lodi Shopping Center is likely to contribute to conditions conducive to urban decay and the subsequent BAE analyses designed to reflect programmatic changes in the project only reinforce these original findings.***

The original BAE report was submitted in October 2007 and refined to reflect the development programmatic changes in October 2008. The effect of the programmatic change increased the percentage of sales captured from existing businesses from 30 percent to 34 percent. The original EPS "Peer Review" concluded that the level of sales capture from existing businesses posited by BAE was likely to exceed the threshold needed to allow some of the more vulnerable retail tenants in Lodi to continue operations. The subsequent BAE update only reinforces this conclusion. Moreover, the BAE 2008 revision simply adjusted the anticipated new retail space without utilizing updated market analyses and data. Further, it appears

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as if the updated analysis and findings were made in the context of the circumstances occurring in 2007 and earlier, as opposed to the current conditions experienced through 2008 and projected to continue through 2009.

San Joaquin County has experienced a number of new planning efforts that since completion of the original BAE analysis include or anticipate additional retail supply at the periphery of the Lodi Trade Area. For example, Stockton market is anticipating significant retail growth as a result of several major projects, including Spanos Gateway project located on the northwest edge of the City and including about 2.7 million square feet of regional commercial flex and retail space. As these projects move forward, it will further segment the Trade Area and reduce the geographical spectrum of households that the Lodi Shopping Center and competitive establishments can realistically expect to attract. These new projects were not anticipated or accounted for in the original BAE analysis or subsequent update.

The original BAE analysis acknowledged the existence of urban decay within the Trade Area, as well as discussed the presence of a redevelopment zone where special attention would likely be required to prevent further economic decline. This dynamic will only be exacerbated by the significant amount of retail space included in the development programs of Reynolds Ranch and Lodi Shopping Center, despite qualitative anecdotes regarding product differentiation and public policy "eliminating" urban decay. The presumption of effective policy intervention was not adequately supported in the original BAE analysis and is even less tenable in light of worsening and more competitive market conditions.

2. The national economic downturn has exacerbated the conditions experienced by local retailers since the original BAE report and consequently the potential impacts of the Lodi Shopping Center are likely to be more severe than originally anticipated.

The deepening economic downturn that has spread across national and global markets has had a particularly profound on the retail sector, especially in the United States. The depth and length of this economic downturn and its impact on the retail sector were not anticipated in the original BAE analysis nor adequately addressed in the October 2008 update. Moreover, the transformative nature of the current economic conditions on the retail sector at both the local and national level warrants a fundamental change in the BAE approach to evaluating the impact of the Lodi Shopping Center project and the capacity of the Trade Area to support continued expansion in retail supply. For example, assumption regarding average consumer spending per household and potential re-tenanting opportunities for vacated properties should be revisited.

At the national level, the combination of a weakening market, reduced consumer credit, and an over-supply has resulted in bankruptcies, store closures, and consolidations among a wide range of formerly successful retail chains. Examples include Mervyn's, Sharper Image, and KB Toys (bankruptcy); Linens 'N Things, Circuit City, Office Depot, and Starbucks (closures); and CVS's acquisition of Long's Drugs (consolidation). Recent events have led many retail analysts to conclude that the United States is potentially "over-retailed," particularly when considering the amount of retail square feet per person relative to rates experienced in other European nations—41.6 square feet per person compared to approximately 10 feet per person.¹

¹ KAHR Real Estate Group Bulletin, December 2008

The most recent retail sales data shows that 2008 total retail sales dropped by 0.1 percent compared to 2007, culminating with December 2008 total sales lagging behind December 2007 total sales by 7.9 percent.² December was referred to as the "worst holiday shopping season in decades" and even the high-end retailers, like Saks and Nordstrom's, experienced below-cost sale margins despite "aggressive holiday promotions."³ In lieu of these events, the national retail landscape has been altered and future analyses should be viewed in the context of more tempered expectations.

These national trends have been particularly acute in Lodi and San Joaquin County as a whole because of an already abundant amount of retail space, above average unemployment, and relatively high foreclosure rates. A variety of sources have identified several establishments in the Lodi market that are in danger of closing, most notably multiple grocery stores near the downtown area and project site. These identified businesses are in addition to the Mervyn's and Ace Hardware stores that have already closed.

In addition, Lodi has experienced stagnant or declining taxable sales, as summarized in the table below. Specifically, in 2007, Lodi experienced only one quarter with positive retail sales growth relative to 2006. Further, total annual taxable retail sales declined from 2006 to 2007 by nearly \$30 million. Although detailed data for 2008 is unavailable, anecdotal information suggests that the retail conditions in Lodi deteriorated further in 2008, and are unlikely to recover in 2009. These deteriorating market conditions, which will have a material affect on the ability of existing Lodi businesses to withstand increased competition, were not anticipated in the original BAE analysis nor addressed in its subsequent update.

City of Lodi Taxable Retail Sales (5000's)			
	2007	2006	Difference
Year	5687,609	5716,856	-\$29,247
1st Qtr	\$167,993	\$167,203	\$790
2nd Qtr	\$177,567	\$186,850	-\$9,283
3rd Qtr	\$189,966	\$183,550	-\$13,584
4th Qtr	\$172,083	\$179,253	-\$7,170

Source: California State Board of Equalization

² J.C. Williams National Retail Bulletin, January 14, 2009

³ "After Weak Holiday Sales, Retailers Prepare for Even Worse", New York Times, January 8, 2009

3. The BAE analysis should incorporate revised population and employment data and projections to assess their impact on the current and future retail sector in San Joaquin County.

The original report was submitted in October 2007, and utilized local population and employment data through 2006. Economic conditions have changed significantly since then and require an update of key variables to reflect the actual circumstances experienced in 2007 and 2008. Specifically, the worsening economic outlook for San Joaquin County, including increased unemployment and reduced population growth, should be considered when evaluating the ability of local businesses to withstand increased competitive pressures.

Recent economic and demographic developments reveal the following broad and inter-related themes in communities throughout the San Joaquin Valley: home values have declined, population growth has leveled, household incomes have decreased, and the employment base has retracted. All of these factors will have a negative impact on retail sales by reducing total discretionary spending. This dynamic is also expected to increase the level of sales reductions that existing businesses must endure to accommodate a significant addition to the local retail stock.

Reduced employment, population and income are typically felt most in growing areas that are dependent on economic expansion to a greater degree than established areas. In this instance, the San Joaquin Valley retail sector is particularly susceptible since its survival has been linked to population-led economic development. These socio-economic trends, combined with an inordinately high level of home foreclosures in the County, are likely to have a cumulative and self-fulfilling psychological effect that will induce conservative consumer behavior, fueling further declines in retail spending. This, in turn, will make it more difficult to re-tenant vacated retail space and reduce the economic incentive for property owners to maintain their properties in anticipation of attracting viable tenants. Again, these factors and trends were not anticipated or accounted for in the original BAE analysis and subsequent update.

EPS Statement of Qualifications

The Economics of Land Use



March 11, 2009

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EPS #17166

About Economic & Planning Systems

EPS is a land economics consulting firm experienced in the full spectrum of services related to real estate

revitalize their commercial districts. EPS has been involved in all aspects of analyzing urban revitalization and redevelopment in cities and towns throughout the United States. Numerous projects have been completed for cities, redevelopment agencies, developers, and property owners involved in efforts designed to assess economic impacts of new development, particularly in distressed or transitioning areas. This work has provided a broad understanding of all issues affecting the preservation and maintenance of strong retail centers in cities. In addition, EPS has been at the forefront of urban decay analysis pursuant to recent case law and the California Environmental Quality Act (CEQA). In this capacity, EPS has provided both original analysis and peer review for major retail projects throughout northern California.

Our services in this area generally fall into three interrelated categories of analysis, as described below

Economic Impact Analysis

EPS evaluates the economic impact of a wide range of public and private sector activities, including land use projects, industry sector output, and government programs and policies. EPS's economic impact analysis generally focuses on quantifiable variables, such as regional employment, output, property values, regional dollar flow, and industry sales. However, EPS also recognized the importance of a number of qualitative issues and variables such as economic competitiveness, business or tenant diversity, and quality of life. Consequently, we often strive to provide a concise and objective analysis of these issues as well.

Urban Decay Analysis

Retail and commercial developments typically have a range of fiscal, economic, and community development impacts on localities. Many residents are interested in greater retail selection, increased competitiveness, and the conveniences provided by one-stop shopping that are typically provided by new retail projects. Municipalities are often interested in larger retail projects based on their expanded regional retail draw, reductions in existing sales leakage, and related increases in local sales tax revenues. However, the increases in larger regional retail projects have also expanded the competitive landscape, as well as increased revitalization and redevelopment pressures on existing retail areas, including not only historic downtowns, but increasingly on more mature and entrenched regional stores, districts, and shopping centers.

Fiscal Impact Analysis

EPS evaluates impact of a wide range of land use projects and resource management programs on the annual budgets of cities, counties, and other public agencies. As a basis for practical mitigation measures, our services quantify and disclose the potential local and regional fiscal implications of specific projects, cumulative development of an area, or government actions in general. EPS evaluates net fiscal impacts by forecasting local government operating costs and revenues caused by increased public-service requirements or changes in tax and fee collection. Our analysis generally relies on computer models that are informed by input from affected service providers, City staff, budget documents, and case studies from similar projects, to emulate and forecast likely fiscal impacts.

Select Project Profiles

San Ramon Urban Decay Analysis

San Ramon, California

EPS was retained by the Sunset Development Company as a subconsultant to Brandman & Associates to evaluate the economic impact of the proposed City Center Project located at the crossroads of Camino Ramon and Bollinger Canyon Road. EPS conducted a detailed analysis of the retail market demand and supply conditions within the geographic area to be served by the project. The analysis took into account future population growth as well as additional retail development expected in the market area.



The key issues addressed included how the proposed City Center project would affect the retail sector in San Ramon and related markets over both the short and long term as well as how the potential economic impacts estimated above manifest themselves in the physical environment within San Ramon and related markets. Specifically, EPS addressed the project's potential to start an economic chain reaction that could lead to physical deterioration and urban decay.

Merced Gateway Urban Decay Analysis

Merced, California

The City of Merced was seeking to understand the economic effects of a new retail center proposed for a vacant site located along California Highway 99. The primary concern was the potential for the project to result in "urban decay" by oversaturating the retail market area and capturing market share from other retail establishments in the region, including the Downtown area that the City was attempting to revitalize. EPS was retained by the project applicant to evaluate the economic effects of the proposed Merced Gateway retail center. EPS conducted a detailed analysis of the retail market supply and demand conditions within the PMAs and SMAs to be served by the project. The analysis took into account projected population and household growth, as well as additional retail developments expected to enter the market areas. To determine the degree to which the Merced Gateway retail project would impact existing commercial properties, EPS analyzed whether the market areas would be able to support retail expansion and if the proposed developments would capture retail sales from existing tenants. Finally, EPS provided essential input to the mandatory Environmental Impact Report (EIR) by evaluating the project's potential to oversaturate the retail market, leading to the physical deterioration of existing properties and urban decay in the market area.

Origone Ranch Urban Decay Analysis

Stockton, California

Developers of the Origone Ranch project in Stockton sought to assess the economic effects of a new retail center incorporated in the proposed project's master plan, pursuant to CEQA regulations. The primary concern was the potential for the project to oversaturate the retail market area and result in "urban decay". Additional concerns included the anticipated level of market share the project could potentially

capture at the expense of other retail establishments in the region, particularly the Downtown area that the City had invested considerable resources in through revitalization efforts. EPS conducted a detailed analysis of the retail market supply and demand conditions within the established Trade Area in the context of projected population and household growth, as well as additional retail developments expected to enter the market area. EPS analyzed whether the market areas would be able to support retail expansion and if the proposed developments would capture retail sales from existing tenants in order to determine the degree to which the Origone Ranch retail component would potentially impact existing commercial properties. Finally, EPS provided a necessary component of the Environmental Impact Report (EIR) by evaluating the project's potential to oversaturate the retail market, leading to the physical deterioration of existing properties and urban decay in the market area.

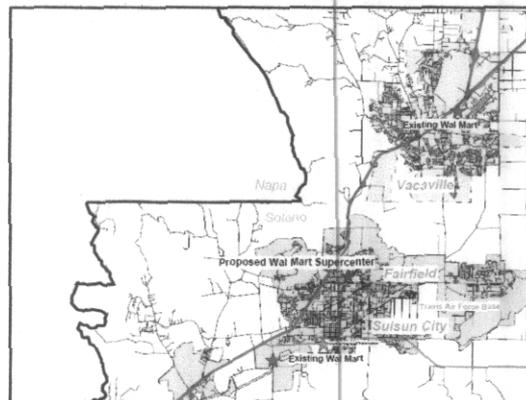
Glenwood Fiscal Analysis Scotts Valley, California

The Keenan Land Company proposed to develop between 155 and 210 high-value residential units on an approximately 400-acre site in Scotts Valley. The project, which would also include a 10-acre park, 150 acres of open space, and a high school, met with controversy because of its location on an undeveloped area in a growth-cautious community in Santa Cruz County.

EPS evaluated the impact of the proposed Glenwood development on the City's General Fund revenues and expenditures over a ten-year buildout period. The study included an evaluation of the increased costs associated with a new police officer as well as additional park and road maintenance expenditures. On the revenue site, EPS included a scenario that accounted for the potential elimination of State Motor Vehicle In-Lieu fees. EPS worked closely with City staff during the analysis to ensure concurrence on key analytical assumptions and methodology. The findings for two development alternatives were submitted to the Scotts Valley City Council.

Wal-Mart Supercenter Economic and Fiscal Impact Analysis Fairfield, California

The City of Fairfield was seeking to understand the economic affects of a new Wal-Mart Supercenter proposed for a vacant mall located along a heavily traveled commercial strip. The project was of high profile because of a recent legal ruling against a similar Wal-Mart project elsewhere in the State and the fact that a coalition of local merchants had expressed opposition to it. Of particular concern was the potential for the project to result in "urban decay" by taking market share from other retail establishments in the area including the already struggling Downtown.

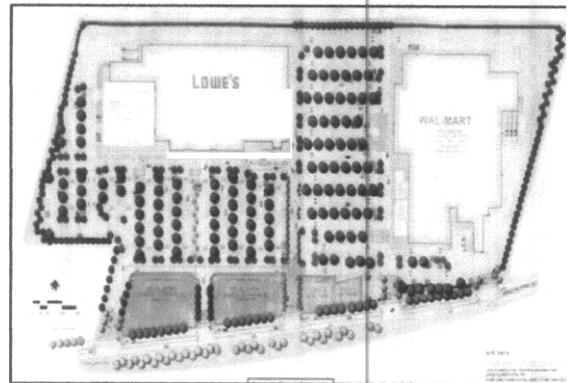


EPS was retained by the City of Fairfield to evaluate the economic impact of the proposed Wal-Mart Supercenter project. EPS conducted a detailed analysis of the retail market demand and supply conditions within the geographic area to be served by the project. The analysis took into account future population growth as well as additional retail development expected in the market area, including another Wal-Mart project proposed approximately three miles to the south in

Suisun City. A key issue evaluated was the degree to which Wal-Mart would attract new customers to the area, and thus expand the retail base, versus capture retail sales from existing tenants. EPS also evaluated the project's potential impact on the City's General Fund through changes in property or sales tax revenue and/or public service costs. Finally, EPS provided critical input to the required Environmental Impact Report by evaluating the potential for the project to lead to physical deterioration and urban decay in the market area.

Economic Impact Analysis of the Concord Wal-Mart and Lowe's Project Concord, California

The City of Concord was seeking to understand the economic and fiscal effects of a proposed Wal-Mart and Lowe's to be located in an old industrial site on the edge of town along Highway 4. The proposed development was a high-profile project because of well-organized local opposition and a recent legal ruling against a similar Wal-Mart project elsewhere in the State. Of particular concern was the potential for the project to result in "urban decay" by taking market share from other retail establishments elsewhere in the City.



EPS was retained by the City to evaluate the economic and fiscal impacts of the proposed Wal-Mart and Lowe's project as part of the preparation of an EIR. EPS conducted a detailed analysis of the retail market demand and supply conditions within the geographic area to be served by the project. The analysis took into account future population growth as well as additional retail development expected in the market area. A key issue evaluated was the degree to which Wal-Mart would attract new customers to the area, thus expanding the retail base, or would capture retail sales from existing tenants. EPS also evaluated the project's potential impact on the City's General Fund through changes in property or sales tax revenue and/or public service costs.

Auburn Home Depot Retail Market Analysis and Fiscal Impact Study Auburn, California

National home improvement retailer Home Depot has about 1,400 stores in operation and plans to open about 200 stores each year between 2002 and 2004. When Home Depot proposed building a store near the intersection of State Route 49 and Bell Road in Auburn, Placer County retained EPS to evaluate the proposed store's potential impacts.

EPS focused on two major issues: (1) the impacts a new Home Depot might have on the local retail market and (2) the effects a new Home Depot store might have on the County's fiscal condition. After defining a market area tailored to the operations of a Home Depot store in Auburn, EPS analyzed the different consumer segments for the proposed project and projected the amount of home-improvement demand that would be shifted from existing retailers to the proposed Home Depot. In addition, EPS estimated the amount of net new demand for home improvement that would be created solely by the existence of the new store. EPS translated this demand into total and net new space and employment for

the market area. EPS also analyzed how the County's fiscal revenues would be affected by the proposed store.

Fiscal and Economic Impact of Dublin IKEA Project Dublin, California

As a result of weak demand for office space in the Tri-Valley, plans for a 27.4-acre office complex in Eastern Dublin were placed on indefinite hold. Shortly thereafter, the IKEA Corporation proposed to construct a 300,000-square foot retail store on the site. In addition to the IKEA store, the company proposed to develop another 100,000 square feet or more of additional retail uses. Although the City understood that the proposed development would result in a substantial boost in valuable sales tax revenue, it wanted to understand the full range of potential fiscal and economic effects that could be induced by the proposed IKEA project before formally considering the application.



EPS was retained to prepare a comprehensive fiscal and economic impact analysis of the proposed project. For the fiscal impact analysis, EPS provided a comparative analysis of the net fiscal impact to the City of both the proposed retail project and the alternative office development. This analysis including an estimate of incremental service costs, public revenues, and a summary of the net fiscal impacts associated with each land use. For the economic impact analysis, EPS evaluated the degree to which the proposed IKEA development might impact other retail supply in the City, the desirability of Eastern Dublin as a shopping destination, and the opportunity cost of foregoing office development on the proposed site. This analysis also included an assessment of whether increased traffic could deter shopping trips, an evaluation of the possible tenants located in the "outparcels" proposed by IKEA, and an estimate of the impacts of the IKEA store on other Dublin retailers.

JASON MOODY, PRINCIPAL

A Principal at EPS Mr. Moody has worked at the firm for over 12 years. He has extensive professional experience in the areas of public finance, real estate market and financial analysis, redevelopment, and regional economics. Mr. Moody has led the firm's practice in evaluating the economic and fiscal impacts of major commercial projects.

SELECTED PROJECT MANAGEMENT EXPERIENCE

Urban Decay Analysis, Gateway Project, Merced, CA

Retained by the project proponent, EPS evaluated the potential of a major retail development in Merced to create conditions leading to "urban decay" pursuant to CEQA requirements.

Urban Decay Analysis Orlgone Ranch Specific Plan

EPS evaluated the potential for "urban decay" to result from the retail component of the Orlgone Ranch Specific Plan, a major planned residential and retail development in Stockton, California.

Urban Decay Analysis for San Ramon Civic Center Project

As part of an EIR process, EPS evaluated the potential for a major retail project in San Ramon's commercial district to result in "urban decay."

Fairfield Wal-Mart Supercenter Economic Impact Analysis

Working for the City of Fairfield, EPS evaluated the economic and fiscal impacts of a proposed Wal-Mart Supercenter, focusing on its potential to create conditions leading to "urban decay" pursuant to CEQA requirements.

Concord Wal-Mart and Lowe's Economic Impact Analysis

Working for the City of Concord, EPS evaluated the economic and fiscal impacts of a proposed Wal-Mart and Lowe's, focusing on its potential to create conditions leading to "urban decay" pursuant to CEQA requirements.

Economic / Fiscal Analysis of Palm Springs Growth Ordinance

The City of Palm Springs retained EPS to evaluate the economic and fiscal implications of a proposed growth control initiative to limit urban expansion.

EDUCATION

Master of Public Policy,
University of California.
Berkeley, 1995.

Bachelor of Arts In
Economics, University of
Santa Cruz, 1988.

PROFESSORIAL EMPLOYMENT

Budget Analyst for City
of San Francisco (1995)

Business Analyst, Port
Authority of New
York/New Jersey (1994)

Research Analyst, Fisher
Center for Real Estate
and Urban Economics
(1993 - 1994)

Federal Government
Reporter, States News
Service, Washington, DC
(1989 - 1992)

AFFILIATIONS

San Francisco Planning
and Urban Research
Association

Council for Urban
Economic Development

City of Oakland
Economic Advisory Panel

The Economics of Land Use



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GARRETT K. GRAY, ASSOCIATE

Mr. Gray joined Economic & Planning Systems (EPS) in 2007 as an Associate Consultant following two years as an associate with ESI Corp, a multi-disciplinary real estate and economic development consulting firm in Phoenix, AZ. He has earned a masters degree, and has experience in urban decay, commercial, residential, retail, and workforce analysis; strategic economic development plans; and municipal operations.

SELECTED PROJECT MANAGEMENT EXPERIENCE

Urban Decay Analysis, Gateway Project, Merced, CA

Retained by the project proponent, EPS evaluated the potential of a major retail development in Merced to create conditions leading to "urban decay" pursuant to CEQA requirements.

Urban Decay Analysts Origone Ranch Specific Plan, Stockton, CA

EPS evaluated the potential for "urban decay" to result from the retail component of the Origone Ranch Specific Plan, a major planned residential and retail development in Stockton, California.

UC Village Development Feasibility Analysis, Merced, CA

EPS provided an evaluation of development proposals for mixed-use development on a proximal site to the expanding UC Merced campus. This analysis includes conceptual cash-flow models and construction pro formas based on multiple development scenarios.

Phoenix Northwest Corridor Market Study, Phoenix, AZ

EPS provided an evaluation of the potential for development within the proposed light rail station areas as requested by Valley Metro Transit and the City of Phoenix. This analysis required the identification of residential, retail, and office space and the respective values of these uses within the study area; potential development opportunity sites; and the creation of development pro formas to determine the feasibility of multiple development scenarios.

TOD Potential for Downtown Mesa Transit Alignment Alternatives, Mesa, AZ

EPS provided an analysis of transit oriented development potential associated with multiple proposed routes through Downtown Mesa. This required the identification of opportunity sites, potential uses, and projected net square feet by use throughout the downtown area. Further, graphical representations of the opportunity sites by use and the proximity to proposed station areas were provided, as well as a detailed analysis outlining the development potential for each station area within each proposed route.

Fort Bragg Development Impact Fee Study, Fort Bragg, CA

EPS analyzed the current capital and infrastructure costs identified by the City, and with assistance from city staff, created a cost allocation scenario that identified proportional development impact costs based on estimated usage by current and future residents and employees.

EDUCATION

Master of Public Administration.
University of Arizona.
Tucson, AZ, 2005

Bachelor of Science, Political Science,
Arizona State University,
Tempe, AZ, 2002

PREVIOUS EMPLOYMENT

Associate, ESI Corp,
Phoenix, AZ (2005-2007)

Intern, Sausalito City Manager's Office, Administration Department, Sausalito, CA (2004)

Intern, Mayor Walkup's Office, Tucson, AZ, (2002)

The Economics of Land Use



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Attachment 2



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Office of Chief Counsel

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Arnold Schwarzenegger
Governor

December 23 2008

CERTIFIED MAIL

Mr Bill Jennings
Executive Director
California Sportfishing Protection Alliance
3536 Rainier Avenue
Stockton, CA 95204
deltakeep@aol.com

Dear Mr Jennings

OWN MOTION REVIEW OF WASTE DISCHARGE REQUIREMENTS AND MASTER
RECLAMATION PERMIT (CITY OF LODI). CENTRAL VALLEY REGION:
BOARD MEETING NOTIFICATION
SWRCB/OCC FILE A-1886

Enclosed is a copy of the proposed order in the aboveentitled matter. The State Water Resources Control Board (State Water Board) will consider this order at its meeting that will be held on *Tuesday, February 3, 2009* commencing at **10:00 a.m.** in the Coastal Hearing Room, Second Floor of the Cal/EPA Building, 1001 I Street, Sacramento, California. You will separately receive an agenda for this meeting.

At the meeting, interested persons will be allowed to comment orally on the draft order, subject to the following time limits. The petitioner, **California** Sportfishing Protection Alliance, discharger, City of Lodi, and the Central Valley Regional Water Quality Control Board will each be allowed five minutes for oral comment, with additional time for questions by the State Water Board members. Other interested persons will be allotted a lesser amount of time to address the State Water Board. At the meeting, the State Water Board may adopt the **draft** order as written or with revisions, it may decide not to adopt the order, or it may continue consideration until a later meeting.

All comments shall be based solely upon evidence contained in the record or upon legal argument. Supplemental evidence will not be permitted except under the limited circumstances described in California Code of Regulations, title 23, section 2050.6. Written comments on the draft order and any other materials to be presented ~~at~~ the meeting, including power point and other visual displays, must be received by **12:00 noon, January 23, 2009**. Please indicate in the subject line, comments to A-1886—February 3, 2009 Board Meeting. Those comments must be addressed to

California Environmental Protection Agency



Mr. Bill Jennings

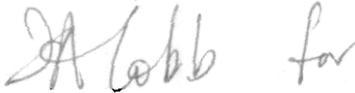
- 2 -

December 23, 2008

Ms. Jeanine Townsend
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If there are any questions or comments, please contact Sheila K. Vassey, Senior Staff Counsel,
in the Office of Chief Counsel, at (916) 341-5273 or email svassey@waterboards.ca.gov

Sincerely



Michael A.M. Lauffer
Chief Counsel

Enclosure

cc: See next page

California Environmental Protection Agency



Mr. Bill Jennings

- 3 -

December 23, 2008

cc All **w/enclosure** and **w/o** ip list

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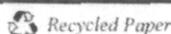
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California Environmental Protection Agency



DRAFT

December 23, 2008

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WQ 2009-

In the Matter of Own Motion Review of

**CITY OF LODI WASTE DISCHARGE REQUIREMENTS AND MASTER RECLAMATION
PERMIT (ORDER NO. R5-2007-0113 [NPDES NO. CA0079243])**

Issued by the
California Regional Water Quality Control Board,
Central Valley Region

SWRCB/OCC FILE A-f886

BY THE BOARD:

In this order, the State Water Resources Control Board (State Water Board or Board) reviews on its own motion waste discharge requirements for the City of Lodi's White Slough Water Pollution Control Facility. Our review focuses primarily on whether the requirements are consistent with State Water Board regulations governing waste disposal to land. These regulations are contained in title 27 of the California Code of Regulations (Title 27). The Board concludes that the requirements are not consistent with Title 27 and remands the requirements to the Central Valley Regional Water Quality Control Board (Central Valley Water Board) for appropriate revisions. In addition, the Board remands the requirements to the Central Valley Water Board to revise a requirement governing wintertime irrigation and to include a narrative limitation for chronic toxicity.

I. BACKGROUND

A. White Slough Facility

The White Slough Water Pollution Control Facility (White Slough Facility or Facility) is located in San Joaquin County, southwest of the City of Lodi, along the west side of Interstate 5. Adjacent land use is primarily agricultural, with large dairy operations to the north and northeast and irrigated farmland to the east and south. To the west of the Facility are Delta waterways and farmlands.

The City disposes of treated municipal effluent from the Facility through both a surface water discharge and land application. In addition, the Facility provides recycled water year-round to the Northern California Power Agency and San Joaquin County Vector Control District. During the winter months, the Facility provides tertiary treatment and disinfection for the effluent, which is discharged to Dredger Cut, a dead-end slough within the Sacramento-San Joaquin Delta. During the remainder of the year, from mid-April through mid-October, the City disposes of effluent through land application.

The land application facilities consist of 49 acres of unlined ponds, comprised of four storage ponds and three equalization basins, and about 790 acres of agricultural fields adjacent to the Facility. The storage ponds cover 40 acres. The City disposes of a mixture of waste streams through land application, including municipal effluent, industrial wastewater, biosolids, and storm water. Municipal effluent that will be discharged to the agricultural fields is treated to undisinfected secondary standards and pumped to the equalization basins. From there, it is either first placed in the storage ponds or applied directly to the agricultural fields for irrigation use. The agricultural fields are used to grow fodder and feed crops, which are not used for direct human consumption.

In addition to the secondary-treated municipal wastewater, the City discharges untreated industrial wastewater through land application. The City maintains a separate industrial wastewater line, which, unlike the municipal influent line, does not deliver wastewater to the White Slough Facility. Rather, during the irrigation season, untreated industrial wastewater is blended with the secondary-treated flows in the storage ponds and discharged to the agricultural fields. In the winter, the industrial waste stream is directed to the storage ponds.

The industrial line receives food processing wastewater, metal finishing wastes, cooling water, stormwater from industrial areas, and runoff and stormwater flows from agricultural areas. During the summer months, about 90 percent of the industrial flow consists of food processing wastewater, seven percent is from metal finishers, and approximately one percent is winery waste.

Biosolids are treated by anaerobic digestion and stored at the White Slough Facility in a lined biosolids stabilization lagoon. Fluids decanted from the lagoon, the biosolids supernatant, are stored in the Facility's storage ponds. During the summer months, a biosolids

slurry is created by blending sludge with wastewater in the storage ponds, and the slurry is applied by flood irrigation to 225 acres of the agricultural fields.

The City has been upgrading the White Slough Facility to improve treatment. The latest improvements expanded the Facility's daily average flow capacity from 7 to 8.5 million gallons per day (mgd) and added tertiary filtration and ultraviolet disinfection. The final improvements are scheduled to be fully implemented in 2009. They include modification to the aeration process to improve nitrification and denitrification, redirecting the biosolids supernatant from the onsite ponds to the domestic treatment train, and repairing the leaking municipal influent line.

B. Order No. R5-2007-0113

On September 14, 2007, the Central Valley Water Board reissued waste discharge requirements and a master reclamation permit for the City's White Slough Facility in Order No. R5-2007-0113. The requirements also serve as a National Pollutant Discharge Elimination System (NPDES) permit. Order No. R5-2007-0113 regulates the City's land disposal activities principally through land discharge specifications, groundwater limitations, and special study requirements. The land discharge specifications require that the:

- hydraulic loading to any individual agricultural field be at reasonable agronomic rates designed to minimize percolation of wastewater constituents below the evaporative and root zone;
- total nitrogen loading to any field not exceed the agronomic rate for the plant available nitrogen for the type of crop to be grown;
- biochemical oxygen demand (BOD) loading to the agricultural fields not exceed specified rates;
- wastewater applied to the fields not exceed specified cumulative metals loading limits; and
- secondary effluent discharged to the onsite ponds meet maximum daily and monthly average effluent limits for BOD and settleable solids.¹

The groundwater limitations prohibit waste releases from any portion of the Facility, including the agricultural fields, from causing concentrations of fourteen waste constituents in groundwater to exceed specified limits or natural background quality, whichever

¹ Order No. R5-2007-0113, Land Discharge Specifications IV.B. 1 through B.5.

is greater.' Those constituents include total dissolved solids (TDS), boron, chloride, nitrogen, nitrates, and ammonia. The limitations, however, do not become effective until the City characterizes natural background groundwater quality, after at least two years of monitoring, in a technical report that must be submitted to the Central Valley Water Board by August 1, 2010.³ If the groundwater monitoring indicates that waste releases to groundwater have caused or threaten to cause increases in background concentrations, the City must submit a workplan for a technical evaluation of each Facility component to determine best practicable treatment or control for each waste constituent of concern. Any necessary Facility modifications must be completed no later than four years after the Central Valley Water Board Executive Officer's determination that the technical evaluation is adequate, unless the Executive Officer approves a longer schedule.

In addition to the groundwater study, Order No. R5-2007-0113 directs the City to conduct a study to characterize the wastewater influent collected by its industrial line.⁴ The study's goal is to isolate and identify the primary, unique components of the industrial influent. Once a workplan is submitted and approved, the City must complete the study within two years after the study is commenced.

C. Basin Plan

The water quality control plan for the Sacramento and San Joaquin River Basins (Basin Plan)⁵ provides the basis for many of the requirements in Order No. R5-2007-0113. The Basin Plan designates the beneficial uses for groundwater underlying the Facility, which include municipal and domestic supply, agricultural supply and stock watering, and industrial process water and service supply.⁶ Water quality objectives to protect the uses include narrative objectives for chemical constituents, taste and odors, and toxicity. In addition, groundwater designated for domestic and municipal supply must, at a minimum, meet specific numeric objectives for chemical constituents, including maximum contaminant levels and secondary maximum contaminant levels contained in title 22 of the California Code of Regulations

² *Id.* Receiving Water Limitations, V.B.1.C.

³ *Ibid.* Provisions VI, C.2.d.

⁴ *Id.* Provisions VI.C.2.c

⁵ Fourth Edition (1998).

⁶ Basin Plan at II-3.00.

D. Title 27

Id. at III-9.00 through 1000.

^R *Id.* at III-9.00

^G Basin Plan at IV-8.00 & appen. A.2.

¹⁰ Cal. Code Regs., tit. 27, § 20080(a)

¹¹ See *id.* § 20210

expected to affect beneficial uses of state waters.¹² The wastes discharged by the City to land at the Facility fall into this category.

Title 27 conditionally exempts certain activities from its provisions. To qualify for an exemption, the activity must meet, and continue to meet, specified preconditions. Title 27 contains three conditional exemptions that are relevant to the City's land application activities. These include exemptions for domestic sewage, wastewater, and soil amendments. Title 27, at section 20090, exempts these activities "so long as the activity meets, and continues to meet, all preconditions listed:

(a) Sewage – Discharges of domestic sewage or treated effluent which are regulated by [waste discharge requirements] . . . , or for which [waste discharge requirements] have been waived, and which are consistent with applicable water quality objectives, and treatment or storage facilities associated with municipal wastewater treatment plants, provided that residual sludges or solid waste from wastewater treatment facilities shall be discharged only in accordance with [Title 27].

(b) Wastewater – Discharges of wastewater to land, including but not limited to evaporation ponds, percolation ponds, or subsurface leachfields if the following conditions are met:

(1) the applicable [regional water quality control board] has issued [waste discharge requirements], or waived such issuance:

(2) the discharge is in compliance with the applicable water quality control plan; and

(3) the wastewater does not need to be managed. . . as a hazardous waste.

(f) Soil Amendments – use of nonhazardous decomposable waste as a soil amendment pursuant to applicable best management practices, provided that [regional water quality control boards] may issue waste discharge or reclamation requirements for such use. (Emphasis added.)

¹² See Water Code § 13173 'Designated wastes' also include hazardous wastes that have been granted a variance from hazardous waste management requirements pursuant to Health and Safety Code § 25143

The Central Valley Water Board found that the City's land disposal activities were exempt from Title 27 under section 20900(a).¹³ The Central Valley Water Board included within the scope of the exemption the discharge of municipal sewage and the other waste streams to the agricultural fields and to the storage ponds.

E. California Sportfishing Protection Alliance Petition

II. ISSUES AND FINDINGS

A. Title 27

27.

Discussion: The Board agrees with this assertion. Order No. R5-2007-0113 does not contain the necessary findings that the City's land disposal activities meet all of the preconditions for an exemption under Title 27. In particular, the order does not contain findings, nor is there evidence in the record supporting the conclusion that, the City's land disposal operations are consistent with the applicable water quality objectives in the Basin Plan. The monitoring that has been performed to date is inadequate to demonstrate compliance. Further, the limited evidence that is in the record indicates that, at a minimum, discharges from the unlined storage ponds at the Facility have released waste constituents to groundwater at concentrations that exceed applicable water quality objectives.

In the following discussion, the Board first addresses which Title 27 exemption could most appropriately apply to the City's land disposal activities. The Board then analyzes

¹³ Order No R5-2007-0113 appen F at F-56

¹⁴ Issues raised by CALSPA that are not discussed in this order are hereby dismissed as not substantial of appropriate for State Water Board review. See *People v Barry* (1987) 194 Cal App 3d 158, 175 | i 7. *Johnson v State Water Resources Control Board* (2004) 123 Cal App 4th 1107. Cal Code Regs . tit 23 § 2052 subd (a)(1 i

the Central Valley Water Board's findings regarding an exemption. Third, the Board addresses the sufficiency of the evidence to demonstrate compliance with the preconditions for an exemption. Finally, the Board addresses additional CALSPA contentions regarding Title 27.

1. Applicable Exemption

The Central Valley Water Board found that section 20090(a) applied to all of the City's waste disposal activities. This exemption covers sewage, defined as discharges of domestic sewage or treated effluent and treatment and storage facilities associated with municipal treatment plants. The exemption excludes residual sludges or solid waste, which are subject to Title 27. Because of the exclusion, CALSPA contends that section 20090(a) does not exempt the City from complying with Title 27 with respect to the biosolids slurry. The City contends that the discharge of secondary effluent is properly covered under section 20090(a) and that the discharge of industrial wastewater is subject to the exemption under section 20090(b) for wastewater. The City also asserts that the discharge of both the biosolids slurry and the biosolids supernatant are exempt from Title 27 --as soil amendments-- under section 20090(f).

The preconditions for an exemption for sewage under subsection (a) and wastewater under subsection (b) are similar. Nevertheless, the Board finds that the most appropriate exemption for the wastewater mixture that is seasonally applied to the agricultural fields and stored in the onsite ponds is subsection (b). This exemption covers wastewater that is discharged to land, including to evaporation or percolation ponds. The sewage exemption is not applicable because the City discharges a wastewater mixture to the ponds and to the agricultural fields, which includes not only treated sewage but also wastes that do not go through the municipal treatment plant. As stated previously, the wastewater mixture applied to the fields and discharged to the ponds includes, at various times, secondary effluent, untreated industrial wastewater, a biosolids slurry, stormwater and runoff, and biosolids supernatant.

CALSPA correctly asserts that the sewage exemption in Title 27 does not include residual sludges. However, residual sludges may be discharged in compliance with Title 27 if the sludges are discharged in accordance with any other applicable exemption under section 20090, such as the wastewater exemption. In this case, the Board concludes that the wastewater exemption is more appropriate than the soil amendment exemption. The biosolids slurry and supernatant are applied to land as part of a wastewater mixture, as noted previously.

In addition, the soil amendment exemption applies to decomposable wastes¹⁵ and the wastewater mixture applied to land includes waste components that are likely not decomposable, such as metal finishing wastes and a considerable amount of non-nutritive salts.

Based on the foregoing discussion, the Board concludes that it is the wastewater, rather than the sewage, exemption that could apply to the discharge. The Board will, therefore, consider whether the findings in Order No. R5-2007-0113 and the evidence in the record support the conclusion that the City's land disposal activities meet the preconditions for the wastewater exemption. The Central Valley Water Board has issued waste discharge requirements for the City's land disposal activities and the discharges do not appear to be hazardous. Consequently, the Board will focus its analysis on whether the findings and the evidence indicate that the City's land disposal activities comply with the remaining precondition under section 20090(b) that "the discharge is in compliance with the [Basin Plan]." The City bears the burden of proof on this issue. The City must demonstrate, with appropriate data, that its land disposal activities comply with the Basin Plan.

2. Findings

The Central Valley Water Board concluded that the City's land disposal activities were exempt under the sewage exemption in Title 27, but did not explicitly find that the City's discharge currently complies with the Basin Plan. Instead, the record reflects that the Central Valley Water Board stated that additional information on groundwater quality and discharge characterization was necessary to assess whether the City's discharge complies with the Basin Plan. Without this information, however, the Central Valley Water Board could not legally make the necessary finding that the City's land disposal activities meet the precondition for an exemption. Both the sewage and wastewater exemptions presuppose a monitoring program that is adequate to demonstrate compliance with the precondition. Both Title 27 and the Facility have been in place many years; it is reasonable to conclude that the City should, by now, be able to prove its compliance with the exemption criteria.

As discussed above, the Basin Plan contains narrative and numeric groundwater objectives for waste constituents that apply to the City's activities, unless "naturally occurring

¹⁵ "Decomposable wastes" are wastes "which, under suitable natural conditions, can be transformed through biological and chemical processes into compounds that do not impair the quality of wastes of the state" (Cal Code Regs. tit. 27, § 20164)

background concentrations" exceed the objectives. In the latter case, the higher, naturally occurring background values serve as the objectives. At a minimum, therefore, natural background groundwater quality must first be established, through an appropriate monitoring program, for those constituents that can be expected to be present naturally in groundwater. These constituents include, for example, electrical conductivity (EC), sodium, and chloride. This information is essential in order to define the applicable water quality objectives for the City's discharge. To date, this has not occurred. Although the City has apparently been conducting groundwater monitoring since 1989, the City and the Central Valley Water Board agree that background groundwater quality has not yet been adequately characterized. Hence, the City's compliance with the Basin Plan cannot be determined.

Likewise, prior monitoring has been inadequate to characterize the wastes discharged to the unlined ponds and agricultural fields at the Facility and to assess potential groundwater impacts. The sampling program for the ponds has focused primarily on nitrogen compounds, EC, and TDS, which are the three constituents most difficult to distinguish from the historic legacy of other discharges in the area. There may be many other wastewater constituents of concern that are percolating through the bottom of the ponds to groundwater, such as volatile organic compounds or certain metals, that have not been addressed. In this regard, the Board notes that the City's analytical monitoring results from June 2000 through August 2006 indicate that there are no data for the great majority of pollutants with maximum contaminant levels identified in the Title 22 regulations."

The Central Valley Water Board has taken steps to address this lack of data by imposing expanded monitoring requirements in Order No. R5-2007-0113. For example, the Central Valley Water Board required additional monitoring of wastewater in the storage ponds to assess degradation in the underlying groundwater and "to derive appropriate numerical groundwater quality objectives for the Facility that are consistent with the Basin Plan."¹⁷ Likewise, the Central Valley Water Board required the City to conduct an industrial influent characterization study to "determine the potential impacts of the untreated waste on the underlying groundwater quality."¹⁸ The Board notes, however, that the City is required to monitor the pond wastewater, the wastewater mixture applied to the agricultural fields, and the

¹⁶ Central Valley Water Board Administrative Record (AR), vol. 2, item 32, att. F, Table F-14 at pp. F-61 through F-63

¹⁷ Order No. R5-2007-0113an. F at p. F-65

¹⁸ *Id.* at F-72.

groundwater itself for priority pollutants, other than certain metals, only once during the permit term." One sampling event is unlikely to provide sufficient data to assess the potential impacts of discharging priority pollutants on groundwater. In any event, the lack of data in the current record leads to the conclusion that an exemption from Title 27 is not justified at the present time.

3. Evidence in the Record on Basin Plan Compliance

In the area near the White Slough Facility, the regional groundwater flow direction appears to be from the Delta waterways in the west toward a large groundwater depression to the south and east. The current regional flow regime is profoundly influenced by intensive groundwater withdrawals in an area bounded by Highway 99 on the west and the foothills to the east and by Highway 12 to the north and the city of Stockton to the south. The deep groundwater depression caused by pumping draws groundwater toward it from all directions. At the center of this depression, the local water table elevation is as much as 70 feet below the nearly sea level elevation of the Delta's waterways. In the area just to the east of the White Slough Facility, the local expression of this regional groundwater flow regime results in eastward flow. The groundwater level in the Delta area to the west is lowered in some areas by agricultural well pumping, but that effect tends to be localized due to the continual groundwater recharge by the Delta's surface water channels.

The land surface elevations on the City's property range from about 0 to 5 feet above mean sea level near the western edge of the property to about 10 feet above mean sea level near the eastern edge. Groundwater underlying the Facility is very shallow, ranging from the ground surface near the western edge of the property to more than 20 feet below mean sea level near the eastern edge of the property. Groundwater elevations in the immediate vicinity of the treatment plant change little throughout the year, ranging from 1 to 2 feet below mean sea level in the spring to about 2 to 4 feet below mean sea level in the fall.

Evidence in the record indicates that there is a persistent, slight groundwater mound underlying the Facility, which influences the groundwater gradient and flow direction within the City's property.²⁰ While groundwater from the mound does flow to the east, in

Id. at E. VI.A., VII.B., VIII.B.

²⁰ See, e.g., City of Lodi White Slough Water Pollution Control Facility Groundwater Monitoring Status Report (June 2003). Central Valley Water Board AR, vol. 12, item 412.

An additional concern is that the thickness of the soil between the pond bottoms

of Pond 1 and groundwater has been as little as 2.3 feet, and Pond 4 has been inundated by nearly a foot.

A review of quarterly nitrate concentration and groundwater table elevation maps, matched by date, in the City's 2003 Groundwater Monitoring Status Report indicates that onsite nitrate concentrations remain highest in the pond area, an area near the center of the mound.²³ The four closest groundwater monitoring wells to the storage ponds are WSM2, WSM3, WSM4, and WSM8. Because of the persistent groundwater mound underlying the Facility in the storage pond area, these wells are assumed to be hydraulically downgradient of the ponds for most, if not all, of the year. Between August 2001 and November 2005, all four wells exhibited median nitrate concentrations over 11 milligrams per liter (mg/L) as N.²⁴ The applicable groundwater objective for nitrate is the maximum contaminant level of 10 mg/L as N. Three of the wells had peak concentrations, during this period, of over 36 mg/L, more than three times the maximum contaminant level for nitrate as N.²⁵ This result would not be expected if the nitrate source were off-site. Groundwater in the area to the north of the Facility appears to flow in an easterly or northeasterly direction, making it unlikely that higher nitrate concentrations to the north of the Facility are responsible for the high onsite nitrate concentrations in the pond area.

Peak EC concentrations are also present within the area of the mound. The highest median value was found in WSM-2, located near the onsite ponds.²⁶ The value was 1,750 micromhos per centimeter ($\mu\text{mhos/cm}$). In contrast, the secondary maximum contaminant level and the agricultural water quality goal are 900 and 700 $\mu\text{mhos/cm}$, respectively. On the other hand, the City contends that the elevated EC levels may be due to regional groundwater conditions, which have been influenced by the predevelopment intrusion of brackish to saline water in the Delta region.

There is little information in the record on concentrations of wastewater constituents in the storage ponds. Limited data indicates that TDS and EC values in the pond exceed water quality objectives for groundwater during much of the year. Nitrate concentrations as N, on the other hand, have been relatively low. From 2002 to 2004, average

²³ Fn 19, *supra*, appendices A & C.

²⁴ Final Report, fn 20, *supra*, Figure 5-10.

²⁵ *Ibid*.

²⁶ *Id* at pp. 5-14.

monthly nitrate concentrations in the storage ponds varied from roughly 1 to 7 mg/L as N. On the other hand, ammonia concentrations in the ponds are relatively high, and the City has indicated that transformation of ammonia to nitrate in the storage ponds and subsurface may be occurring.²⁷ Leakage of wastewater from the ponds along with subsequent nitrification could lead to nitrate concentrations in groundwater well above the maximum contaminant level.

Based on the available evidence in the record, the Board concludes that at least some of the Facility's activities have adversely affected groundwater underlying the site. The groundwater mounding provides physical evidence of a release from the Facility. Groundwater monitoring data from wells downgradient from the unlined ponds show nitrate and EC levels that exceed the applicable Basin Plan objectives. Although it is unclear whether the pre-discharge EC values in the groundwater underlying the Facility were elevated, it is clear that the EC concentrations currently existing within the downward-and-outward flowing groundwater mound could only have been caused by the ongoing downward percolation of wastewater discharged within the Facility. The Board concludes that wastewater releases from the unlined storage ponds have resulted in nitrate and EC concentrations above the applicable Basin Plan objectives in the underlying groundwater. Therefore, the City's discharge of wastewater to the unlined ponds does not qualify for an exemption from Title 27 at the present time.

As explained previously, there is insufficient evidence in the record to assess whether naturally occurring concentrations of some constituents, such as EC, in groundwater underlying the Facility exceed the applicable Basin Plan objectives. The Board notes that the mound exerts such a strong influence on the underlying groundwater that it makes a determination of "naturally occurring" background concentrations extremely difficult. The mound, which is composed of wastewater draining from the surface, induces flow down and away from the Facility. Because the mound interferes with groundwater flow across the site, it is difficult at this time to determine what upgradient, or background, conditions might be. In any event, the City bears the burden of demonstrating that its discharge complies with the Basin Plan, and, in particular, that the discharge meets Basin Plan objectives or naturally occurring concentrations, whichever values are higher.

²⁷ *Id.* at pp 6-11; Water Pollution Control Facility Report of Waste Discharge (July 28, 2004), p. 4, Central Valley Water Board AR, vol. 4, item 128

4. Additional Contentions

a. Disposal of Biosolids

During the summer months, the City mixes a biosolids slurry with storage pond wastewater and industrial wastewater and applies this mixture by flood irrigation to the agricultural fields. The solids content of the slurry is between approximately 2 and 4 percent. CALSPA contends that land application of the biosolids wastewater mixture is not exempt from Title 27 because the bulk concentrations of waste constituents in the sludge in units of milligrams per kilogram (mg/kg) violate water quality objectives. In addition, CALSPA asserts that the wastewater mixture, when applied to the agricultural fields, will result in groundwater degradation, due to the very shallow groundwater depths at the site.

The evidence in the record is insufficient to determine whether the field application of the biosolids wastewater mixture complies with the Basin Plan. As the Board concluded above, the monitoring that has been done to date at the Facility has been inadequate to demonstrate that the City's land disposal activities comply with the Basin Plan. In addition, it is infeasible to isolate and assess the water quality impacts of applying this wastewater mixture to land due to the masking effects of the nitrogen-rich and salt-rich groundwater mound underlying the facility unless other waste constituents are tested.

The bulk content of waste constituents in the sludge is not relevant. The bulk concentrations do not indicate what the resulting concentrations will be once the slurry is diluted in the wastewater mixture and applied to the fields. The City's monitoring of the biosolids wastewater mixture applied to the fields for priority pollutants indicates that metals are not a concern. While the bulk concentrations of coliform and nitrogen are high, it is not clear what coliform values or nitrogen concentrations would be mobilized for these constituents once the biosolids are diluted with wastewater and applied to the fields.

In the onsite fields surrounding the ponds, the distance to groundwater from the land surface is between 2 and 14 feet, and this short distance to groundwater may be a critical factor in assessing whether the field application of wastewater causes adverse water quality impacts. The distance to groundwater is also a concern in those portions of the fields initially receiving furrow or flood-irrigation of the wastewater mix. Each initial application area at the

head end of a field has a considerably longer time period for the downward movement of wastewater to occur than at the other end of the field. An additional concern related to the land application of the biosolids wastewater mixture is that, except for nitrogen compounds and potassium, the majority of the TDS is non-nutritive. Because plants do not have a significant uptake of these salts, they tend to move unchanged down to groundwater.

b Industrial Wastewater

CALSPA contends that the industrial waste stream does not qualify for a Title 27 exemption because the cannery wastewater exceeds water quality objectives for nitrogen and EC. Further, the other waste generators are capable of producing wastewater containing metals and other hazardous constituents.

There is insufficient evidence in the record to assess this contention. The EC and TDS values for the industrial waste stream generated during the canning season often do exceed water quality objectives. The food processing wastewater also contributes significant nitrogen loading. The salts in this waste stream are of particular concern, as discussed above, because the majority of the salts are expected to move directly to groundwater. However, the waste stream is mixed with other liquid wastes before it is applied to the agricultural fields. Therefore, the focus must be on the wastewater mixture that is applied to the fields, and our conclusions on the potential water quality impacts of the land application of the biosolids wastewater mixture apply as well here.

There are limited data in the record on the quality of the other industrial waste streams discharged by the City. In 2000, the Central Valley Water Board required the City to investigate whether three metal finishers were discharging hazardous waste to the industrial influent line. Based on data collected between 1997 and 1999, the Central Valley Water Board determined that the constituents in all samples did not exceed the hazardous waste levels specified in the Title 22 regulations; however, the investigation was limited to metals and fluoride.²⁸ The record does not contain data for all users nor for all pollutants, such as organic pollutants, that could be present in the wastewater. The Central Valley Water Board has addressed this issue by requiring the City to submit an industrial influent characterization study.

²⁸ See letter from Del Kerlin, Assistant Wastewater Treatment Superintendent, City of Lodi, to Robert Fagerness, Central Valley Water Board (Feb. 8, 2001), Central Valley Water Board AR, vol. 5, item 183.

c. Secondary Wastewater

Additionally, CALSPA contends that it is not appropriate to exempt the secondary treated wastewater from Title 27 because this waste stream has not been adequately characterized. CALSPA asserts that secondary effluent can be expected to have more contaminants and at higher concentrations than tertiary-treated effluent.

CALPSA's concern has merit. The secondary waste stream is stored in the onsite ponds and applied to the agricultural fields at the Facility. As explained previously, there is very little monitoring information on the wastewater in the ponds, other than for nitrogen and salts. Order No. R5-2007-0113 contains only two effluent limitations, for BOD and suspended solids, that apply to the discharge of secondary effluent to the onsite ponds. The Central Valley Water Board has recognized the need to better characterize wastewater in the ponds and has required additional pond monitoring. To the extent that secondary effluent is mixed with industrial wastewater and the biosolids slurry and applied to the agricultural fields, the conclusions on the wastewater mixture discussed above apply here as well.

5. Action on Remand

The Board has concluded that the monitoring performed to date at the White Slough Facility is inadequate to show that the City's land disposal activities comply with preconditions for an exemption from Title 27. In addition, evidence in the record indicates that the releases of wastewater from the onsite storage ponds have caused the underlying groundwater to exceed the applicable Basin Plan nitrate and EC objectives. Therefore, the findings in Order No. R5-2007-0113 must be revised, on remand, to reflect that the City's land disposal activities do not currently meet the criteria for an exemption. Until the City's demonstrates compliance, the Central Valley Water Board can regulate the City's land disposal activities under an appropriate enforcement order, such as a time schedule order, or under an appropriate time schedule included in Order No. R5-2007-0113.²⁹

To demonstrate compliance with the exemptions from Title 27, the City must develop an appropriate monitoring program that adequately characterizes groundwater quality and the wastewater applied to land and that is capable of demonstrating that the land application of wastewater complies with the Basin Plan. The Board notes that Order

²⁹ See Wat Code §§ 13263(c), 13300

No. R5-2007-0113 contains expanded monitoring requirements that may address this deficiency, although, as noted previously, the monitoring frequency for priority pollutants in the groundwater, pond wastewater, and wastewater used for agricultural irrigation is probably inadequate to meaningfully assess groundwater impacts.

The City has several options to address the waste releases from the storage ponds to ensure consistency with Title 27. The City can line the ponds to prevent waste releases to groundwater. Alternatively, the City can improve the quality of wastewater discharged to the ponds in order to ensure that waste releases comply with Basin Plan groundwater objectives. As stated previously, the City is proposing repairs and operational improvements to the Facility that could significantly reduce nitrogen concentrations in the wastewater effluent. These include redirection of the biosolids lagoon supernatant, repair of the leaking municipal influent pipe, and improvements to enhance nitrification and denitrification. Done properly, the expanded monitoring program may be able to assess whether these changes are successful. Operational and design improvements to the onsite ponds can also be evaluated to address groundwater quality impacts. The City should consider enhanced pretreatment requirements for its industrial dischargers. In addition, the City can improve the treatment of the municipal effluent applied to land beyond secondary standards.

With respect to salt management, the Board notes that Order No. R5-2007-0113 requires the City to prepare a salinity evaluation and minimization plan to address salt sources and to provide annual progress reports on salinity reductions in its discharges to Dredger Cut and the agricultural fields.³⁰ Experience shows that sources of salt in municipal wastewater can be managed and reduced. Likewise, the City can control salinity in the untreated industrial wastewater line through pretreatment requirements. The Board recognizes that elevated salinity in surface water and groundwater throughout the Central Valley is an increasing problem. The State Water Board and the Central Valley Water Board have initiated a comprehensive effort to address salinity problems in the valley and to adopt long-term solutions that will lead to enhanced water quality and economic sustainability.

³⁰ Order No. R5-2007-0113.VI C.3.b

B. Flooding

Issue: CALSPA contends that Order No. R5-2007-0113 authorizes the application of biosolids to lands within the 100-year floodplain in violation of federal regulations governing the use of biosolids as a soil amendment.

Discussion. The Board concludes that Order No. R5-2007-0113 does not violate the federal regulations, but that the order should be revised to require management practices that prevent biosolids discharges to surface waters. Order No. R5-2007-0113 requires that the use and disposal of biosolids comply with the standards in part 503 in title 40 of the Code of Federal Regulations governing the use of biosolids as a soil amendment, CALSPA contends that these regulations prohibit the application of biosolids to lands that may be hooded or in such a manner that biosolids may enter surface water or wetlands. While the regulations clearly prohibit application of biosolids to land "that is flooded," the regulations do not directly address the application of biosolids to lands within a floodplain.³¹

About half of the City's agricultural fields are located within the 100-year floodplain and are not protected from inundation during a 100-year flood event. Winter crops are grown in these areas and may be irrigated with wastewater during the winter. Biosolids, however, are only applied to the corn fields, which are tilled in every year in the fall. Therefore, biosolids that were applied to the agricultural fields during the irrigation season would be incorporated into the soil before the start of the rainy season. In addition, the eastern agricultural fields are bordered by levees on the west and cannot naturally drain to the Delta. If the levees are overtopped due to flooding, the floodwaters tend to remain onsite until they drain off the agricultural fields through the tailwater system.

Order No. R5-2007-0113 requires the City to prepare and implement a wintertime irrigation management plan to minimize water quality impacts during flooding events." The management plan must include land application operations and management practices to "minimize or prevent washout of . . . biosolids during 100-year flood events." In State Water Board Order No. 2004-0012, this Board adopted general waste discharge requirements governing the use of biosolids as a soil amendment. The general order prohibits the "discharge of biosolids from . . . applications areas to . . . surface waters, or to surface

³¹ 40 C.F.R. § 503.14(b).

water drainage courses."³³ The general order does not apply to the City's activities. Nevertheless, the Board concludes that, at a minimum, Order No. R5-2007-0113 should be revised to require that the management plan address only practices that "prevent," rather than "minimize," biosolids discharges to surface waters.

C Chronic Toxicity

Issue: CALSPA objects to Order No. R5-2007-0113 on the ground that it fails to include a numeric effluent limitation for chronic toxicity regulating the discharge of tertiary-treated wastewater to Dredge Cut.

Discussion: The Board previously addressed this issue in a precedential decision in Water Quality Order 2008-0008 (City of Davis), adopted on September 2, 2008. In that order, the Board concluded that a numeric effluent limitation for chronic toxicity was not appropriate in the permit under review, but that the permit had to include a narrative effluent limitation for chronic toxicity. In that case, the Central Valley Water Board had determined that the discharge had the reasonable potential to cause or contribute to an excursion above the Basin Plan's narrative toxicity objective. The Central Valley Water Board reached the same determination on the City's discharge. Therefore, on remand, the Central Valley Water Board must amend Order No. R5-2007-0113 to add an appropriate narrative chronic toxicity limitation.

III. CONCLUSIONS

Based on the above discussion, the Board concludes that:

1. The appropriate exemption for the Central Valley Water Board to apply to the wastewater mixture applied by the City to land is subsection (b) of section 20090 of the Title 27 regulations,
2. Order No. R5-2007-0113 does not contain findings supporting the conclusion that the City's land disposal activities qualify for an exemption under Title 27;

³² Order No. R5-2007-0113, VI.C.3.c.

³³ Division of Water Quality Order No. 2004-0012, Prohibition A.6.

3. The monitoring that has been conducted, to date, is inadequate to demonstrate that the City complies with the precondition for an exemption under Title 27 that the discharge comply with the Basin Plan;

4. Evidence in the record indicates that releases of wastewater from the City's unlined storage ponds have caused the underlying groundwater to contain nitrate and EC levels that exceed Basin Plan objectives;

5. Evidence in the record is insufficient to determine whether the field application of the biosolids wastewater mixture complies with the Basin Plan;

6. Evidence in the record is insufficient to determine whether the discharge of untreated industrial wastewater to the storage ponds or to the agricultural fields complies with the Basin Plan,

7. The secondary waste stream has not been adequately characterized and there is insufficient evidence in the record to assess the water quality impacts of discharging this waste stream to the ponds or to the agricultural fields;

8. Order No. R5-2007-0113 must be revised to reflect that the City's land disposal practices do not currently meet the preconditions for an exemption from Title 27:

9. Order No. R5-2007-0113 does not violate the federal regulations in part 503 of title 40 of the Code of Federal Regulations governing the use of biosolids as a soil amendment:

10. Order No. R5-2007-0113 must be revised to require that the wintertime irrigation management plan include practices that only "prevent," rather than "minimize," the discharge of biosolids to surface waters;

11. Order No. R5-2007-0113 must be revised to include an appropriate narrative effluent limitation for chronic toxicity.

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DRAFT

December 23, 2008

IV. ORDER

IT IS HEREBY ORDERED that, for the reasons discussed above, Order No R5-2007-0113 is remanded to the Central Valley Water Board for reconsideration and revision: consistent with the conclusions of this order.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on February 3, 2009.

AYE:

NO.

ABSENT:

ABSTAIN:

DRAFT

Jeanine Townsend
Clerk to the Board

Continued July 16,2008

Jennifer Perrin

From: Randi Johl
Sent: Thursday, March 12, 2009 11:52 AM
To: 'jenzam81@aol.com'
Cc: City Council; Blair King; Steve Schwabauer; Rad Bartlam; Jennifer Perrin; Kari Chadwick
Subject: Lodi Walmart Project Findings

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: JenZam81@aol.com [mailto:JenZam81@aol.com]
Sent: Wednesday, March 11, 2009 9:10 PM
To: Randi Johl
Subject: Lodi Walmart Project Findings

Good evening,

Please see attached files for council review pertaining to the Walmart project proposed at Kettleman Lane.

Kindest Regards,

Jenn

A Good Credit Score is 700 or Above. See yours in iust 2 easy steps!



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

AMERICAN CANYON PRESS CONFERENCE
WAL-MART IMPACT ON HIGHWAY 29 TRAFFIC
OCTOBER 3, 2007

PHIL TUCKER, PROJECT DIRECTOR
CALIFORNIA HEALTHY COMMUNITIES NETWORK

Since the grand opening of the American Canyon Wal-Mart Supercenter on September 19, 2007, there has been a dramatic and noticeable increase in traffic effecting Highway 29 in both directions through American Canyon. This is particular apparent during peak commute hours in the morning and afternoon-evening. As a resident of Napa for the past **24** years and a daily commuter using Highway 29, I have personally experienced the increased traffic and associated extended commute times. I have experienced delays of more than twenty minutes in my routine commute out of Napa Valley to Highway 39 in Vallejo. Other Napa commuters, local residents and business owners of American Canyon I have spoken to have also observed the same slow down in traffic flow.

On Saturday, Sept. 29, in the Vallejo Times Herald, American Canyon City Manager Richard Ramirez said "the notion that the new Wal-Mart is causing the problem is a misconception." The article goes on to suggest that increased congestion is caused by area construction, not the newly opened supercenter.

Today's press conference has been called to set the record straight and to ask the City to release information on their negotiated Settlement of the City's lawsuit with CalTrans related to the Napa Junction project and its Wal-Mart supercenter. The terms of the settlement, even the question of a final settlement agreement, has been the source of speculation since the City commenced construction of the Highway 29-Eucalyptus Drive traffic signal and related highway improvements. As of Sept. 27, no documents have been filed with Napa County Superior Court that would indicate closure to the lawsuit filed on Oct. 28, 2005, although there are many rumors related to the improvements that are being required to

accommodate the Napa Junction-Wal-Mart development and the cost of such improvements, rumored to be in excess of \$26 million dollars. It is also unclear who is going to pay for these required roadway improvements and when we can expect them to be constructed.

Here are some documented facts about the Napa Junction/Wal-Mart project:

1. The City was well aware of the traffic problems on Highway 29 through its jurisdiction for years, including the fact that between 1995-2005, the volume of traffic on Highway 29, south of Green Island Road increased 27% to 3950 vehicles in the afternoon peak hour¹
2. It was known that the majority of traffic on Highway 29 through American Canyon originates from outside the city limits.
3. The City knew that the majority of community residents rated "preventing worse traffic congestion" equal to "providing fire services" and second only to "spending tax money unwisely."²
4. The City knew that growth within the City limits, especially adjacent to Highway 29, increases traffic congestion on that roadway
5. In 2002, CalTrans adopted Traffic Impact Study Guidelines making it clear that the local agency having land use authority is required to assess the impact of traffic growth on state facilities and contribute to the solutions
6. When the Napa Junction project was first proposed and approved by the City, no Wal-Mart supercenter was present and a new traffic impact study was not conducted as later required by a American Canyon citizen's group **CEQA** lawsuit.
7. In the public hearings and public controversy widely publicized in the local and area press, increased traffic congestion due to an intense retail land use like a supercenter was widely discussed and debated. Opponents to the Wal-Mart supercenter's development pushed the City to do a new, updated traffic study. The City officials declined and adopted the project. This was followed by two lawsuits and were finally resolved in favor of the Wal-Mart development opponents.

¹ Planning Commission Staff Report, April 26, 2007
² American Canyon Eagle survey, Nov. 3003

8. Despite citizens' protests and lawsuits and new information on the increased Peak-Hour Trip Generation Rate of Supercenters issued by ITE. The City went forward with the project, despite knowledge of the impact the supercenter would have with its regional attraction of retail customers and traffic.³

The fact is that American Canyon City staff and officials knew that the Supercenter would exacerbate traffic congestion on Highway **29** in American Canyon and now they are seeking political cover over the growing fallout over increased traffic congestion.

Action Requests:

We request a copy of the Settlement Agreement ~~between~~ City of American Canyon and **CalTrans** be made public, including any estimate of public liability that the taxpayers of American Canyon may be required to pay.

Based on the current lack of infrastructure, road construction and lack of an adopted plan to mitigate the traffic problem on Highway **29** in American Canyon, we request that the City voluntarily place a moratorium on commercial development on the Highway 29 corridor in American Canyon that further impacts traffic congestion on the corridor.

We would urge the City to expedite adoption of a new transportation plan that incorporates mitigation measures for Highway **29** traffic congestion as soon as current traffic studies are complete.

³ Trip Generation Characteristics of Free-Standing Discount Superstores, **ITE Journal**, August 2006



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

March ■■ 2009

Mayor Larry Hansen
And Members of City Council
P.O. Bpx 3006
Lodi, CA 95241-1910

Honorable Mayor and City Council:

At the request of Lodi First, I am submitting the following relevant information regarding the impact of the Wal-Mart Supercenter located off Highway 29 in American Canyon, California. Our Network has been involved in monitoring the impacts of this supercenter since prior to its opening in September 2007. Recently, the American Canyon Wal-Mart Supercenter has been discussed in a number of communities where supercenters are being proposed without clarity and sometimes without accurate facts being presented in discussing the real impacts of this store not only on the community but on regional transportation and traffic issues.

The controversial American Canyon store was the result of an approval of a shopping center with two big box components and a number of smaller stores, none of which was the size of the current store and none of which has the same traffic generation of a supercenter. Due to the method in which this supercenter was approved there was a lawsuit filed by a local community group on CEQA grounds, including the failure of the City to require a new traffic study. The Napa County Superior Court ruled in favor of the city and the case was appealed. The state court of appeals reversed the lower court's ruling and over a six month period required mitigating studies were conducted and the supercenter sat vacant.

During the development of the supercenter Cal Trans refused to issue the required Encroachment Permit to allow the City to make the necessary road improvements to provide access to the new shopping center (Superior Court of the State of California, County of Napa. Case No. 26-31317, filed Oct. 28, 2005). A settlement was reached between the City and CalTrans in 2006, which allowed the city to complete the required road and access improvements. Though no details have been made public on the settlement agreement, inside sources reported that the City was left holding the bag in financing road improvements along the Highway 29 corridor in American Canyon amounting to an estimated \$26 million dollars and forcing the city to impose a special tax (mitigation fee) to address the financial requirements of the lawsuit settlement. You may wish to check with the City of American Canyon to get further details on this special tax and hidden cost to the taxpayers of American Canyon.

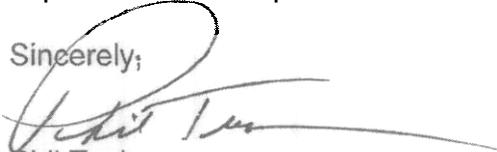
The development of the Wal-Mart supercenter and its negative impact on regional traffic on one of the two major Eastern entry points to Napa Valley has caused up to 20 minute delays in north and south access to the City of Napa during peak commute hours. This was the subject of a press conference hosted by California Healthy Communities Network on Oct. 3, 2007 (see attachment). Where American Canyon residents have faced short delays in local travel, the regional impact has been pervasive. Traffic is an important issue when considering locating a supercenter in your community and you need to make sure that you use the current ITE standards to evaluate the impacts of traffic. Supercenters now have their own ITE classification which differentiates them from other big box stores.

The suggestion that Wal-Mart has not created blight in the American Canyon area is also incorrect. The previous Wal-Mart Discount store than was vacated in September 2007, located in a shopping center just 1 mile down Highway 29 from the new supercenter in Vallejo, still sets vacant and businesses in that shopping center have been negatively impacted by the loss of this anchor tenant,

Finally, comments have been made by supercenter proponents that the American Canyon Wal-Mart has not negatively impacted the neighboring Safeway, .5 miles south of the Wal-Mart supercenter. This information is highly inaccurate. In tracking the impact on American Canyon's only other supermarket, between September 17, 2007 (the opening of the supercenter) and January 2008, UFCW 5 business agents reported up to a 50 percent downturn in business at Safeway. After eighteen (18) months of operation the 65,000 sq.ft. remodeled Safeway is still suffering a reported loss in sales of 20-25 percent when compared to pre-supercenter sales. Recently, Safeway has been forced to reduce employee hours and reclassify full-time employees to part-time status due to continuing competition from the supercenter combined with declines in the regional economy. The bright spot for Safeway is its Highway 29 location with a fuel center that is now a driving factor in the continuing business Safeway has at its American Canyon Store.

Thank you for considering this information in making your decision on your proposed supercenter development.

Sincerely;



Phil Tucker

Project Director

Enc

Jennifer Perrin

From: Randi Johl
Sent: Thursday, March 12, 2009 11:52 AM
To: Jennifer Perrin; Kari Chadwick
Subject: FW: Wal-Mart Stores, Inc. - Wal-Mart Enhances Neighborhood Market Design

FYI -

_ ~Original Message-----

From: Randi Johl
Sent: Thursday, March 12, 2009 11:51 AM
To: 'wudbrdggal@hotmail.com'
Cc: City Council; Blair King; Steve Schwabauer; Rad Bartlam
Subject: RE: Wal-Mart Stores, Inc. - Wal-Mart Enhances Neighborhood Market Design

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling]

Randi Johl, City Clerk

_ _ ~Original Message-----

From: Glenda Wall [mailto:wudbrdggal@hotmail.com]
Sent: Thursday, March 12, 2009 4:24 AM
To: Bob Johnson; JoAnne Mounce; Susan Hitchcock; Larry Hansen; Phil Katzakian; Randi Johl
Subject: Wal-Mart Stores, Inc. - Wal-Mart Enhances Neighborhood Market Design
Importance: High

One thing I don't believe has been brought up (I haven't heard it mentioned) with regard to the Wal-Mart debate is the "Neighborhood Wal-Mart". Perhaps this could be a compromise between the SuperCenter and the existing format. The link below talks about a Neighborhood beauty, and pharmacy.

<http://walmartstores.com/FactsNews/NewsRoom/6210.aspx>

Glenda Wall
334-4716
329-4301



- Home
- About Us**
- Facts & News
- Health & Wellness
- Careers
- Community & Giving
- Diversity

Home > Facts & News > News Room > Wal-Mart Enhances Neighborhood Market Design

- Facts & News
- Most Recent Stories
- Wal-Mart in the News

Wal-Mart Enhances Neighborhood Market Design

- News By Topic
- Lee Scott
- Health Care
- Merchandising
- Charitable Giving
- Sustainability
- Financial
- Economic Opportunity
- Employment and Diversity
- International Operations
- Store Openings
- Associate Benefits
- Disaster Relief
- More topics

- Media Resources
- Press Releases & Stories
- Photos & Images
- Video Center
- ASS Feeds

Fact Sheets

State by State

What People are Saying



New store in Tulsa is first in U.S. to share new decor

Maybelline New York and GARNIER bring in celebrity talent to give Tulsa customers makeovers

TULSA, Okla. (January 17,2007) – It has a new look and feel, new track lighting, a makeover in health & beauty and abundance of freshly baked breads and fresh produce. Today, Jan. 17, Wal-Mart opens its newly designed Neighborhood Market in Tulsa, Okla. – the first to open in the U.S. that will share a new design based on months of customer research on Wal-Mart's Neighborhood Market concept. The company will be testing customer reaction and success of its new design starting in Tulsa, as it focuses the brand for continued growth in the U.S. The new store is located at 4720 E. 21st St., and opened its doors to the public at 8 a.m.

With 112 stores already operating across the U.S., the Wal-Mart Neighborhood Market is the company's youngest store concept (introduced less than 10 years ago), providing consumers with more Wal-Mart value in a smaller, convenient "neighborhood" store format. The concept brings grocery, pharmacy and health and beauty together in a convenient, customer-friendly experience. The Neighborhood Market brand has continued to be popular with shoppers since its introduction, and Wal-Mart plans to open 15 to 20 new stores over the next year.

"Over the last several months we have studied our customers, seeking to understand their preferences about our store's convenience and products," says Pam Kohn, senior vice president of the Wal-Mart Stores Southeast Division, and leader of Neighborhood Markets. "The new design package is a great example of what we now know customers are seeking in this type of store."

Kohn explains that consumers today continue to reach for ways to simplify their lives, but also desire a store experience that answers more personal needs.

"We feel this new design shows we are a destination for both," Kohn said

Earth-tones, Soft "Themes," and a Health & Beauty Makeover

The most dramatically noticeable changes are within the new grocery and health and beauty. As Wal-Mart continues to bring consumers more healthy choices in food, such as increased selections in organics and produce, the grocery area in the Neighborhood Market now features a new layout that highlights these efforts and accentuates freshness. The new bakery has a fresh "warm" feel next to the new stream-lined deli area and fresh produce is placed along vertical baskets. There are more freezer doors that hold additional frozen food items than any other Neighborhood Market store today.

Throughout the store, architects and designers added earth-toned colors with natural woods to define each store department that creates a "store within a store" feel. Along with wood trim, photography highlights selections and departments in the store among different décor and signage. The overall look is clean and simple.

"Our health and beauty department has probably undergone the most dramatic change within the store," said Kohn. "We want our female customers to feel this is a place in their store created especially for them."

With concave (curved) fixtures, wider aisles and new "towers" that can display the latest trends in health and beauty, the re-design creates a more personal experience for the shopper, who now has more time to study new products and consider their purchase. Signage and product placement work together to help customers better identify selections. The location has changed to be closer to the pharmacy and stationery departments.

Neighborhood Market Concept

Neighborhood Market stores are not new to Tulsa. The first store opened on Delaware Avenue in 2000 and there are currently five such stores in the Tulsa area. The new store brings that total to six.

This new 39,000-square-foot store features a full line of groceries including bakery goods, organics, frozen foods, meat and dairy products and fresh produce. Its redesigned deli offers rotisserie chicken and a wide variety of freshly prepared foods including sandwiches, salads, desserts, bottled drinks, milk, juices, waters and energy drinks. General merchandise includes toiletries, household cleaning and paper goods, stationery, pet products and hardware items.

Customers can drop off film or digital media at the 30-minute photo lab for processing while they shop. The store also features a drive-through pharmacy with two drive-up lanes. It will be open to customers 24 hours a day, seven days a week and will include six full-service and four self-checkout lanes.

A Neighborhood Market store is typically 39,000 square feet and is a combination grocery store and drug store. The first store opened in Bentonville, Ark., in 1998, and the company celebrated the opening of the 100th store in Albuquerque in 2006.

Celebrities Share "Makeover" with Customers

In celebration of the new store design, GARNIER Fructis celebrity hairstylist Brian Magallon and Maybelline New York consulting makeup artist Chuck Hezekiah will be available for complimentary

hair and makeup makeovers to shoppers in the store on grand opening day. Magallones, a t stylist-to-the-stars including celebrity clientele Joss Stone, Mischa Barton, Nicole Richie, ant Hezekiah, a mainstay on Oprah. Martha Stewart and The Maury Povich Show, will provide customers with hair and makeup touch ups including one-on-ohe health and beauty tips. The complimentary consultation and makeover services will be available in two sessions on gran opening day: 8 a.m. – 11 a.m. and 12 p.m. – 3 pm.

In addition. music artist Mark Chesnutt, one of Billboards Ten Most-Played Radio Artists of t '90's and known for country music hits such as "I Don't Want To Miss A Thing," will be on ha p.m. for a brief concert at the store and will sign autographs frdm 6:30 p.m. – 8 p.m.

The store will provide various activities for kids and top brands such as Kellogg's, Coke, Pez, General Mills will provide samples to grand opening shoppers. The store will have additional activities for customers in health screenings and beauty aids in the weeks to come.

Click here to learn more about Wal-Mart in Oklahoma

About Wal-Mart Stores, Inc. (NYSE: WMT)

Every week, more than 127 million customers visit Wal-Mart Stores, Supercenters, Neighbor Markets, and Sam's Club locations across America. The company and its Foundation are committed to a philosophy of giving back locally. Wal-Mart (NYSE: WMT) is proud to support causes that are important to customers and associates right in their own neighborhoods, and year gave more than \$245 million to local United States communities. To learn more, visit www.walmarffacts.com, www.walmart.com, or www.walmartfoundation.org.

FACT SHEET

Tulsa **Wal-Mart Neighborhood Market**

- o Store Manager: Cheryl Miner

Store features

- o Store size is 39,000 square feet
- o Wide variety of products including an expanded selection of organic foods, fresh pro

Charitable **giving**

535,500 in charitable contributions to 12 organizations

- American Cancer Society
- Bikers Against Child Abuse
- City of Tulsa Fire Department
- City of Tulsa Police Department
- Hoover Elementary School
- Humane Society of Tulsa
- John 3:16 Mission
- Meals on Wheels of Metro Tulsa
- Nathan Hale High School ROTC
- Street School
- Tulsa Firefighters Educational Clowns
- Whitney Middle School

Employment

- The store plans to employ more than 130 associates.
- The national average wage at Wal-Mart for full-time hourly associates is approximately \$10.11 per hour (as of December 2005).
- Wal-Mart benefits – available to full- and part-time associates – include healthcare insurance with no lifetime maximum. Wal-Mart offers a choice of as many as 18 health plans that cost as little as \$11 a month in some areas. Both full and part-time Wal-Mart associates are eligible for health care benefits. Wal-Mart also offers a 401(k) plan and sharing contributions, whether an associate contributes or not, store discount cards, performance-based bonuses, discounted stock purchase program and life insurance
- Store Manager Cheryl Miner began her Wal-Mart career in 1996 as a sales associate in Woodward

For more information

- Store Manager: Cheryl Miner, (918) 392-7020
- Wal-Mart information online: www.walmartfacts.com; merchandise sales: www.walmart.com

###

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Jennifer Perrin

From: Randi Johl
Sent: Tuesday, March 10, 2009 7:17 AM
To: Jennifer Perrin
Subject: FW: Walmart EIR

-- ~ _Original Message-----

From: Larry Masuoka {mailto:masuoka@pacbell.net}
Sent: Monday, March 09, 2009 8:27 PM
To: Randi Johl; Larry Hansen; Phil Katzakian; JoAnne Mounce; Bob Jenson; Susan Hitchcock
Subject: Walmart EIR

Mayor Larry Hansen

City of Lodi
221 W. Pine Street
Lodi, CA 95241

March 9, 2009

Honorable Mayor Hansen and City Council Members,

I am one of the owners of the Cherokee Plaza Shopping Center located at the southeast quadrant of Cherokee Lane and E. Lodi Avenue. During the worst economic downturn in most of our lifetimes it does not make sense to expand retail capacity in Lodi. Everyday the media reports excess capacity across our nation that is causing unprecedented job losses.

Our center also sits within the proposed East Lodi Redevelopment Area; an area the City has determined is blighted. I have participated in the investment of helping to maintain and improve this part of Lodi. Please do not undermine this effort during this time of economic duress.

The Lodi Planning Commission has concluded this is the wrong project for Lodi at this time. The EIR should not be certified because it fails to account for impacts in the proposed redevelopment area. In fact, the EIR entirely ignores the proposed redevelopment area and does not adequately account for impacts to our shopping center. In light of current economic conditions, we have a number of at risk tenants. To combat this, we are re-negotiating leases and lowering rents to prevent vacancies. Unfortunately, this is not entirely effective and we continue to see vacancy increases. Also unfortunate is the fact that as vacancies increase and rents decrease, commercial landlords like us and others have less capital to invest into property maintenance. At a time when we see increased vacancies and business after business folding, it makes no sense to add a third of a million square feet of new retail to Lodi. This will only make filling existing retail that much harder.

I oppose the proposed Wal-Mart Supercenter Project and EIR for the project and urge the City Council to vote against this project. I encourage you to now vote against the EIR. This project will hurt (and to some extent) devastate exiting Lodi retailers and property owners and it will cause unnecessary damage to Lodi's quality of life. Lodi already has a Wal-Mart store that does just fine. If you have any questions I look forward to discussing them with you.

Respectfully,

Larry Masuoka, D.M.D.
916-966-9900

Sent: Tuesday, March 10, 2009 7:17 AM
To: Jennifer Perrin
Subject: FW: Opposition to Wal-Mart Supercenter Project and EIR

-----Original Message-----

From: racrma@aol.com [mailto:racrma@aol.com]
Sent: Monday, March 09, 2009 4:49 PM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen
Subject: Opposition to Wal-Mart Supercenter Project and EIR

March 9, 2009

Opposition to Wal-Mart Supercenter Project and EIR

Dear Mayor Hansen:

We are one of the owners of the Cherokee Plaza Shopping Center located

to
he

much harder.

This project will hurt (and to some extent) devastate exiting Lodi retailers and property owners and it will cause unnecessary damage o Lodi's quality of life. Lodi already has a Wal-Mart store that doe just fine. Thank you.

Sincerely,

Timothy and Linda Bell

Cc: Mayor Pro Tem Katzakian
Councilmember Hitchcock
Councilmember Johnson

Continued July 16, 2008

Jennifer Perrin

From: Randi Johl
Sent: Monday, March 09, 2009 1:55 PM
To: Jennifer Perrin
Subject: FW: Opposition to Wal-Mart Supercenter Project and EIR

From: Bradley Finberg [mailto:bfin1@ix.netcom.com]
Sent: Monday, March 09, 2009 1:53 PM
To: Randi Johl
Subject: Opposition to Wal-Mart Supercenter Project and EIR

Mayor Larry Hansen
City of Lodi
221 W. Pine Street
Lodi, CA 95241

March 9, 2009

RE: Opposition to Wal-Mart Supercenter Project and EIR

Dear Mayor Hansen:

I am one of the owners of the Cherokee Plaza Shopping Center located at the southeast quadrant of Cherokee Lane and E. Lodi Avenue. The center also sits

Continued July 16,2008

At a time when we see increased vacancies and business after business folding, it makes no sense to add a third of a million square feet of new retail to Lodi. This will only make filling existing retail that much harder. This project will hurt (and to some extent) devastate existing Lodi retailers and property owners and it will cause unnecessary damage to Lodi's quality of life. Lodi already has a Wal-Mart store that does just fine. Thank you.

Your decision will determine the fate of existing retailers and property owners in the ERLA. I urge you to vote **NO** on the Wal-Mart Supercenter Project and EIR!

Sincerely,

Bradley Finberg

cc:

Mayor Larry Hansen
Mayor Pro Tem Katzakian
Councilmember Hitchcock
Councilmember Johnson
Councilmember Mounce

3/9/2009

Continued July 16,2008

Jennifer Perrin

From: Randi Johl
Sent: Monday, March 09,2009 9:15 AM
To: Jennifer Perrin
Subject: FW: Monterey County Herald: Superstore ban could limit Westridge upgrade

Wal-Mart Correspondence

From: chaneson@sbcglobal.net [mailto:chaneson@sbcglobal.net]
Sent: Saturday, March 07,2009 2:39 PM
To: Randi Johl
Subject: Monterey County Herald: Superstore ban could limit Westridge upgrade

This article link was mailed to you by: chaneson@sbcglobal.net
The sender included the following message:

Please forward this article to the city council members and all other appropriate city employees. Thank you, Carolyn Hannesson

Superstore ban could limit Westridge upgrade - By JIMJOHNSON
Herald Salinas Bureau

A ban on superstores in Salinas could have a broader impact on Wal-Mart than originally thought. [View Full Story](#)

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3/9/2009



Superstore ban could limit Westridge upgrade

Wal-Mart could close store

By JIM JOHNSON
Herald Salinas Bureau

Posted: 03/06/2008 11:34:14 AM PST

A ban on superstores in Salinas could have a broader impact on Wal-Mart than originally thought.

Not only could the city ordinance preclude Wal-Mart from following through on plans to open a second store in Salinas, it could make it nearly impossible for the giant retail chain to upgrade its building in the Westridge shopping center.

City Councilwoman Jyl Lutes, who proposed the ordinance, said Wal-Mart would be required to meet the terms of the law, once it passes, if it engages in any construction on its Davis Road site.

The ordinance, which won preliminary approval from the council earlier this week, requires that all retail stores 90,000 square feet or larger be limited to 5,000 square feet of nontaxable merchandise, such as groceries or pharmacy items. The council is scheduled to consider final approval Tuesday.

Councilman Steve Villegas, whose district includes Westridge, said he is meeting with Wal-Mart officials today to discuss the company's future at the shopping center. After this week's preliminary vote, Wal-Mart indicated it is considering closing the Westridge store if it cannot build at Harden Ranch.

While the ordinance wouldn't apply retroactively to the Westridge Wal-Mart, which is 120,000 square feet and includes about 15,000 square feet of

nontaxable merchandise, new work on the existing store could trigger the restrictions, Lutes said.

Wal-Mart spokesman Aaron Rios said plans were in place to "retrofit" the Westridge store after opening a second store in the old Home Depot building in the Harden Ranch shopping center.

The retail chain purchased the 162,000-square-foot Home Depot building in November and indicated to city officials it planned to open a store there with as much as 30 percent of space dedicated to nontaxable items.

Aimed at Wal-Mart

Rios acknowledged Wal-Mart doesn't have any stores in California that would meet the restrictions contained in the ordinance and it would have to change its business model to open a new store in Salinas.

He confirmed that the company has a "buy-back option that would allow it to return the property to H.D. Development of Maryland.

He suggested that getting rid of Wal-Mart was what the ordinance was intended to accomplish.

Lutes made no attempt to hide her dislike for the retailer, which she said could have put many of the city's 14 grocery stores out of business.

"I feel like David beat Goliath," she said. "I think this is good economic policy, and we'll keep competition in Salinas."

Noting that the ordinance excludes "membership" stores, Lutes said, large-scale retailers such as Costco and Sam's Club will be allowed.

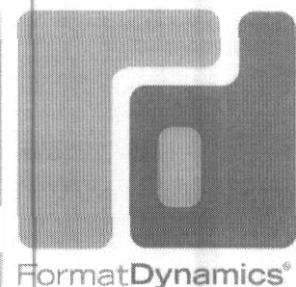
Villegas misled

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Wal-Mart appears to have **lost** a former supporter in Villegas, who accused company officials of misleading him about plans for a superstore at the Harden Ranch site.

Villegas said company representatives suggested they would open a new store even if the ordinance passed, then backed off when the vote went against them.

Villegas said he initially supported a regular-size Wal-Mart at Harden Ranch, but he said it is clear company officials intended to **install** a superstore at the new site. He believes they intended to shut the Westridge site in favor of the superstore, which he said would lead to blight in his district.

Villegas denied suggestions that he may be reconsidering his vote in favor of the ordinance.

"Wal-Mart can still open and, if they do, good luck to them," he said. "They've **lost** a **little** credibility with me."

Mayor disagrees

Mayor Dennis Donohue, who voted against the ordinance, said Wal-Mart officials were clear about wanting a grocery component in the new store and never indicated they would proceed under any circumstances.

Donohue said that the council made a mistake by voting for the ordinance and that the city should not be discouraging business. He downplayed the company's effect on other businesses and said the city should have tried to work out issues with Wal-Mart through "retail mitigation" measures.

"I think an ordinance is not the right approach," Donohue said. "I think it does send the wrong signal to the business community, but we'll see. I think we

should be expanding jobs and **not** a Wal-Mart guy, but I believe the

Jim Johnson can be reached at 7 **jjohnson@montereyherald.com** .

ax base. I'm not **arket** will decide."

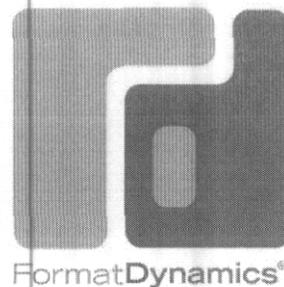
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Continued July 16,2008

Jennifer Perrin

From: Randi Johl
Sent: Monday, March 09,2009 9:13 AM
To: Jennifer Perrin
Subject: FW: Proposed Wal-Mart Super Store

From: Terry Sazama [mailto:tdsaz@sbcglobal.net]
Sent: Sunday, March 08,2009 4:52 PM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Jansen
Subject: Proposed Wal-Mart Super Store

My wife and I own Baskin-Robbins stores in Lodi; one in the Cherokee Plaza on Cherokee Lane and the other in the Lakewood Mall. We believe the Wal-Mart Super Store would adversely affect our stores by drawing business away from our shopping centers.

Our shopping centers are already suffering during this economic downturn. It seems ludicrous to add additional shopping when the result is likely to cannibalize existing businesses.

We are asking that you make the right decision and not allow the Super Store to open in.

Terry &Loretta Sazama

Jennifer Perrin

From: Kari Chadwick
Sent: Monday, March 09, 2009 8:03 AM
To: Randi Johl
cc: Jennifer Perrin
Subject: FW: Vote No on Proposed Lodi Wal-Mart Supercenter

Kari Chadwick
Administrative Secretary
Community Development Department
(209) 333-6711

_ ~ _ _Original Message-----

From: Barbara Transon (mailto:btranson@sbcglobal.net)
Sent: Friday, March 06, 2009 5:43 PM
To: Bob Johnson; Larry Hansen; Phil Katzakian; JoAnne Mounce; Susan Hitchcock; Kari Chadwick
Subject: Vote No on Proposed Lodi Wal-Mart Supercenter

Dear Lodi Mayor and Council,

I am one of many voices in opposition to the proposed 24-hour Wal-Mart Supercenter in Lodi. Our city should focus on protecting Lodi's existing businesses, particularly our locally owned businesses, and our quality of life.

Businesses throughout Lodi are struggling in this difficult economy, even without the added pressure of a 24-hour Wal-Mart Supercenter. Our country is in the worst recession in 27-years! Lodi's multiple shopping districts are littered with vacancies and more stores will certainly close. Look at what happened to Geweke Dodge!

The Lodi Shopping Center will provide no needed services to Lodi. The center will only serve to swap Wal-Marts, leaving one vacant big box store. We encourage you to remember what happened in Stockton when Wal-Mart closed their old store for a new Supercenter. THE OLD BIG BOX STORE REMAINED VACANT FOR YEARS!

Further, Wal-Mart has already gone back on its word with Lodi officials. What makes our officials feel they will keep their word in the future?

Shopping Center! Thank you.

Barbara Transon
20 year homeowner
500 Louie Ave.
Lodi, California 95240
p.s.

I am not in favor of having the Wal-Mart build a larger version and leave empty a big box close to downtown. You are counting on their fuzzy math to believe that the larger Wal-

Lodi must keep it's individual flavor- otherwise it doesn't have anything that differentiates it from the central valley town to it's south

--
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--_Original Message-----

From: Terrie Hedden [mailto:tthedden@hotmail.com]
Sent: Friday, March 06, 2009 11:51 AM
To: Bob Johnson; Larry Hansen; Phil Katzakian; JoAnne Mounce Susan
Hitchcock; Kari Chadwick
Subject: Vote No on Proposed Lodi Wal-Mart Supercenter

Dear Lodi Mayor and Council,

I am one of many voices in opposition to the proposed 24-hour Wal-Mart Supercenter in Lodi. Our city should focus on protecting Lodi's existing businesses, particularly our locally owned businesses, and our quality of life.

Businesses throughout Lodi are struggling in this difficult economy, even without the added pressure of a 24-hour Wal-Mart Supercenter. Our country is in the worst recession in 27-years! Lodi's multiple shopping districts are littered with vacancies and more stores will certainly close. Look at what happened to Geweke Dodge!

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for the Lodi Shopping Center! Thank you.

Terrie Hedden
Lodi First
867 Westwind Dr.
Lodi, California 95242
Phone: 209-334-2181

p.s.

As an enthusiastic resident of Lodi I feel that the WalMart we now have is

our lovely
more
community. I
creating

--

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Jennifer Perrin

From: John Sheckles [JohnSheckles@clearwire.net]
Sent: Thursday, March 05, 2009 5:58 PM
To: Bob Johnson: Larrv Hansen: Phil Katzakian: JoAnne Mounce: Susan Hitchcock: Kari Chadwick
Subject: Vote No on Proposed Lodi Wal-Mart Supercenter

Dear Lodi Mayor and Council,

I am one of many voices in opposition to the proposed 24-hour Wal-Mart Supercenter in Lodi. Our city should focus on protecting Lodi's existing businesses, particularly our locally owned businesses, and our quality of life.

Businesses throughout Lodi are struggling in this difficult economy even without the added pressure of a 24-hour Wal-Mart Supercenter. Our country is in the worst recession in 27-years! Lodi's multiple shopping districts are littered with vacancies and more stores will certainly close. Look at what happened to Geweke Dodge

The Lodi Shopping Center will provide no needed services to Lodi. The center will only serve to swap Wal-Marts, leaving one vacant big box store. We encourage you to remember what happened in Stockton when Wal-Mart closed their old store for a new Supercenter. THE OLD BIG BOX STORE REMAINED VACANT FOR YEARS!

Further, Wal-Mart has already gone back on its word with Lodi officials once. What makes our officials feel they will keep their word in the future?

Lodi is a beautiful community with a unique downtown and thriving businesses! Our city should be more creative in approving developments and generating revenues.

Please listen to your constituents and vote to deny the EIR certification for the Lodi Shopping Center! Thank you.

John Sheckles

20042 North ray Road
Lodi, California 95242

p.s.
Please do not allow the large Walmart to enter Lodi. Lodi is a small town, with small local businesses. The small home town feel is one of the largest reasons we moved here. To allow another large big box store would be a poor idea.

What would happen to the large empty store they would move from? What would happen to Food 4 Less? What would happen to Safeway? They have not even moved in yet, and at least two (2) businesses have lost out when Lower Sacramento Road pushed them out.

The tax dollar's Lodi would gain will be lost running others out of business. The extra traffic in the area would also be bad.

Please vote no

John Sheckles

--
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Jennifer Perrin

From: Carolyn Hannesson [chaneson@sbcglobal.net]
Sent: Thursday, March 05, 2009 7:15 PM
To: Bob Johnson; Larry Hansen; Phil Katzakian; JoAnne Mounce; Susan Hitchcock; Kari Chadwick
Subject: Vote No on Proposed Lodi Wal-Mart Supercenter

Dear Lodi Mayor and Council,

I am one of many voices in opposition to the proposed 24-hour Wal-Mart Supercenter in Lodi. Our city should focus on protecting Lodi's existing businesses, particularly our locally owned businesses, and our quality of life.

Businesses throughout Lodi are struggling in this difficult economy even without the added pressure of a 24-hour Wal-Mart Supercenter. Our country is in the worst recession in 27-years! Lodi's multiple shopping districts are littered with scarcies and more stores will certainly close. Look at what happened to Geweke Dodge

The Lodi Shopping Center will provide no needed services to Lodi. The center will only serve to swap Wal-Marts, leaving one vacant big box store. We encourage you to remember what happened in Stockton when Wal-Mart closed their old store for new Supercenter. THE OLD BIG BOX STORE REMAINED VACANT FOR YEARS!

Further, Wal-Mart has already gone back on its word with Lodi officials once. What makes our officials feel they will keep their word in the future?

Lodi is a beautiful community with a unique downtown and thriving warehouses! Our city should be more creative in approving developments and generating revenues.

Please listen to your constituents and vote to deny the EIR certification for the Lodi Shopping Center! Thank you.

Carolyn Hannesson

2076 Incline Drive
Lodi, California 95242

p.s.
Why would the city council vote for another shopping center when there are so many vacant commercial spaces? Not to mention the gridlock traffic on the corner of Lower Sacramento Road and Kettleman Lane, and more vacant spaces at the current Wal-Mart location when Food 4 Less is forced to close.

--
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Jennifer Perrin

From: HANESON [Haneson2000@yahoo.com]
Sent: Thursday, March 05, 2009 8:57 PM
To: Bob Johnson; Larry Hansen; Phil Katzakian; JoAnne Mounce; Susan Hitchcock; Kari Chadwick
Subject: Vote No on Proposed Lodi Wal-Mart Supercenter

Dear Lodi Mayor and Council,

I am one of many voices in opposition to the proposed 24-hour Wal-Mart Supercenter in Lodi. Our city should focus on protecting Lodi's existing businesses, particularly our locally owned businesses, and our quality of life.

Businesses throughout Lodi are struggling in this difficult economy, even without the added pressure of a 24-hour Wal-Mart Supercenter. Our country is in the worst recession in 27-years! Lodi's multiple shopping districts are littered with vacancies and more stores will certainly close. Look at what happened to Geweke Dodge

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Further, Wal-Mart has already gone back on its word with Lodi officials once. What makes our officials feel they will keep their word in the future?

Lodi is a beautiful community with a unique downtown and thriving wineries! Our city should be more creative in approving developments and generating revenues.

Please listen to your constituents and vote to deny the EIR certification for the Lodi Shopping Center! Thank you.

HANESON

2081 INCLINE
LODI, California 95242
p.s.
Lodi City Council Members,

We urge you to follow the recommendation of the Planning Commission and vote no on the Wal-Mart Supercenter for the following reasons:

1. There is an oversupply of retail space in Lodi in the Lakewood Mall, Lowes center, Beckman, and many others.
2. The Supercenter will put Food 4 Less and many other retail stores out of business.
3. Walmart allows overnight camping in their parking lots which has been an ongoing problem at the present Walmart store. Being situated on Highway 12 the parking lot is a magnet for campers, motorhomes, and trailers.
4. There will be no increase of sales tax when other retail stores go out of business, especially during this economic period.
5. What the city needs to concentrate on bringing to Lodi instead of a SuperWalmart store is a good bookstore, department store, and possibly hotel on the west side of town.
6. The traffic on the corner of Lower Sacramento Road and Kettleman Lane/Hiway 12 will be increased to the point of gridlock at certain times of the day.

7. With so many vacant retail spaces, the city will have bligh such as on Lodi
Avenue where the Alexander Bakery and State Theater have sat empty or so many years

--

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Jennifer Perrin

From: Dennis Ledden [lcs5779@sbcglobal.net]
Sent: Friday, March 06, 2009 4:48 AM
To: Bob Johnson; Larry Hansen; Phil Katzakian; JoAnne Mounce; Susan Hitchcock; Kari Chadwick
Subject: Vote No on Proposed Lodi Wal-Mart Supercenter

Dear Lodi Mayor and Council,

I am one of many voices in opposition to the proposed 24-hour Wal-Mart Supercenter in Lodi. Our city should focus on protecting Lodi's existing businesses, particularly our locally owned businesses, and our quality of life.

Businesses throughout Lodi are struggling in this difficult economy even without the added pressure of a 24-hour Wal-Mart Supercenter. Our country is in the worst recession in 27-years! Lodi's multiple shopping districts are littered with vacancies and more stores will certainly close. Look at what happened to Geweke Dodge

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Further, Wal-Mart has already gone back on its word with Lodi officials once. What makes our officials feel they will keep their word in the future?

Lodi is a beautiful community with a unique downtown and thriving ventures! Our city should be more creative in approving developments and generating revenues.

Please listen to your constituents and vote to deny the EIR certification for the Lodi Shopping Center! Thank you.

Dennis Ledden

14941 Trinidad Drive
Rancho Murieta, California 95683

p.s.
I have seen Wal-Mart drive local long time retailers out of business with little concern for the businesses or the community. Don't let it happen in Lodi. Economic times are tough enough for small business owners.

--
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Report abuse to abuse@citizenspeak.org {1504}

Jennifer Perrin

From: Ronald Peterson [rcp95240@yahoo.com]
Sent: Friday, March 06, 2009 7:35 AM
To: Bob Johnson; Larry Hansen; Phil Katzakian; JoAnne Mounce; Susan Hitchcock; Kari Chadwick
Subject: Vote No on Proposed Lodi Wal-Mart Supercenter

Dear Lodi Mayor and Council,

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Please listen to your constituents and vote to deny the EIR certification for the Lodi Shopping Center! Thank you.

Ronald Peterson

5613 Passero Way
Stockton, California 95207
Phone: 209.329.0706
p.s.

--
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From: Jim & Betty Mae Locke [mailto:jnblocke@sbcglobal.net]
Sent: Thursday, March 05, 2009 11:35 AM
To: letters@lodinews.com; Randi Johl; Blair King; Bob Johnson; Jeff Hood; JoAnne Mounce;

I urge the City Council to again approve the Lodi Shopping Center and finally

-----Original Message-----

From: Daffney Hillis (mailto:daffney_hillis@hotmail.com)
Sent: Thursday, March 05, 2009 2:39 PM
To: Bob Johnson; Larry Hansen; Phil Katzakian; JoAnne Mounce
Hitchcock; Kari Chadwick
Subject: Vote No on Proposed Lodi Wal-Mart Supercenter

Susan

Dear Lodi Mayor and Council,

I am one of many voices in opposition to the proposed 24-hour Wal-Mart Supercenter in Lodi. Our city should focus on protecting Lodi's existing businesses, particularly our locally owned businesses, and our quality of life.

Businesses throughout Lodi are struggling in this difficult economy, even without the added pressure of a 24-hour Wal-Mart Supercenter. Our country is in the worst recession in 27-years! Lodi's multiple shopping districts are littered with vacancies and more stores will certainly close. Look at what happened to Geweke Dodge!

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Lodi is a beautiful community with a unique downtown and thriving wineries! Our city should be more creative in approving developments and generating revenues.

Please listen to your constituents and vote to deny the EIR certification for the Lodi Shopping Center! Thank you.

Daffney Hillis

2320 Scarborough Dr. #27
Lodi, California 95240
p.s.

Dear Lodi Mayor and Council,

I have lived in Lodi for most of my life and I am one of many who are strongly against the proposed Walmart Supercenter. I have seen many local business go under because they can not compete with the already existing Walmart, Kmart and Target. The last thing we need is another mega Walmart destroying the landscape of our town and putting more businesses out of business. Not to mention having the existing building left vacant. This town has plenty of empty buildings and offices thank you. If you allow this Supercenter to be built you will destroy the Livable, Lovable, Lodi so many of us have grown up in. what you need to do is protect the local businesses

we have, including the wine industry/tasting rooms that Lodi is known for.
Our city should be concentrating on meeting the needs of our younger
citizens, giving them places and safe alternatives rather than hanging out
in front of the Stadium 12, and being more creative when it comes to
bringing in new businesses that are "Lodi friendly" and can move into already existing businesses and offices.
Please listen to your constituents and hear what we are saying. Vote to deny
the EIR certification for the Lodi Shopping Center! Thank you.

--

Delivered by CitizenSpeak!

Report abuse to abuse@citizenspeak.org [1504]

Kari Chadwick
Administrative Secretary
Community Development Department
(209) 333-6711

-----Original Message-----

From: Pat Underhill [mailto:patundpaul@comcast.net]
Sent: Thursday, March 05, 2009 1:47 PM
To: Bob Johnson; Larry Hansen; Phil Katzakian; JoAnne Mounce Susan
Hitchcock: Kari Chadwick
Subject: Vote No on Proposed Lodi Wal-Mart Supercenter

Dear Lodi Mayor and Council,

I am one of many voices in opposition to the proposed 24-hour Wal-Mart Supercenter in Lodi. Our city should focus on protecting Lodi's existing businesses, particularly our locally owned businesses, and our quality of life.

Businesses throughout Lodi are struggling in this difficult economy, even without the added pressure of a 24-hour Wal-Mart Supercenter. Our country is in the worst recession in 27-years! Lodi's multiple shopping districts are littered with vacancies and more stores will certainly close. Look at what happened to Geweke Dodge!

The Lodi Shopping Center will provide no needed services to Lodi. The center will only serve to swap Wal-Marts, leaving one vacant big box store. We encourage you to remember what happened in Stockton when Wal-Mart closed their old store for a new Supercenter. THE OLD BIG BOX STORE REMAINED VACANT FOR YEARS!

Further, Wal-Mart has already gone back on its word with Lodi officials once. What makes our officials feel they will keep their word in the future?

Lodi is a beautiful community with a unique downtown and thriving wineries! Our city should be more creative in approving developments and generating revenues.

for the Lodi Shopping Center! Thank you.

Pat Underhill

1946 Millbrook Drive
Lodi, California 95242
Phone: (209) 367-0828

p.s.

I am particularly concerned about the added commercial traffic on Highway

Walmart has megastores quite nearby in Stockton. Lodi's Walmart presence is adequate as is.

--

Delivered by CitizenSpeak!

Report abuse to abuse@citizenspeak.org [1504]

Jennifer Perrin

From: Kari Chadwick
Sent: Thursday, March 05, 2009 1:31 PM
To: Jennifer Perrin; Randi Johl
cc: Rad Bartlam
Subject: **FW: Vote No on Proposed Lodi Wal-Mart Supercenter**

I wasn't sure if you Ladies received this, so I'm passing it along

Kari Chadwick
Administrative Secretary
Community Development Department
(209) 333-6711

-----Original Message-----

From: Sarah Hafer [mailto:charityh@comcast.net]
Sent: Thursday, March 05, 2009 1:05 PM
To: Bob Johnson; Larry Hansen; Phil Katzakian; JoAnne Mounce; Susan Hitchcock; Kari Chadwick
Subject: Vote No on Proposed Lodi Wal-Mart Supercenter

Dear Lodi Mayor and Council,

I am one of many voices in opposition to the proposed 24-hour Wal-Mart Supercenter in Lodi. Our city should focus on protecting Lodi's existing businesses, particularly our locally owned businesses, and our quality of life.

Businesses throughout Lodi are struggling in this difficult economy even without the added pressure of a 24-hour Wal-Mart Supercenter. Our country is in the worst recession in 27-years! Lodi's multiple shopping districts are littered with vacancies and more stores will certainly close. Look at what happened to Geweke Dodge

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Lodi is a beautiful community with a unique downtown and thriving wineries! Our city should be more creative in approving developments and generating revenues.

Please listen to your constituents and vote to deny the EIR certification for the Lodi Shopping Center! Thank you.

Sarah Hafer

4913 Cowell Boulevard #A
Davis, , California 95618
Phone: 530-204-4514

p.s.
Dear Lodi Mayor and Council,

I am one of many voices in opposition to the proposed 24-hour Wal-Mart Supercenter in Lodi. Our city should focus on protecting Lodi's existing businesses, particularly our locally owned businesses, and our quality of life.

Businesses throughout Lodi are struggling in this difficult economy even without the

added pressure of a 24-hour Wal-Mart Supercenter. Our country is in the worst recession in 27-years! Lodi's multiple shopping districts are littered with vacancies and more stores will certainly close. Look at what happened to Geweke Dodge!

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Further, Wal-Mart has already gone back on its word with Lodi officials once. What makes our officials feel they will keep their word in the future?

Lodi is a beautiful community with a unique downtown and thriving varieties! our city should be more creative in approving developments and generating revenues.

Please listen to your constituents and vote to deny the EIR certification for the Lodi Shopping Center!

Thank you,

--
Delivered by CitizenSpeak!

Report abuse to abuse@citizenspeak.org [1504]

Randi Johl

From: MABEL MARTIN [mmm32mom@yahoo.com]

Sent: Wednesday, March 11, 2009 3:31 PM

To: City Council

Subject: Wal Mart

Please vote NO on the super center. We do not need **any** more empty buildings in town. Wal Mart will not add anything to our beautiful town, except blight. I have seen the Wal Mart in Fort Mojave in

do not need this.

VOTE NO.

Mabel Martin

March 11th, 2009

City of Lodi
Attn: Mayor Hansen and Council
221 W. Pine Street
Lodi, CA 95241

RECEIVED
2009 MAR 11 PM 12:59
CITY CLERK
CITY OF LODI

Dear Mayor and Council:

I strongly encourage your body to vote against the proposed Lodi Shopping Center with the 24-hour Wal-Mart Supercenter. The project will harm my locally owned business and others throughout the city. Please note that the local Chamber of Commerce does not speak for **us** owners! The shopping center will only further drive customers away in an already difficult economy. Vote to deny the proposal tomorrow night! Thank you.

Regards,

Ravi Singh

SALISBURY'S MARKET
2401 W TURNER RD
LODI 95242

Continued July 16,2008

Jennifer Perrin

From: Randi Johl
Sent: Wednesday, March 11,2009 11:22 AM
To: Jennifer Perrin
Subject: FW: No, on Supercenter,I can't attend the meeting.

From: Russ In Lodi [mailto:russearnartin@yahoo.com]
Sent: Wednesday, March 11,2009 10:58 AM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen; Susan Lake
Subject: No, on Supercenter, I can't attend the meeting.

Thank you.

Continued July 16,2008

Jennifer Perrin

From: Randi Johl
Sent: Wednesday, March 11, 2009 11:22AM
To: Jennifer Perrin
Subject: FW:

From: aadrian209@aol.com [mailto:aadrian209@aol.com]
Sent: Wednesday, March 11, 2009 10:24 AM
To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katzakian; Larry Hansen
Subject:

Mayor Larry Hansen
City of Lodi
221 W. Pine Street
Lodi, CA 95241

March 10,2009

Opposition to Wal-Mart Supercenter Project and EIR
< FONT size=3 face="Times New Roman">
Dear Mayor Hansen:

We are one of the long time tenants of the Cherokee Plaza Shopping Center located at the southeast quadrant of Cherokee Lane and E. Lodi Avenue. The center also sits within the proposed East Lodi Redevelopment Area; an area the City has determined is blighted.

We oppose the proposed Wal-Mart Supercenter Project and EIR for the project and urge the City Council to vote against this project. I encourage you to now vote against the EIR. I agree with the Lodi Planning Commission that this is the wrong project for Lodi. The EIR should not be certified because it fails to account for impacts in the proposed redevelopment area. In fact, the EIR entirely ignores the proposed redevelopment area and does not adequately account for impacts to our shopping center and this area of the city of S. Cherokee Lane. In light of current economic conditions, we and others are at risk as tenants. To combat this, we are hoping to increase our sales and prevent us of being out of business. Unfortunately, we continue to see vacancy increases. At a time when we see increased vacancies and business after business folding, it makes no sense to add a third of a million square feet of new retail to Lodi. This will only take away many people as customers we have enjoyed serving in the past. This project will hurt (and to some extent) devastate exiting Lodi retailers like us and it will cause unnecessary damage to Lodi's quality of life. Lodi already has a Wal-Mart store that does just fine. Thank you.

Sincerely,

3/11/2009

Continued July 16,2008

Juan **Ruis**

El Rodeo Taqueria

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

Mayor Larry Hansen
City of Lodi
221 W. Pine Street
Lodi, CA 95241

March 9, 2009

Honorable Mayor Hansen and City Council Members,

I am one of the owners of the Cherokee Plaza Shopping Center located at the

RECEIVED

MAR 10 2009

**City Clerk
City of Lodi**

Larry Masuoka, D.M.D.
916-966-9900

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

Mayor Larry Hansen
City of Lodi
221 W. Pine Street
Lodi, CA 95241

March 9, 2009

Opposition to Wal-Mart Supercenter Project and EIR

Dear Mayor Hansen:

We are one of the owners of the Cherokee Plaza Shopping Center located at the southeast quadrant of

Timothy and Linda Bell

Cc: **Mayor Pro Tem Katzakian**
Councilmember Hitchcock
Councilmember Johnson
Councilmember Mounce

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

Lodi First

PO Box 667, Woodbridge, CA 95258

March 6th, 2009

Mayor Larry Hansen and City Council
Lodi City Hall
221 W. Pine Street
Lodi, CA 95240

Dear Mayor Hansen and Council:

Over the past few weeks, members of Lodi First have been busy talking with a

Supecenter



Elizabeth Galbreath



Dave Derus

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

3.9.2009

City of Lodi
Attn: Mayor Hansen
221 W. Pine Street
Lodi, CA 95240

Dear Hansen,

Please vote to deny the Wal-Mart Supercenter on Wednesday evening! I am one of many local business owners who are opposed to the development. It is the wrong time for the city to consider approving any new large commercial centers, particularly when the front page of today's Lodi News-Sentinel reads, "Worst Recession Ever." Unemployment is high, crime is increasing, and stores are closing throughout Lodi. The city should continue exploring ways in which to support locally owned businesses in this economy. Please think of Lodi's small businesses and oppose 300+ thousand square feet of competing retail. Thank you.

Regards,

EL MOLCAJETE MARKET
360 E. LODI AVE.
LODI, CA 95240

M. Molcajete OWNER

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 9th, 2009

City of Lodi
221 W. Pine Street
Lodi, CA 95240

Dear Lodi City Council:

As a Lodi small business owner, I was in agreement with the Lodi Planning Commission's assessment that the proposed Lodi Shopping Center is wrong for our city. The environmental impact study certainly does not adequately reflect the current recession and the impacts a center of that size will have now. I hope the council will take the opportunity on Wednesday to debate this fact and to discuss the true harms it will have on small businesses. It would be one thing if it were just a Wal-Mart Supercenter, which in itself is devastating on locally owned markets, but it's also over one hundred thousand square feet of smaller retail stores. Most of those will likely be filled with national chain stores. Either way, it will be harmful to my business. Please vote to deny the proposed shopping center.

Regards,



Hazen Sushi Bar.
550-H South Cherokee Lane.

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 9th, 2009

Mayor Hansen and Council
Lodi City Hall
221 W. Pine Street
Lodi, CA 95240

Re: Against Wal-Mart Supercenter

Dear Mayor Hansen,

I am writing to ask that your elected body change their previous votes and instead elect to deny the EIR certification for the proposed Lodi Shopping Center. The proposed center with its hundreds of thousands of retail square footage will have an impact on my local business. It is difficult enough competing with these national chains, particularly when the council continues to develop on the city's western border. It's a difficult time just to survive the current conditions without having to compete with such a massive center. Please use caution and take this opportunity on Wednesday to slowdown any new developments, and refocus our efforts on investing in Lodi's existing businesses. Thank you.

Sincerely,

Paulina A. Choa

*Patty's Beauty Salon & Supply
617 S. Central Ave.
Lodi, Ca. 95240*

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

Lodi City Council
221 W. Pine Street
Lodi, CA 95240

3/9/2009

Dear Council,

As a local business owner, I am opposed to the city approving an additional 318,000 square feet hour Wal-Mart Supercenter for which I'm opposed; I'm additionally against the 110,000 sq. ft. of additional retail, particularly when Lodi has an already high vacancy rate. One just has to drive around Lodi to notice the high number of vacant stores specifically those that once housed locally owned businesses.

I further cannot understand the need for a new Wal-Mart Supercenter? What does the city hope to gain? The grocery dollars will be dispersed amongst the three grocery stores in that immediate area. No new revenues will be generated as why would people from Stockton drive to Lodi when they have their own Supercenter? The answer is they will not.

The Lodi Shopping Center will hurt locally owned businesses such as my own and it is in the best interest of the city to vote against its approval. Thank you.



Justin International Food
314 S. Central Ave
Lodi, Ca 95240

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

03/09/2009

Lodi City Hall
Attn: Lodi City Council
221 W. Pine Street
Lodi, CA 95240

Dear Lodi City Council,

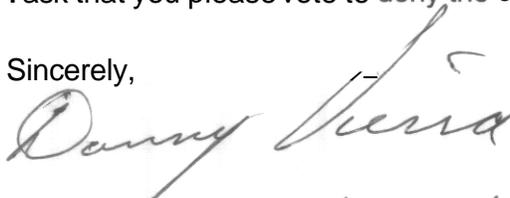
I am writing to express my opposition to the proposed Wal-Mart Supercenter. I have been a local business owner in Lodi for several years, and I feel the city has a diversity of mom-and-pop businesses that make it unique and successful. Lodi has the most unique downtown in the region! Our city is littered with many small businesses that offer a variety of services.

Unfortunately, our city decided years ago to start approving large commercial shopping centers along the city's borders, putting a strain on small businesses to compete against national chains. And although many businesses have survived, many did not, but that is business.

However, the approval of yet another commercial center with a 24-hour Wal-Mart Supercenter, in today's economic climate, will only hurt small businesses more. There will be closures as a result of the store's opening, many more than the environmental study predicts. Local businesses are struggling without the unnecessary approval of the Supercenter.

As our city officials, you should be reminded that we local business owners have been the driving force behind our economy for years, not the short-term benefits of the big box stores. I ask that you please vote to deny the approval of the Wal-Mart Supercenter in Lodi.

Sincerely,


Danny Herrera
Late Health Food

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 9, 2009

Lodi City Hall
Attention: City Council
221 W. Pine Street
Lodi, CA 95240

Dear City Officials,

Lodi is truly at a crossroads and the decision you make on Wednesday the future of business in Lodi. The approval of the Wal-Mart Supercenter support of large, nationally run big box and chain stores. A vote again: Supercenter means the council believes we should work to build our in support our locally owned businesses to make them thrive.

I am opposed to the Wal-Mart Supercenter! I am a local business owner strongly that the approval of that center will do more harm than good. to move beyond your basic instincts, that which drives you to believe that is good business! It's not! Today's economy proves that is the case, so focus on diversifying their tax base.

It is in the best interest of the city and Lodi's business climate to deny Supercenter.

Sincerely,

Susan Hanning
owner - The Cellar Art Studio
207 S. Hutchins St.
Lodi 95240
(209) 334-6433

will determine
it is a vote in
the Wal-Mart
structure and

and feel
ask each of you
that any business
local cities must

the Wal-Mart

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

Lodi Mayor Hansen & Council
221 W. Pine Street
Lodi, CA 95240

March 9, 2009

Dear Mayor Hansen,

I am opposed to a Wal-Mart Supercenter in Lodi! The new commercial center will just displace a few businesses in Lodi, it will harm many locally owned businesses including a local business owner, I take pride in my community. I feel it is an honor to be part of the city, giving back to my community, and investing in our future. Local businesses are the backbone of this country! Entrepreneurship is what has driven our country's economy for decades and that couldn't be truer than in small cities such as Lodi. Lodi is not just a city because of chain and big box stores!

Protect Lodi's small businesses and vote to deny the Wal-Mart Supercenter.

Regards,

*Kay Nettler
Spectator
420 W. Kettleman Lane
Lodi, Ca. 95242*

will not impact
my own. As
long as services to
businesses are the
backbone of the
economy for
Lodi, that is what it is today

Thank you.

03.09.2009

Lodi City Hall
221 W. Pine Street
Lodi, CA **95240**

Dear Mayor and Council Members,

It is clear that the Environmental Impact Report's economic impact analysis for the proposed Wal-Mart Supercenter is outdated. The study could not have foreseen the current economic situation - a sky rocketing unemployment rate; a huge recession; a major stock market decline; a massive foreclosure rate; etc.

As a local business owner, I am certain the conclusion of the economic analysis would be much different. The impact on local businesses, my local business, will be direct. Local businesses are fighting for customers everyday, doing what we can to lure them into our stores. Previous efforts by our city have only proven moderately effective. Downtown is surviving but not at the rate anyone would have liked.

Instead of convening to discuss whether or not to approve a Wal-Mart Supercenter, I would like to see the council meeting to discuss strategies to strengthen our infrastructure and supporting our locally owned businesses. In today's economy, perhaps the city should on making what it has works, not making itself dependent on a company in Arkansas that already has a store in town.

Thank you.

Susan Hanning
owner - The Cellar Art Studio
207 S. Hutchins St. - Lodi 95240
(209) 334-6433

RECEIVED

MAR 10 2009

City Clark
City of Lodi

RECEIVED

MAR 10 2009

3.09.2009

City Clerk
City of Lodi

Mayor Hansen
Attn: City Council
Lodi City Hall
221 W. Pine Street
Lodi, CA 95240

RE: Proposed Wal-Mart Supercenter

Dear Mayor,

I have been a local business owner in Lodi for several years. I believe I speak for many in saying that today's economy is one of the most difficult any of us have ever faced. Locally owned businesses have been closing and more will surely come. Given this environment, I would ask the council to vote against the approval of the Wal-Mart Supercenter.

The city stands to lose more than it gains with the approval of the Supercenter. Locally owned businesses will suffer further if you continue to approve shopping districts further away from the city center. You may gain a 24-hour Supercenter, but you will lose many locally owned businesses. The further you take people away from us and drive them to support national chain stores, the lesser our chances to survive.

I ask that you please stand-up for the little guys and vote to deny the proposed Wal-Mart environmental impact report.

Sincerely,

Gur K Ghuase

Save mart foods
1340 S Hutchins St
Lodi CA 95240

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 9, 2009

City of Lodi
Lodi Mayor & Council
221 W. Pine Street
Lodi, CA 95240

Dear Lodi Elected Officials,

I am writing to express my opposition to the proposed Wal-Mart Supercenter both as a resident and local business owner. The Wal-Mart Supercenter will harm my and every locally owned business throughout our city. The council should stand-up for its locally owned businesses, not harm them by approving another nationally run commercial center. Please vote against the Wal-Mart certification. Thank you.

Regards,

TAG

Lodi Flower Shop

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

03.07.2009

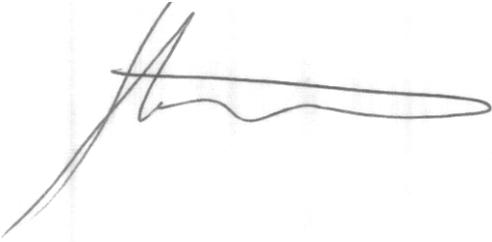
City of Lodi
Lodi City Council
221 W. Pine street
Lodi, CA 95240

Dear Lodi Council,

As a small business owner, I am against the proposed Wal-Mart Supercenter. It will hurt my business. It will hurt all the locally owned businesses within Lodi. It will further pull customers away from our storefronts. The city could spend \$10 million on revitalizing downtown, but if you continue to approve the building of large commercial centers on the outskirts of the city, people will need locally owned businesses less and less. The mindset of one-stop shopping kills local businesses anywhere. Lodi has a Wal-Mart and a Target and a Lowes - when is enough, enough?

Please vote no on the proposed Wal-Mart Supercenter.

Regards,



Giant Discount Tires
100 S. Sacramento St
Lodi 95240

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 7, 2009

Mayor and Council Members
Lodi City Hall
221 W. Pine St.
Lodi, CA 95240

Dear Mayor and Council,

It's kind of ridiculous that you are finding you taking a mulligan on the Supercenter vote, but a gives me the opportunity to ask you to VOTE NO!!

As a business owner in Lodi, I feel the last thi is this Supercenter. Think about the local busi in town when you cast your vote Wednesday night. the Supercenter will only make a difficult econo worse.

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Sincerely

Handwritten signature
20 N. SCHOOL ST
HUMMEL

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NO

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 7, 2009

Lodi Mayor & Council
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council:

The approval of the proposed Wal-Mart Supercenter will have harmful impacts to this locally owned business. Our business, like many other small businesses throughout Lodi, is struggling in this difficult economy. A 24-Supercenter in Lodi will only make it more difficult.

You might not see it as your role on city council to decide whether one business is appropriate in Lodi versus another, but consider if someone was proposing to build an adult strip club or oil refinery at that location. Wouldn't the council decide to oppose such businesses as being harmful to Lodi's children and residents? You would think it your responsibility to stop such a business, even though either of those businesses would generate sales and property tax dollars for the city.

The Wal-Mart Supercenter will harm many locally owned businesses in Lodi. Why make an exception in this particularly difficult economy? Please vote to deny the certification. Thank you.

Sincerely,

Tom Kohlhepp

Tom's Used Books

108 N. School Street

Tom Kohlhepp

RECEIVED

MAR 10 2009

city Clerk
City of Lodi

March 7, 2009

Lodi City Council
221 W. Pine Street
Lodi, CA 95240

Mayor Hansen and Councilmembers:

Please vote no on the Wal-Mart Supercenter this Wednesday night. Wal-Mart is busy talking your ear off about how they won't impact existing businesses in the city, but keep in mind that last year, you approved the Reynold's Food center before the economy took a serious down turn. Don't make the same mistake with the Supercenter. We don't know how long this recession will last, but it will take a long time for local businesses in Lodi to recover. Take it from a business owner. We don't need this additional pressure on our bottom lines.

Thank you.

Mary Ditz
OWNER of SIERRA ADVENTURE OUTFITTERS
120 N. SCHOOL STREET

sure Wal-
businesses in
h shopping
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March 7, 2009

Lodi City Hall
Lodi Mayor & Council
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council Members,

As a locally owned business in Lodi, I am opposed to the
Mart Supercenter. I encourage you to vote to deny the en-
vironmental impact report for the project. A 24-hour Supercenter ope-
ning in Lodi will harm my business and many other small businessse
throughout Lodi. In today's economy, our locally elected leaders sh-
ould be focusing on doing what's best for the community as a coll-
ective. Approving another large box retail center on the outskirts
of Lodi will only further drive people to become less and less re-
sultant we have a direct impact on my family and my business. Please vote
Wednesday. Thank you.

Sincerely,



Lodi Color Center

130 N. School St

Lodi, CA 95240

209-334-3907

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

opposed Wal-
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RECEIVED

MAR 10 2009

3/07/2009

City Clerk
City of Lodi

City of Lodi
Lodi City Council
221 W. Pine Street
Lodi, CA 95240

Dear City Council,

I felt it was important for me to express my opposition to the Wal-Mart Supercenter proposal because I am a local business owner. We small business owners face many challenges, but no challenge as great as the one against a Supercenter. Our economy is the worst it has been in many years. Many of us are being forced to drop our prices just to encourage people to shop. Approving another nationally owned commercial shopping center on the outskirts of Lodi, will only make it more difficult to survive. Locally owned businesses are the heart and soul of this community. Please vote no on the proposed Wal-Mar Supercenter.

With regards,



Daniger Furniture
4 W. Lodi ave
Lodi, ca. 95240

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 7, 2009

Mayor Hansen and City Council
Lodi City Hall
211 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council:

As a local business owner, I wanted to share my two cents and vote against the Wal-Mart Supercenter. I think that if you approve it, there will be a lot of unforeseen consequences that you may not have considered. First, what will happen to the old Wal-Mart when it closes its doors? Second, what will happen to the other businesses in that shopping center? Third, what will happen with the Reynolds Ranch shopping center on the east side of town? Will that have any tenants who will want to come to a city with a Supercenter? Finally, what will happen to local businesses if all the shoppers head to the eastern or western edges of the city where the corporate chain stores are located?

I ask you to vote against it. First, what will happen? Will that have any tenants? Finally, eastern or western?

Please think about these questions and vote no on the Supercenter.

enter.

Sincerely,



Video Game Exchange
846 W. Lodi Ave
Lodi, CA 95240

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 6, 2009

Lodi City Council
City Hall
211 West Pine Street
Lodi, CA 95240

Dear Council,

As a business owner in Lodi, I feel it's important to hear from us on the Wal-Mart Supercenter project for a vote. Myself and many others in the community urge you to vote no. Wal-Mart will try to tell you that they won't harm local businesses, but you need to think about this realistically.

The economy is in very bad shape and people aren't spending as much as they used to. There are simply less shoppers. Opening that Supercenter will draw what few shoppers there are away from existing shopping centers. Less foot traffic means stores will go out of business. Less supply and demand. Right now, there is little supply and little demand.

Let's protect the businesses that exist now by voting NO on the Supercenter.

Thank you for your consideration,

Ken A. Blum
GALLETTA'S TIRE REPAIR
302 S. LESCENT AVE.
LODI

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bring up
y, urge
they
about

spending
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ng NO on

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 6, 2009

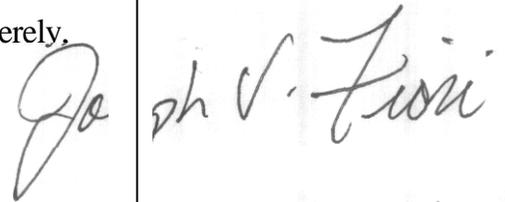
Mayor Hansen and City Council
Lodi City Hall
221 W. Pine Street
Lodi, CA 95240

Dear City Council,

I've been a proud business owner here in Lodi for some time now. A lot of us when I ask you to vote "NO" on the Wal-Mart Supercenter. The thing of us need during this recession is another big box store competing for our customers. We are small fish fighting for a small pool of shoppers. Please think about local businesses, the folks who help to make Lodi the great city it is, before you allow a big shark into the pool.

Speak for a
st thing any
customers.
is local
low a big

Sincerely,



FIORI
400 W
LODI

Butcher Shoppe
LODI AVE

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 6, 2009

City Hall
Lodi City Council
221 W. Pine Street
Lodi, CA 95240

Dear City Council,

I am a downtown business owner opposed to the proposed Wal-Mart Supercenter shopping mall and I ask that you vote to deny its approval. Those sprawling commercial shopping centers are ruining the character and charm of Lodi. As individuals, you might not be concerned with the environment. But let's compare the existing commercial centers located at Lower Sacramento and West Kettleman with downtown.

First, the downtown shopping district encourages people to walk. The close stretch of shops and stores invites people to park and stroll. People slow down, say hello to their neighbors, and patron multiple businesses. In contrast is the current Wal-Mart center. I have witnessed firsthand people driving to the Wal-Mart, then returning to their cars to drive to McDonald. Or people driving to Starbucks and then driving to Safeway! And the way those centers are designed, people have to drive from store to store!

Our downtown has features and businesses that have been in existence for centuries. Parts of downtown are historic landmarks. But we're already seeing firsthand what happens when those centers become rundown or obsolete, those national retailers move to newer bigger formats further out on the perimeter as is the case with Wal-Mart!

This is a difficult decision for you to make but it is one that will impact all of downtown businesses, not just Wal-Mart. Locally owned businesses should not have to suffer the consequences of Wal-Mart wanting to upgrade to a new store rather than fix the one they have. Thank you.

Sincerely,

Alan Han
Comic Grapevine
9 W. Pine St
Lodi, CA 95240


RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 6, 2009

Lodi City Council
City Hall
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council Members,

As our local leaders, I implore each of you to explore various communities that have preserved their one-of-a-kind businesses and distinctive character. I think you find these cities have an economic edge. Petaluma, California is a community similar to ours, with a unique downtown and surrounding wine country, and yet they have avoided building sprawling commercial developments.

Communities with a strong base of locally owned businesses are also more economically stable. They are less vulnerable to fluctuations in the global economy and decisions made in distant boardrooms.

Lodi is composed of many small businesses and, as a result, is much more diversified and rooted. We are able to withstand the loss of any one of these small businesses—unlike so many towns today that have become overly dependent on a few large superstores, which might raise prices, demand a tax break, threaten to move to a nearby town with potentially devastating consequences for the local economy. But the approval of the Lodi Shopping Center with its Wal-Mart Supercenter threatens this current make-up.

Lodi has a diversified downtown business district but it has been dwindling. Businesses are moving outside of downtown or closing their doors for good. As a business owner, this impacts us all because it means less people walking our sidewalks and frequenting the area.

I encourage you to please vote to deny the Wal-Mart Supercenter certification on Wednesday. Thank you.

Regards,

Joseph V. Stacher
4 Seasons Sports
14A S. School St.
Lodi, CA 95240

Joseph V. Stacher

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MAR 10 2009

City Clerk
City of Lodi

March 6, 2009

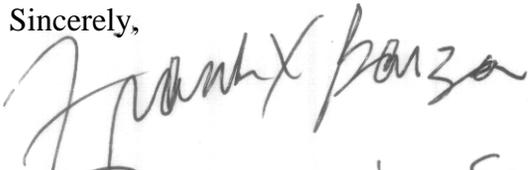
Lodi City Council
221 W. Pine Street
Lodi, CA 95240

Dear Council.

As a local business owner, I know I provide a more significant economic benefit to Lodi because I recycle a much larger share of my revenues back into the local economy compared to a Wal-Mart. I not only keep my profits local, but I also support a variety of other local businesses. I create opportunities for service providers, like accountants and printers. I do business with the local bank. I advertise through local newspapers and radio stations. In fact, whenever someone spends a dollar at a local business, the entire community benefits from the ripple effect of economic benefits.

Wal-Mart will never be able to make the same statement with a straight face to deny the proposed Wal-Mart Supercenter.

Sincerely,



BURTON'S SHOES

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you! Please vote

03.06.2009

Lodi City Hall
Attn: Lodi City Council
221 W. Pine Street
Lodi, CA 95240

Dear Elected Leaders:

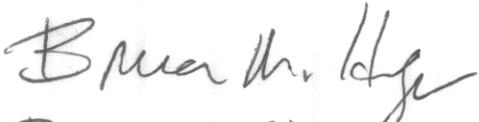
I am writing to encourage you to vote against approving the proposed Supercenter in Lodi. As a business owner, I believe there is much to value of doing business with your neighbors – greeting people by their names, sending our kids to the same schools as our customer’s kids, and to have a vested interest in the long-term well being of the community.

Additionally, I can guarantee you that Lodi’s small businesses give more than twice as much per employee to charitable causes as do large companies such as Wal-Mart or Target.

Finally, I would remind you that local ownership ensures that important business decisions affecting the well being of the community – whether it be to pay a living wage or contribute to a local charity – are made here in Lodi, by people who live in the community and who feel the impacts of those decisions.

Let’s work together to keep Lodi locally focused and less dependent on corporations that will consider us another financial figure and nothing more!

With regards,


Bruce M. Hodge
Dirty Dog Pet Wash
515 W. Lodi Ave

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

Wal-Mart
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RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 5th, 2009

Mayor Larry Hansen and Council
City Hall
211 W. Pine Street
Lodi, CA 95240

Dear City Council,

As you know, you have a very big vote Wednesday night. I'm sure you're tired of hearing about the Wal-Mart year after year, so I'm asking you to vote against it and put it in the past. I own a business in town and like other local business owners, I am concerned that the Supercenter will close existing stores. Why sacrifice a store, just so you can open one? To me, that sends a signal that Lodi isn't friendly to every business

percenters.

Do what is right for local businesses and vote no on the Wal-Mart

percenters.

Thank you,

Bon Appetit
1012 W. Lodi Ave —
Lodi CA 95240 —



RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 5, 2009

Lodi City Council
c/o City Clerk
City Hall
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council:

in Lodi will never forgive you if you approve the Wal-Mart SuperCenter project

Lodi has worked so hard in recent years to build the downtown and create our own viable local economy. As a business owner myself, I think that despite the current tough economy that we are all facing, we will be able to get through it.

However, that is all endangered by the Wal-Mart project. By approving this project you will say to every local business that they are not as important as a big box store. This project does nothing more than to place another obstacle in front of those of us who keep our tax dollars local every day.

Protect our businesses – vote NO on the SuperCenter.

Sincerely,

 OWNER

523 W. HARVEY W # 2

Lodi CA 95240

3/4/2009

Lodi Mayor and Council
City Hall
221 W. Pine Street
Lodi. CA 95240

RECEIVED
MAR 10 2009
City Clerk
City of Lodi

Dear Honorable Mayor and Council,

The hardship we local business owners are experiencing in this economy cannot and has not been measured in the EIR report for the Wal-Mart Supercenter project. It is hard to escape the vacant stores and recent closures seen throughout our city. It is a tough time and will only get harder if the Supercenter is approved. The number of locally owned, "mom-and-pop" businesses at the Lower Sacramento and West Kettleman is next to zero. The bulk of Lodi's locally owned businesses, outside of the forgotten businesses on the eastside, are located towards the heart of Lodi. The bulk of Lodi's residents are located towards the heart of Lodi. So why is the city focused on driving people away from the heart of the city to its outskirts. Aren't the residents living in that immediate junction well served enough? It seems the approval of the shopping center is to benefit the developer and a small portion of the city's coffers and no one else. It certainly does not help this local business owner!

Please do what is right for the city and vote to deny the Wal-Mart Supercenter EIR. Thank you.

Sincerely,

HARJINDER HUNDR
TOKA MARKER BOOZ
2525 S. HUTCHINS ST 12

Lodi CA 95240

RECEIVED
MAR 10 2009
City Clerk
City of Lodi

March 5, 2009

City Hall
Lodi Mayor and Council
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council,

The proposed Lodi Shopping Center would not provide services that Lodi does not already have, The center will not provide significant sales tax revenues to the city. The report and Wal-Mart itself has admitted it will have impacts to Lodi's downtown by offering to pay it impact fees. It will further have impacts on small business owners such as myself. It's difficult finding any way in which the proposed center will benefit Lodi!

The environmental report could not have anticipated the current economy but the reality is that we're in a deep recession. People are shopping and spending less. Locally owned businesses are closing their doors.

Instead of approving an unnecessary shopping center, as our city leaders, you have a unique opportunity to help support your locally owned businesses. It's a great time to promote people to shop locally. Patronizing your locally owned businesses has a much deeper financial benefit to the city as those spent dollars are reinvested locally. The money stays here and more people benefit!

While it is always difficult to make the tough decisions, especially when you all are in a position to be publicly scrutinized, but this decision will have a lasting effect on our community and our locally owned businesses. Please vote against approving the Lodi Shopping Center.

Thank you,



The Florence Card
937 S. Cherokee Lane

Lodi, CA 95240

3.4.09

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

anyone in this community would be opposed to letting them expand for a grocery store. I do not blame Wal-Mart in this matter, as what owner would not want a beautiful new building! But is it necessary? No, it is not.

The most basic success to for a local business is to have customers. Every business owner in this community has been impacted by the economy. I encourage you to please take notice of the recent store closures in the downtown and surrounding business districts. The city must not continue to approve unnecessary shopping centers that pull shoppers away from the existing centers. Ultimately, the city cannot sustain itself operating this way. It's bad business no matter how you look at it!

With much appreciation,

Tom James, owner

Phuza Food + liquor

2420 W. Turner Rd

Lodi, Ca 95242

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 3, 2009

Mayor and City Council
Lodi City Hall
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council:

I own a Lodi small business and I'm hoping you will vote no on the unnecessary Wal-Mart Supercenter proposal. We already have a number of large chain stores in town - including Wal-Mart - that compete directly with us every day. To add a Supercenter on top of an already saturated market would be a huge, expensive mistake.

If this City doesn't start to protect the small businesses that make up the backbone of our local business community, we won't be around much longer. Allowing the large chains to make up our economy only sends our well-earned dollars out of town, never to return.

Please do your part to support what local businesses do by ending this long debate and voting no to the Supercenter.

Thank you,



Aldee Market
218 N. Cherokee Ln.
Lodi, CA 95240

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 3, 2009

City of Lodi
Attn: Mayor and Council
City Hall
221 W. Pine Street
Lodi, CA 95240

Dear City Officials,

I believe the city has a great opportunity to do write by Lodi's local bu nesses and vote to deny the proposed Lodi Shopping Center. As a small business owne I feel the city should be doing everything possible to ensure its local businesses succeed. The approval of this project, particularly in this economy, will create a more unstable clima e for local businesses to keep their doors open.

Please keep the best interest of the many local business owners open ing in Lodi and seriously consider the impacts the addition of yet another commercial shopping center will have on them. Thank you.

Regards,

Bob Casaly owner

JAVA STOP DRIVE THRU & ROASTING CO
321 S. HUTCHINSON ST,
LODI, CA 95240

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 3, 2009

Lodi City Council
c/o City Clerk
City Hall
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council:

As the owner of a small business in Lodi, I'm troubled that the fight over SuperCenter project has lasted so long and that our City Council has ignored information that make clear how dangerous this kind of development is

Small businesses in this city are struggling every day to keep their doors open. We generate tax dollars for the city and then watch as the city uses those dollars to woo development that may ultimately put us out of business.

When the vote comes up again, the City Council ought to finally do the right thing and stand up for small business owners instead of rolling over to massive corporations who don't know or care about our city.

Sincerely,



TOBACCO CITY

550 S. CHEROKEE W. Ste. G

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MAR 10 2009

City Clerk,
City of Lodi

March 2, 2009

Lodi City Council
c/o City Clerk
City Hall
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council:

I own a business here in Lodi and I am expecting that you will do the right thing and VOTE NO to the Wal-Mart super center project. Your vote has a direct effect on our future as small business owners, and if this project is built I fear that Lodi will lose much of the independent character that we have built for generations.

Lodi has grown a better place since this project first came up – and it's clear what they are offering. Honestly, I don't even see why this project helps generate more tax dollars when we already have a Wal-Mart and the new one would really only be adding more -taxable goods to what they already sell. Are we tearing this community apart just so we can have a favor for the biggest company in the world?

Don't send us a step backwards. Vote no on Wednesday night.

Sincerely,

owner
Star Market

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RECEIVED

MAR 10 2009

City Clerk
City of Lodi

3.2.2009

Lodi City Council
221 W. Pine Street
Lodi, CA 95240

Dear Council,

As a resident and small business owner, I am writing to ask that you vote to Lodi Shopping Center with a Wal-Mart Supercenter. The economy is already in 27-years, people aren't shopping, and local businesses are closing. The time to approve yet another large commercial center is not right.

I support business and capitalism. But this is a difficult time in which to operate a profitable business. Lodi is not exempt from the current economy. Furthermore, the proposed center stands to benefit only a few, not the city on a whole. It has to be sufficient! A grocery store at that intersection is needed.

I encourage the city to focus on approving business in the city's underserved areas and to support its local business owners, the true heart and soul of the city.

With much appreciation,

BAZBIR SINGH

LODI AVE LIQUORS

1000 W LODI AVE

LODI CA 95240



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MAR 10 2009

City Clerk
City of Lodi

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City of Lodi
Attn: Mayor and Council
221 W. Pine Street
Lodi, CA 95240

As a business owner, I welcome competition. I understand the moral dilemma most of you must be experiencing, one that believes strongly in capitalism and competition, when debating the Lodi Shopping Center development. Obviously, too, you are debating the sales tax revenues (though I still do not understand how the city plans to gain more than it currently gets by closing one business and replacing it with the same business but with a grocery store). But if you're just looking at it in those terms, then you are not approving the project for the right reasons. You are not considering your constituents, your local businesses, and ultimately the people here locally who are dependent on your leadership. The Lodi Shopping Center and the several other considered for Lodi are not in the best interest in this community. Please look into your hearts and beyond political ideology.

Again, thank you for your service to our community!

Regards,

La Cappilla Meat Market
725 S. CHEROKEE, CALIF.
LODI, CA. 95206



RECEIVED

MAR 10 2009

City Clerk
City of Lodi

March 2, 2009

Mayor Hansen and Council
Lodi City Hall
221 West Pine Street
Lodi, CA 95240

Dear Mayor Hansen and Councilmembers,

On Wednesday, you have a very important vote to cast for the Wal-Mart Supercenter REIR. Essentially, you'll be deciding if we should have a Supercenter or not. Hopefully, you've been hearing from folks like me here in Lodi. My plea is simple:

Vote NO on the Supercenter.

Wal-Mart would like you believe that all the businesses here in Lodi are welcoming towards the Supercenter. Well, we are not. Take a walk and ask us. You'll find that 75% of us are very concerned about the shop

It will have a negative impact on the downtown because a new shop will attract shoppers away from our stores and in this terrible recession, business owners need is even less foot traffic and shoppers downtown

Do the right thing for local businesses and vote no Wednesday night

Thank you,

*Dem F. Wergum
401 N. Ham Ln
Owner (53 years)*

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MAR 10 2009

City Clerk
City of Lodi

March 2, 2009

Lodi City Council
c/o City Clerk
City Hall
221 W. Pine Street
Lodi, CA 95240

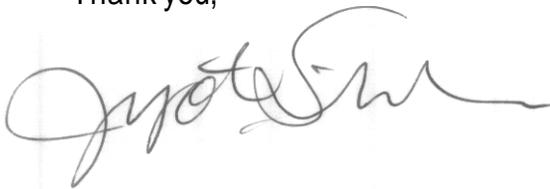
Dear Mayor and Council:

As a local business owner, I've invested a lot in the future of Lodi by getting dollars and keeping those dollars local. That investment is now threatened by the Supercenter project.

It's not just me: other local business owners are upset. This project will drive people away from the heart of the city where so much effort has been made to create a strong focal point for the city.

Competing in today's economy is difficult – we don't need the City Council making it tougher by approving a massive new Supercenter. Put a stop to economically damaging development projects – please vote no and end this debate once and for all.

Thank you,



Aldee Market
216 N. Cherokee Ln.
Lodi, CA 95240

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RECEIVED

MAR 10 2009

City Clerk
City of Lodi

Lodi City Council
221 W. Pine Street
Lodi, CA 95240

Dear Council,

It is typically not in my nature to comment on the happenings of our local government. As a business owners and resident, I follow the business of our community, including the considerations and decisions made by the city, but have never felt compelled before today to say anything. I feel the local Chamber of Commerce is meant to be the voice for the business community. But I think there is general disagreement over the proposed Lodi Shopping Center, a proposal both the city and business community have had to wrestle with for years now!

I am opposed to the shopping center. I feel I have the right to say this as a taxpayer and resident in this community, and primarily as a local business owner. Lodi, unfortunately, has fallen victim to believing that nationally owned stores, no matter who it is, are the saviors to our city's financial woes. But how much benefit does those sales tax revenues help Lodi? Is it perhaps one percent of our overall general fund? At the end of the day, it pales in comparison to the overall reinvestment local business owners have on our community.

Unfortunately, the city cannot have its cake and eat it too. Communities of our size cannot have both a vibrant downtown comprised of small locally owned businesses and a sprawl of large commercial shopping centers with nationally owned stores. We do not have the population to sustain the type of community development Lodi is approving. We are not a big tourist community. Half of our community lingers on the lower edge of the socioeconomic scale, so they are not spending a lot of money anyway! Please put the interest of your locally owned businesses ahead of those outside of our community. Thank you.

Sincerely,

*Teran Turner,
owner of
Memories for the Making
1325 W. Lockeford St
Lodi, CA 95242*

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

February 27, 2009

Lodi City Council
Lodi City Hall
21 W. Pine Street
Lodi, CA 95240

Dear Lodi Council Members,

Thank you for your continued service to **our** community. You have a difficult task in making certain that Lodi remains the viable and beautiful community we all love. **I**, the before, do sympathize with the stress each of you must have with the proposed Lodi Shopping Center, as you once again must wrestle over its approval. As a longtime resident of Lodi and as a local business owner, **I** would like to offer my thoughts about the proposal in the hopes that it will help persuade you in your decision.

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I was opposed to your vote to certify the environmental impact report for the project, not because of concerns with air quality or noise or traffic, but instead with seemingly lack of consideration for Lodi's local business owners. **I** live in Lodi; I pay taxes; **I** shop at our local grocery stores; I bank at our local banks; **I** am a business owner; **I** am a neighbor. The development of the Lodi Shopping Center is not a Lodi resident. Wal-Mart and Target and Lowes are not from Lodi or even California. Whereas **I** reinvest my money into **our** community, they do not

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Every local business owner in Lodi is more than just a business. **Our** families are tied directly to this community and to our local government. You need **us** as much as we need you. Healthy communities do not survive on nationally owned and operated stores. **Lodi**, I'm afraid, has gotten away with remembering that it takes people to make a city run. **I** implore you to please vote to deny the environmental certification and let's **focus** on keeping things local. Thank you.

d livelihoods are
ch as we need
es. Lodi, I'm
I implore you
things local.

Sincerely,

Deborah Olson Gjoni
OWNER (House of Coffees)
239 Lakewood Mall
Lodi CA
95240

209 368-2611

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

VIA E-MAIL Ihansen@lodi.gov

Mayor Larry Hansen
City of Lodi
221 W. Pine Street
Lodi, CA 95241

February 6, 2009

Subject: Opposition to Wal-Mart Supercenter Project and EIR

Dear Mayor Hansen:

I am the manager and one of the owners of the Cherokee Plaza Shopping Center located at the southeast quadrant of Cherokee Lane and E. Lodi Avenue. The center comprises approximately 173,000 square feet of retail space in east Lodi and is anchored by Orchard Supply Hardware and Big Lots. Kmart is next door. The center also sits within the proposed East Lodi Redevelopment Area; an area the City has determined is blighted.

I oppose the proposed Wal-Mart Supercenter Project and EIR for the project and urge the City Council to vote against this project. My wife and I tried to attend and speak at the December 10, 2008 City Council meeting on this project but were locked out of the building. Although we stayed around for several hours, the cold weather and lengthy meeting ultimately resulted in our leaving before we were allowed to attend or speak at the meeting. I understand the City now realizes this was an improper meeting process and has agreed to re-hold the meeting at a larger location sometime in March. For that decision I applaud you. I encourage you to now make this do-over meaningful and vote against the EIR.

I agree with the Lodi Planning Commission that this is the wrong project for Lodi. The EIR should not be certified because it fails to account for impacts in the proposed redevelopment area. In fact, the EIR entirely ignores the proposed redevelopment area and does not adequately account for impacts to our shopping center. In light of current economic conditions, we have a number of at risk tenants. To combat this, we are re-negotiating leases and lowering rents to prevent vacancies. Unfortunately, this is not entirely effective and we continue to see vacancy increases. Also unfortunate is the fact that as vacancies increase and rents decrease, commercial landlords like myself and others have less capital to invest into property maintenance.

What does this have to do with the Wal-Mart project? The new project includes, not only 228,000 square feet of Wal-Mart Supercenter, but also an additional 110,000 square feet of other retail. Lodi simply cannot absorb this much retail. That is, at a time when we see increased vacancies and business after business folding, it makes no sense to add a third of a million square feet of new retail to Lodi. This will only make filling existing retail that much harder. This means the City will see more vacancies and more "urban decay". The EIR says there is "insufficient evidence" to conclude urban decay will occur from the project. Well, that was based on 2007 data. I can tell you in 2009 there is abundant evidence showing this project will

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

create urban decay in Lodi and the EIR's claim that urban decay at the center given that the City can be counted on to take aggressive action to prevent such occumng" is meaningless. Not only should the City not be required to fix the conditions that would be caused by a Supercenter project, but no matter how City's action to prevent decay, with an oversupply of retail space and an unde and public maintenance capital there is no way to prevent the impact as the E

s "highly unlikely conditions from preventable aggressive the supply of private & assumes.

While much of the focus of the debate centers around groceries, I tell you that project has groceries, the impact will be devastating in this economy.

whether or not the

In short, the boat is slowly filling with water. If we can weather the economy ahead of the leak, we will still be afloat when the sun comes out. Approving this however, is akin to shooting a hole in the bottom of the boat. This project will extent) devastate exiting Lodi retailers and property owners and it will cause damage to Lodi's quality of life. We already have a Wal-Mart store that does expand their market share to the detriment of the health of this city.

storm and keep this project, hurt (and to some unnecessary must fine. Don't

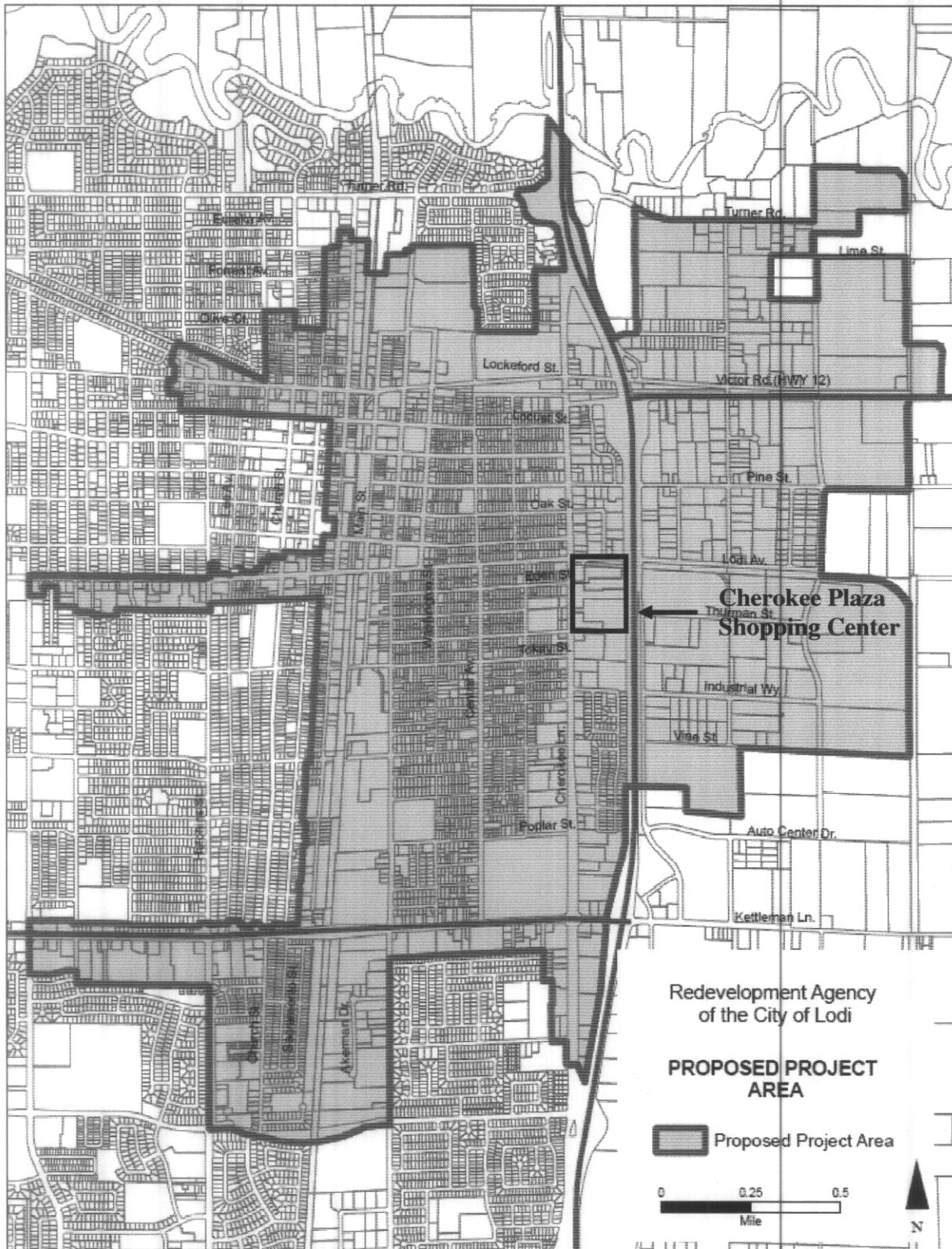
Rather, the Council should focus on rehabilitating the east side of town and downtown. Perhaps this project will be appropriate for Lodi in a few years, but time.

:servingthe t now is not the

Sincerely,

Stan Finberg

Cc: Mayor Pro Tem Katzakian
Councilmember Hitchcock
Councilmember Johnson
Councilmember Mounce



RECEIVED

MAR 10 2009

City Clerk
City of Lodi

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

February 26, 2009

The Lodi City Council
City Hall
221 West Pine Street
Lodi, CA 95240

Dear Mayor-elect Hansen and City Council:

As an owner of a business here in the city, I am writing to let you know that I oppose the Wal-Mart Supercenter project. I don't see how the Supercenter will help Lodi's future. Wal-Mart will claim that their new store will increase tax revenues and revenue for the City of Lodi. I hope you will take a long term view.

Like every city and town in America, Lodi is feeling the tough impacts of the recession. It's going to be a tough 2009 in our city, but eventually the recession will end and our finances will return to normal. Don't be blinded by an immediate need for tax revenue to influence your decision and vote. You need to think about the impression of out-of-town visitors and their dollars will have of our special city.

If you approve the Supercenter, Lodi will be just another Central Valley Wal-Mart. What's worse, it will be the first commercial center to welcome visitors traveling eastbound from the Bay Area. I'm sure that is the impression of local wineries and vineyards want San Francisco wine tasters and foodies making a trip travel our "Lodi Wine Trail". Lodi, just another Stockton with a Wal-Mart Supercenter.

Seriously, have some pride in Lodi and vote no.

Thank you,

Jennifer Silveira - owner
Flower Basket
116 W. Turner Rd suite B
Lodi, CA. 95240


I oppose the
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RECEIVED

MAR 10 2009

City Clerk
City of Lodi

February 26, 2009

Lodi City Council
221 W. Pine Street
Lodi, CA 95240

Dear Council:

As a local business owner, I am proud of the investment I have made in my community. Now I ask you to return that investment by voting against the Wal-Mart Supercenter.

I've been talking to my fellow business owners and a lot of us are quite concerned. The Supercenter will bring more shopping to the western edge of the city (not to mention that Supercenters sell so many of the products which we sell). It seems to many of us, that shoppers will flood to the retail in the west and eventually to the east, when Reynolds Ranch is built. We'll be caught in the middle, in a no-mans land.

A lot of us are having a hard time in today's economy. We are seeing fewer shoppers in our stores and that leads to fewer profits. Please, don't put our futures at jeopardy. Vote no.

Thank you,

MICHAEL KELENER OWNER
CITY BICYCLES
310 N. Main Ln


RECEIVED

MAR 10 2009

City Clerk
City of Lodi

February 26, 2009

Lodi City Council
c/o City Clerk
City Hall
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council:

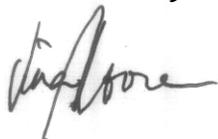
I own a business here in Lodi and I hope you will vote against the Val-Mart Supercenter. I think it's important that you hear from us, the business community who live here in the area. It seems to me that the time of the Supercenter has come and gone.

The three years plus after the first vote has seen Lodi change for the better with an investment into our downtown and plans to redevelop much of the eastside of the city. We have moved past our fascination with Supercenters.

Let's keep Lodi moving towards the future. Vote no on Wednesday night.

Sincerely,

Vina Moore - owner
Sign-Tek
100 W. TURNER Rd. #D
Lodi CA 95240



RECEIVED

MAR 10 2009

City Clerk
City of Lodi

February 26, 2009

City of Lodi
221 W. Pine Street
Lodi, CA 95240

Dear Honorable Mayor and Council,

I am a local business owner opposed to the certification of the Lodi Shopping Center environmental report. The center will have a negative impact on my business and on my family. We are fighting a struggling economy and dwindling revenues already. The addition of yet another shopping center on the outskirts of our community will be an added element in creating a perfect storm.

Normally I support the actions of the council and the city. I support the redevelopment efforts our city seeks to take. I believe we need to invest in our infrastructure because it's an investment in our local businesses. However, the city can look back at its investment into downtown see how difficult the business climate is for local owners. Downtown looks beautiful and yet businesses continue to close. Why?

An easy answer is to say that those businesses had failed business models or were offering services unneeded. But the more realistic answer is that local businesses have an unparalleled difficulty in competing with the large shopping centers with big box anchors and nationally run stores. Why does someone need to drive to downtown if they can get everything at the Lower Sacramento and West Kettleman juncture? They don't!

And though my and other local businesses are currently surviving, I know of many who have not. There are many others that will not survive the year. I ask that your body take this into consideration as you re-consider the Lodi Shopping Center's environmental report.

Regards,

Casa De Cake
Cakes for all Occasions
408 E. Kettleman Ln. #19
Lodi, CA 95240
(209) 339-8004

Maric Izizary, Owner


RECEIVED

MAR 10 2009

City Clerk
City of Lodi

February 26, 2009

Mayor Mounce and City Council
Lodi City Hall
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council:

I own a business here in town and am asking you to vote no on the Wal-Mart Supercenter. We already have enough big corporate retail chains competing with our businesses downtown. I think you would be doing us all a great disservice by allowing another huge shopping center to be built.

We can't compete with the advertising dollars of Target and Wal-Mart and the reality is, those are the stores Lodi shoppers think of first when they are out shopping for the holidays. They don't think about coming to School Street and visiting us here in the downtown.

I like to think that as a business owner here in Lodi, I have made an investment in our city. I just hope that you will continue to support us by voting against the Supercenter.

Thank you,



JOANNE TWELUE DESIGN
OWNER

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

February 26, 2009

Lodi City Council
City Hall
221 W. Pine Street
Lodi, CA 95240

Dear Mayor and Council Members,

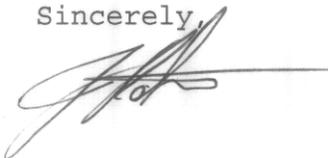
I wanted to take the opportunity to voice my concerns as a local business owner regarding the proposed Lodi Shopping Center. The proposed development has always been a concern of mine as it will be yet another shopping center that will drive customers away from the core shopping districts within Lodi. And though I may have not commented on the proposal in the past, I feel it is important for me to do so now, as I was surprised with the council's previous decision to move forward with the proposal.

Please be clear that my objections to the Lodi Shopping Center are not focused on Wal-Mart or their desire to open a 24-hour Supercenter. It wouldn't matter what large anchor store or junior tenants are being offered; the core of my issue is with the ongoing focus of developing shopping centers away from the core of our community. If residents and outsiders alike can do a majority of their shopping at the centers on the outskirts of town, what will drive them to patron local businesses further inside Lodi?

In this difficult economy, I would like to see the city put a moratorium on approving any new shopping centers to make certain the city's existing businesses, locally owned or not, are surviving the storm. Business will always be competitive but there has to be some level of judgment made by our city's officials as to what types and kinds of new businesses and shopping centers are welcome into Lodi and if they are truly needed. I do not believe the Lodi Shopping Center offers any new type of service or product that cannot already be found in Lodi.

I thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'J.A.', written over a horizontal line.

LAKWOOD MEATS & SAUSAGES
316 NORTH HAM LANE
LODI, CA 95242

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

December 9th, 2008

The Lodi City Council
Lodi City Hall
221 West Pine Street
Lodi, CA 95240

Dear Council:

I am writing to ask you to vote against the Wal-Mart Supercenter. I own a business here in town and I hope you will take the advice of the Planning Commission. Wal-Mart still hasn't convinced anyone that their impacts on Lodi will be minimal. According to the commission, their economic analysis and studies are incomplete. Wal-Mart is leaving too many questions unanswered. Until we know what its impacts will be on us business owners, I hope you won't **rush** to approval.

Please vote no on the Supercenter. There is too much to **lose** on this risky project.

Thank you,



Jennifer Nesbitt
City girl
14 W. Pine St
Lodi CA 95240

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

December 5, 2008

Mayor-elect Hansen and Council Members
City Hall
221 West Pine Street
Lodi, CA 95240

Dear Council:

I am writing to ask you to vote "no" on the Wal-Mart Supercenter. I own a business here in Lodi and I'd like to think that my voice is just as powerful as Wal-Marts.

I do not understand Wal-Mart's argument that a Supercenter will bring our tax revenue then the store we have now. A Supercenter just adds groceries, even taxable.

Perhaps Lodi should wait to see happens with the development of Reynolds Ranch before the Supercenter is built. I would hate to see Reynolds Ranch built and then this bad economy, attracting no tenants. Lodi could end up having a Supercenter on the western side and an empty strip mall on the east. I don't see how that benefits the Lodi Community Improvement Project you all are looking forward to starting off on giving the OK on the Supercenter.

Sincerely yours,


Renee Devine
Devine Home & Garden

business here

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RECEIVED

MAR 10 2009

City Clerk
City of Lodi

December 4, 2008

Mayor Mounce and City Council
C/O Lodi City Clerk
City Hall
221 West Pine Street
Lodi, CA 95240

Dear City Council Members,

I am a business owner here in Lodi and I am writing to ask you to vote on the new Wal-Mart Supercenter. I think it's important that you hear from owners who have been a part of the Lodi community longer than Wal-Mart. Sure, my business will never be as large as Wal-Mart, but I would like to think that my voice just as powerful

Please do what is best for us, the locally owned businesses in Lodi, and vote against the Supercenter.

Sincerely,

Chris Morris
Maurice Morris

Moia Petit Chic
School at Pine

December 4, 2008

The Honorable JoAnne Mounce and City Council
Lodi City Hall
221 West Pine Street
Lodi, CA 95240

Dear Mayor Mounce and Members of the Council:

I am a business owner here in Lodi and I recently saw the fancy Wal-Mart mailer making the claim that Wal-Mart is a "local" company. This is absolutely preposterous. This is a pathetic PR move and Lodi residents are smart enough to see through it. How dare they insult our intelligence!

You ought to vote no just to prove the point that Lodi doesn't want companies like Wal-Mart to be the image of a local Lodi business.

Thank you,

J Palmer, Josh PALMER
HARD LUCK TATTOO.

RECEIVED

MAR 10 2009

City Clerk,
City of Lodi

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

December 3, 2008

Lodi City Council
c/o City Clerk
221 West Pine St.
Lodi, CA 95240

Ms. Mounce and Council,

If I could have any wish this holiday season, it would be that Lodi had more Targets or Wal-Marts and we had more parking spaces on School Street. Anything to attract more shoppers!

In all seriousness, many of us are worried about our business sales, especially during the holiday season. This month is very, very important to us. For some, it will be make or break. So, it is with a plea for help that I ask you to vote against the Wal-Mart Supercenter.

I really do see a decline in buyers on School St. Everyone just assumes that Target and Waf-Mart's prices will always beat any price in a store downtown. There are times when this is true, but also times when it is not. I wish shoppers could really do some price comparisons on their own. But, when we are constantly bargained with "same money, live better", I guess we just become conditioned to believe it and not even think about.

Many stores downtown can't compete with the big chains. We don't need a larger Wal-Mart drawing even more shoppers away from our stores. Please vote no.

Sincerely,

Danni Enas

Business owner

William Sue

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

December 1, 2008

Lodi City Hall
City Council
221 West Pine Street
Lodi, CA 95240

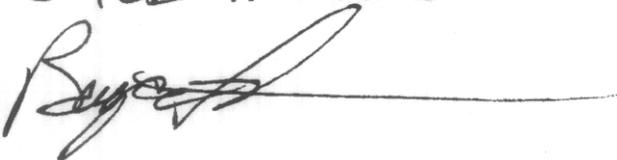
Dear Mayor Mounce and Members of the Council:

I own a business downtown and I have been following the recent debate about the Lodi Shopping Center. I guess that I am not surprised that the Planning Commission raised concerns about the economic impacts that the Supercenter will have on other businesses here in Lodi. I've never been convinced that we need a Supercenter. We already have a Wal-Mart. Why do we need a larger one? What's wrong with the existing one?

Perhaps there is nothing wrong and maybe the Planning Commission knows something I don't. Or, perhaps they know something Wal-Mart doesn't want any of us to know. I believe the Planning Commission has Lodi's interests at heart. It's time to move on.

Please vote **NO** on the Supercenter.

Sincerely,

ROYCE INMAN OWNER


Inman's Jewelry

RECEIVED

MAR 10 2009

City Clerk
City of Lodi

November 21, 2008

The Lodi City Council
C/O Lodi City Clerk
221 W. Pine Street
Lodi, CA 95240

Dear City Council.

As you prepare to take up the Wal-Mart Supercenter in December and I hope that you will take the advice of the Planning Commission and vote against the environmental impact report. I object to the project itself, because we simply don't need it. People say they need Wal-Mart for cheap goods. Fine, We already have a Wal-Mart. People say they want discount groceries. Fine. We already have a Food 4 Less next to the existing Wal-Mart. People say we need more sales tax revenue. Show me any hard evidence that says this project will increase tax revenue for the City. It won't. Instead, it will simply shift tax revenue from other places in the City to this location - while at the same time possibly putting existing businesses out of commission? The project's benefits simply do not outweigh its costs to our community.

For these reasons, I respectfully request that you refuse to certify the environmental impact report and refuse to approve this project for Lodi.

Sincerely,

La Jean Kuethe

La Jean Kuethe

*1040 W. Kettleman
Lodi, Ca*

367-0922

RECEIVED

NOV 24 2008

City Clerk
City of Lodi

Randi Johl

From: Susan Lake
 Sent: Wednesday, March 11, 2009 3:28 PM
 To: Randi Johl
 Subject: FW: Lodi Shopping Center Tax Study
Attachments: Lodi CA Supercenter Tax Benefits 3 10 2009 FINAL.doc; Final CBRE 309 Tax Analysis

-----Original Message-----

From: Jessica Berg [mailto:JBerg@bergdavis.mm]
 Sent: Wednesday, March 11, 2009 11:38 AM
 To: Larry Hansen; JoAnne Mounce; Susan Hitchcock; Bob Johnson; Phil Katzakian
 Cc: Susan Lake; Steve Schwabauer; Rad Bartlam
 Subject: Lodi Shopping Center Tax Study

Mayor Hansen and Members of the City Council,

In anticipation of tonight's hearing, please see the attached cover letter and economic study regarding the impact of the Lodi Shopping Center project on general fund revenues for Lodi. We look forward to answering any questions you may have about this study or any other topic at tonight's meeting.

Best regards,

Jessica Berg
 BergDavis Public Affairs
 150 Post Street, Suite 740
 San Francisco, CA 94108
 415-788-1000 ext. 202
www.bergdavis.com



Public Affairs & Government Relations

Aaron J. Rios
Senior Manager Public Affairs &
Government Relations

P.O. Box 750
Lodi, CA 952316
Phone 909 799 1853
Cell 559 274 6461
Fax 909 799 1876
www.walmartstores.com
www.walmartfacts.com

March 10, 2009

Via Email

Honorable Larry Hansen
Mayor
City of Lodi
221 W. Pine Street
Lodi, CA 95242

Re: Walmart Supercenter Tax Impacts

Dear Mayor Hansen and Honorable City Council members,

On behalf of Walmart Stores, Inc., I am pleased to provide you with the attached economic study recently completed by CB Richard Ellis. This study was conducted to determine the impact of the proposed Lodi Shopping Center, including the proposed Walmart Supercenter, on the City of Lodi's General Fund revenues. Walmart decided to undertake this study to respond to specific questions raised by some Planning Commissioners and City Council members, among others, about what the net gain is projected to be upon tax revenues specifically in the City of Lodi.

All data used in the CBRE study was based on figures prepared by Bay Area Economics (BAE) as part of the Environmental Impact Report (EIR) for the Lodi Shopping Center and not internal projected sales figures. The study's key conclusions include:

- The new Walmart is estimated to generate 81.08 million in sales tax revenue per year in 2005 dollars (see footnote 1)
- The other stores in the Lodi Shopping Center are estimated to generate \$308,000 in sales tax revenue per year in 2005 dollars
- Including business and property taxes, the new tax revenue per year for the Lodi Shopping center is estimated to be \$1.491 million in 2007 dollars
- The existing Walmart store generates \$548,000 in sales tax revenue to the City, and retenanting of the old Walmart is anticipated to generate \$421,000 in sales tax revenue

¹ . The BAE report used 2005 dollars. As a result, many figures in the report are in 2005 dollars except where scaled using the Consumer Price Index to 2007 dollars.

- The Lodi Shopping Center should result in an increase of \$1.364 million (\$1.4 million - (\$0.548 million) + \$0.421 million = \$1.364 million) in 2007 dollars
- The reduction in sales tax revenue from other stores in Lodi as a result of the Lodi Shopping Center is \$550,000 (Note: This figure is based on the BAE economic report and is extremely conservative and therefore potentially very high because the BAE market area was defined to include stores outside of the City of Lodi.)
- Using this conservative figure, the total net increase in sales tax revenue allocated to the City is \$814,000.
- **Once gains in property taxes and business license taxes are accounted for, and tax losses due to diverted sales are included, the net incremental tax gain for the City of Lodi is \$1,000,169.**

Our team looks forward to answering any questions you may have about this report or any other issue at the March 11, 2009, hearing. I also want to take this opportunity to reiterate Walmart's previous statements concerning the procedures used at the December 10, 2008, hearing. I wanted to make abundantly clear that Walmart did not have any prior knowledge of the ticket distribution system for the December 10, 2008, hearing. City staff did not tell any member of our team that tickets would be distributed for seats inside the chamber, nor did they tell us what time city personnel would begin that distribution. These facts can be easily confirmed with city staff. Also, while we understand the Council's decision to re-appear the certification of the Draft EIR out of an abundance of caution, we do not believe that the procedure used by the city at the December 10, 2008, hearing, caused a Brown Act violation.

Despite the many delays that the Lodi Shopping Center has encountered along the way, Walmart and Browman Development remain committed to building this important project. Both Walmart and Browman Development have been part of the successful fabric of Lodi for many years, and we type that our mutual commitment to Lodi is self-evident. We believe, and we hope you will agree, that the Lodi Shopping Center will be an asset for the citizens of Lodi for many years to come.

Respectfully,



Aaron J. Rios
Senior Manager Public Affairs & Government Relations
Wal-Mart Stores, Inc.

Attachments

cc: Lodi City Council
Blair King, City Manager
Steve Schwabauer, City Attorney
Radlam Bartlam, Interim Community Development Director

MEMORANDUM

Date: January 12, 2009

To: City of Lodi

From: Elliot R. Stein
Senior Managing Director
CBRE Consulting, Inc.

Re: Proposed Lodi Shopping Center
Sales Tax, Property Tax and Business License Tax Impacts

CBRE Consulting, Inc. was asked to determine the impact of the development of the proposed Lodi Shopping Center ("the Center") on the City of Lodi's General Fund revenues. The Center will be anchored by a 226,868 square foot Wal-Mart Supercenter and an additional 113,098 square feet of other retail space (see Exhibit 1). CBRE Consulting relied upon certain information contained in the Economic Impact Analysis prepared by Bay Area Economics (BAE) in order to conduct this analysis.¹ Specifically, the BAE report was the source of the project description, square footages, and sales per square foot figures used to estimate sales and property tax revenues. In addition, CBRE Consulting obtained from the California Board of Equalization and the City of Lodi's Finance Department information on property tax, sales tax, and business license tax relevant to the City of Lodi. Findings are summarized below and presented in greater detail in the attached exhibits.

Sales Tax Generated by the Center

According to the California Board of Equalization, the City of Lodi receives 1.0 percent of taxable retail sales generated by businesses within the city. Since not all of the sales at the proposed Wal-Mart Supercenter or at the other retail businesses in the Center will be taxable sales (e.g. certain food items, prescription drugs, etc.), CBRE Consulting adjusted total projected sales by removing the non-taxable sales. The adjustments are explained in detail in Exhibit 2. Based on Bay Area Economics' sales estimates which were presented in 2005 dollars, sales tax revenue to the City of Lodi is estimated at \$1,080,700 from the Wal-Mart Supercenter plus an additional \$308,900 from the other stores in the Center, for a total of \$1,389,600/year (in 2005 dollars), assuming stabilized sales. It would be reasonable to escalate these figures to reflect sales in current dollars. However, for the sake of consistency with the BAE analysis, we did not escalate the numbers for this calculation.

¹ Bay Area Economics, "Economic Impact/Urban Decay Analysis for Proposed Lodi Shopping Center in Lodi, CA," October 2007.

CBRE CONSULTING, INC.

City of Lodi
January 12, 2009
Page 2



Business License Tax

Relying on the schedule of business license taxes provided by the City of Lodi Finance Department, CBRE Consulting estimated the annual taxes that would be payable by Wal-Mart and by the other tenants in the Center. Detailed assumptions are shown in Exhibit 3. Business license taxes are estimated at \$128,000 per year from Wal-Mart plus approximately \$17,000/year from the other stores in the Center, for a total of \$145,225/year.

Property Tax

Property taxes generated by the Wal-Mart Supercenter will be a function of its assessed value. For the purpose of this analysis, it was assumed that the value will be determined based on the cost approach to value. That is, the sum of direct construction costs plus indirect costs (i.e. fees for architecture, engineering, other consultants, financing, interest, entitlements, permits, insurance, etc.) was used as the basis for calculating real property taxes. Cost estimates from Wal-Mart were used to estimate the potential assessed value of the property (see Exhibit 4). Development costs for the remainder of the Center were not provided to CBRE Consulting; therefore, this estimate of property tax revenue to the City of Lodi is limited to the Wal-Mart store only.

It was assumed that property tax is already being assessed on the land and that taxes are already being received on that component of the property. Therefore, CBRE Consulting focused on the net property tax revenue that would result from the development of the Wal-Mart Supercenter. As shown in Exhibit 4, the net property tax generated by the Supercenter is estimated at \$358,630, of which an estimated \$40,920 represents the City of Lodi's share.

Net Increase in Sales Tax

CBRE Consulting was also asked to factor into the analysis of sales tax impact two additional considerations: the loss of sales tax resulting from the closure of the existing Lodi Wal-Mart store; and the new sales tax that could be expected from replacement tenants in the space Wal-Mart will be vacating. That analysis is presented in detail in Exhibit 5. It begins with the estimate of sales tax from the proposed Wal-Mart Supercenter (\$1,389,568 in 2005 dollars). That figure was escalated to 2007 dollars (to \$1,491,241) before adjusting for the closing of the existing Wal-Mart store and the addition of replacement tenants in order to have comparable numbers. The actual change in the Consumer Price Index from 2005 to 2007 was used to adjust to 2007 dollars (see Exhibit 5, footnote 5 for further detail). In summary, the closure of the existing Wal-Mart store would represent a loss of approximately \$548,000 per year in sales tax revenue to the City of Lodi, while replacement tenants generating industry average annual sales of \$350 per square foot would represent an estimated \$421,000 of new sales tax revenue to the City. Overall, the net increase in sales tax is estimated at \$1,364,000 in 2007 dollars, as shown below:

Sales Tax Revenue from Lodi Shopping Center	\$1,491,241
Less: Sales Tax from Existing Lodi Wal-Mart Store	(548,217)
Plus: Sales Tax from Replacement Tenants	421,000
Net Increase in Sales Tax Revenue to the City of Lodi	\$1,364,024

CBRE CONSULTING, INC.

City of Lodi
 January 12, 2009
 Page 3



Among its conclusions, Bay Area Economics indicated that: "The net capture of sales from existing retail outlets in 2008 is estimated at approximately \$55 million." In other words, there may be a diversion of sales from existing retail outlets in the trade area to the new Center, which would result in a decrease in sales tax to the City from those outlets. Because the trade area defined by Bay Area Economics is larger than the City of Lodi (it includes surrounding areas outside the city limits), not all of the \$55 million in diverted sales will impact the City. However, for the purpose of this analysis, it is reasonable to note that since most of the existing trade area retailers are located within the City, one can conservatively estimate that if all of these diverted sales were at the expense of City of Lodi retailers, then the loss of \$55 million in sales would equate to a loss of \$55 million x 1% = \$550,000 in sales tax revenue to the City of Lodi.

Conclusion

The estimated net gain to the City of Lodi from property, sales, and business license taxes is summarized below.

<u>Type of Tax</u>	<u>Total Taxes Generated</u>	<u>Taxes Lost</u>	<u>Incremental Net Gain</u>
Sales Tax			
Lodi Shopping Center	\$1,491,241		
Existing Lodi Wal-Mart		(\$548,217)	
Replacement Tenants	\$421,000		
Diverted Sales		(\$550,000)	
Property Tax (<i>Wal-Mart</i> only)	\$40,920		
Business License Tax	\$145,225		
Total	\$2,098,386	(\$1,098,217)	\$1,000,169

Sources: CBRE Consulting.

² Ibid, p. 68.

ASSUMPTIONS AND GENERAL LIMITING CONDITIONS

CBRE Consulting, Inc. has made extensive efforts to confirm the accuracy and timeliness of the information contained in this study. Such information was compiled from a variety of sources, including interviews with government officials, review of government documents, and other third parties deemed to be reliable. Although CBRE Consulting, Inc. believes all information in this study is correct, it does not warrant the accuracy of such information and assumes no responsibility for inaccuracies in the information by third parties. We have no responsibility to update this report for events and circumstances occurring after the date of this report. Further, no guarantee is made as to the possible effect on development of present or future federal, state or local legislation, including any regarding environmental or ecological matters.

The accompanying projections and analyses are based on estimates and assumptions developed in connection with the study. In turn, these assumptions, and their relation to the projections, were developed using currently available economic data and other relevant information. It is the nature of forecasting, however, that same assumptions may not materialize, and unanticipated events and circumstances may occur. Therefore, actual results achieved during the projection period will likely vary from the projections, and some of the variations may be material to the conclusions of the analysis.

Contractual obligations do not include access to or ownership transfer of any electronic data processing files, programs or models completed directly for or as by-products of this research effort, unless explicitly so agreed as part of the contract.

This report may not be used for any purpose other than that for which it is prepared. Neither all nor any part of the contents of this study shall be disseminated to the public through publication advertising media, public relations, news media, sales media, or any other public means of communication without prior written consent and approval of CBRE Consulting, Inc.

**Exhibit 1
Sales Estimate and Distribution
Proposed Lodi Shopping Center
2005 Dollars**

Store Characteristic/BOE Retail Category (1)	Square Feet (2)	Sales Per Square Foot (2)	Projected Sales (3)
<u>Proposed Wal-Mart Supercenter</u>			
Square Footage			
General Merchandise	176,313	\$564	\$99,510,918
Grocery	<u>50,555</u>	\$564	<u>\$28,533,202</u>
Total	226,868		\$128,044,120
<u>Other Stores</u>			
Square Footage (1)			
Apparel	8,131	\$300	\$2,439,411
Drug Store	14,788	\$478	\$7,068,664
Eating and Drinking Places	17,190	\$475	\$8,165,250
Other Retail	59,829	\$300	\$17,948,589
Non-Retail Uses	<u>13,160</u>	N/A	<u>N/A</u>
Total	113,098		\$35,621,913
Center Total	339,966		\$163,666,033

Sources: California State Board of Equalization; Bay Area Economics; and CBRE Consulting.

- (1) BOE is the State of California Board of Equalization, which collects sales taxes from r
public tabulations of the occurrence and level of taxable sales in the categories provided
(2) Square footages and sales for the proposed shopping center provided by Bay Area E
Impact/Urban Decay Analysis for Proposed Lodi Shopping Center in Lodi, CA." October
(3) Totals may not add due to rounding.

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Exhibit 2
 City of Lodi General Fund Impacts
 Proposed Lodi Shopping Center Sales Tax Revenue
 2005 Dollars

Sales Tax Assumptions	Amount	
Sales Tax Revenue from Proposed Wal-Mart Supercenter		
Non-Grocery Sales (1)	\$99,510,	18
Taxable Grocery Sales (2)	\$8,559,	51
Total Taxable Sales	\$108,070,	79
Local Tax Share to General Fund (3)		0%
Sales Tax Revenue from Wal-Mart	\$1,080,	39
Sales Tax Revenue from Other Stores in the Center		
Taxable Drug Store Sales (4)	\$2,332,	59
Other Taxable Sales (1)	\$28,553,	49
Total Taxable Sales	\$30,885,	38
Local Tax Share to General Fund (3)		0%
Sales Tax Revenue from the Remaining Center	\$308,	59
Total Sales Tax Revenue to the City of Lodi	\$1,389,	68

Sources: California State Board of Equalization; and CBRE Consulting.

(1) Refer to Exhibit 1.

(2) The Wal-Mart Supercenter's total grocery sales are estimated at \$28.5 million (refer to Exhibit 1). It is estimated that only 30.0 percent of grocery sales are taxable.

(3) Information obtained from the California Board of Equalization

(4) It is estimated that only 33.0 percent of drug store sales are taxable.

Exhibit 3
Proposed Lodi Shopping Center Business License Tax Revenue
2008 Dollars

Business License Tax Assumptions (1)	Amount
Business License Tax Revenue from Proposed Wal-Mart	
Total Gross Receipts	\$128,044,120
Tax Rate (1)	\$1.00/\$1,000
Estimated Total Business License Tax for Wal-Mart	\$128,044
Business License Tax Revenue from Other Stores	
Apparel (2)	
Total Gross Receipts Per Store	\$609,900
Tax Per Store	\$210
Estimated Total Business License Tax for 4 Stores	\$840
Drug Store	
Total Gross Receipts	\$7,068,664
Tax Rate	\$.60/\$1,000
Estimated Total Business License Tax	\$4,241
Eating and Drinking Places (3)	
Total Gross Receipts Per Stores, 4 Fast Food	\$1,150,688
Total Gross Receipts Per Store, 2 Sit-Downs	\$1,781,250
Tax Per Store	\$450
Estimated Total Business License Tax	\$2,700
Other Retail (4)	
Total Gross Receipts Per Store	\$900,000
Tax Per Store	\$450
Estimated Total Business License Tax for 20 Stores	\$9,000
Non-Retail Uses (5)	
Total Gross Receipts, 8 Spaces	N/A
Tax Per Business	\$50
Estimated Total Business License Tax	\$400
Total for Other Stores	\$17,181
Total Estimated Business License Tax Revenue from the Center	\$145,225

Sources: City of Lodi Finance Department; and CBRE Consulting.

(1) The City of Lodi Finance Department the Business License Tax Rate for the Retail and Services Group is as follows:

Gross Receipts	Tax or Tax Rate
\$0 to \$200,000	\$50
\$200,001 to \$500,000	\$98
\$500,001 to \$900,000	\$210
\$900,001 to \$3,000,000	\$450
\$3,000,001 to \$10,000,000	\$.60/\$1,000
\$10,000,001 and greater	\$1.00/\$1,000 (nolimit)

(2) Gross receipts for Apparel estimated based on 4 stores at 2,033 square feet each.

(3) Gross receipts for Eating and Drinking Places estimated based on 4 Fast Food and 2 Sit-Down restaurants at 2,423 and 3,750 square feet each, respectively.

(4) Gross receipts for Other Retail stores estimated based on 20 stores at 3,000 square feet each.

(5) Gross receipts for Non-Retail spaces conservatively estimated using 8 spaces at the minimum tax rate.

Exhibit 4
 City of Lodi General Fund Revenue Impacts
 Wal-Mart Supercenter Property Tax Revenue
 2008 Dollars

	Amount
Wal-Mart Supercenter	
Total Direct Construction Costs (1)	\$26,800,000
Indirect Cost Estimate (2)	\$7,300,000
Land Cost (3)	N/A
Total Project Costs Excluding Land	\$34,100,000
Total Tax Basis (excluding Land)	\$34,100,000
County Tax Rate (4)	1.0517%
Total Tax to County	\$358,630
City Share of the County Tax Rate (4)	11.41%
Net Property Tax Revenue from Wal-Mart Supercenter (4)	\$40,920

Sources: San Joaquin County Treasurer-Tax Collector; Wal-Mart Stores Inc.; Calif Equalization; Boy Area Economics; and CBRE Consulting.

- (1) Construction cost estimates provided by Wal-Mart Stores, Inc.
- (2) Indirect construction costs estimates provided by Wal-Mart Stores, Inc.
- (3) Net property tax revenue reflects tax on only the hard and soft costs of the project. It is assumed that property tax is already being assessed on the land value; therefore, it is not incremental to this analysis.
- (4) Information provided by San Joaquin County Treasurer-Tax Collector.

State Board of

excluding land cost.
 It is not incremental

Exhibit 5
City of Lodi General Fund Impacts
Net Increase in Sales Tax Revenue From Proposed Lodi Shopping Center

Sales Tax Assumptions	Amount	
LODI SHOPPING CENTER		
Sales Tax Revenue from Proposed Wal-Mart Supercenter		
Non-Grocery Sales (1)	\$99,510,918	
Taxable Grocery Sales (2)	\$8,559,961	
Total Taxable Sales	5108,070,879	
Local Tax Share to General Fund (3)	1.0%	
Sales Tax Revenue from Wal-Mart	\$1,060,709	
Sales Tax Revenue from Other Stores in the Center		
Taxable Drug Store Sales (4)	\$2,332,655	
Other Taxable Sales (1)	\$28,553,245	
Total Taxable Sales	\$30,885,908	
Local Tax Share to General Fund (3)	1.0%	
Sales Tax Revenue from the Remaining Center	\$308,859	
Total Sales Tax Revenue to the City of Lodi		
2005 Dollars	\$1,389,568	
2007 Dollars (5)	\$1,491,241	[A]
LESS: EXISTING LODI WAL-MART STORE		
Sales Tax Paid to City of Lodi (2007)(6)	\$548,217	[B]
PLUS: REPLACEMENT TENANTS AT EXISTING LODI WAL-MART STORE		
Taxable Sales (7)	\$42,100,000	
Local Tax Share to General Fund (3)	1.0%	
Sales Tax Revenue from Replacement Tenants	\$421,000	[C]
NET INCREASE IN SALES TAX REVENUE TO CITY OF LODI [A - B + C]	\$1,364,024	

Sources: California State Board of Equalization; State of California Department of Industrial Relations, Division of Labor Statistics and Research; Wal-Mart Stores, Inc.; and Consulting.

(1) Refer to Exhibit 1.

(2) The Wal-Mart Supercenter total grocery sales are estimated at \$28.5 million (refer to Exhibit 1). It is estimated that only 30.0 percent of grocery sales are taxable.

(3) Information obtained from the California Board of Equalization.

(4) It is estimated that only 33.0 percent of drug store sales are taxable.

(5) Escalation based on the State of California Department of Industrial Relations, Division of Labor Statistics and Research; annual CPI changes 3.9 percent from 2005-2006 and 3.29 percent from 2006-2007.

(6) Information provided by Wal-Mart Stores, Inc.

(7) This estimate is based on an industry sales per square foot standard of \$350 multiplied by 120,352 square feet.



Memorandum

To: Rad Bartlam
Interim Community Development Director
City of Lodi

From: Raymond Kennedy
Vice President

Re: Response to King Memorandum

Date: March 11, 2009

The purpose of this memo is to provide a response to a memorandum from Philip and Sharmila King (the "King Memorandum"), dated December 10, 2008, regarding the EIR for the Lodi Shopping Center. The King Memorandum raises a number of issues regarding the urban decay analysis conducted by BAE as part of the EIR.

The issues discussed in the King Memorandum and responded to here fall into **5** broad categories:

- o Existing Urban Decay/Blight in the City of Lodi
- o Omission of Retail Outlets Stores and Understatement of Impacts
- o Current Housing Crisis and Economic Downturn
- o Failure to Consider Potentially Relevant Retail Centers Outside Trade Area
- o Adequacy of City Enforcement/Ordinances in Limiting Urban Decay

Following is a brief discussion regarding each of these points.

Urban Decay/Blight

The King Memorandum asserts that the DEIR fails to properly account for existing urban decay and blight, particularly in the Downtown and East Lodi areas. This assertion is problematic and incorrect. First, the King memorandum wrongly and repeatedly confuses urban decay of the retail landscape due to new retail development (as per *Bakersfield Citizens for Local Control v. City of Bakersfield, Panama 99 Properties LLC, and Castle & Cooke Commercial-CA, Inc.*), which is the subject of CEQA analysis, with blight, which has a specific meaning in the context of redevelopment and which often does not correspond to urban decay. In fact, the Bakersfield court decision that provides the legal basis for the requirement for urban decay analysis makes very clear that urban decay is not equivalent to blight; as noted in Footnote 4 (Page 17) of the Bakersfield

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court decision

Some of the parties use the term “urban blight,” assuming that it is interchangeable with “urban decay.” This is incorrect. “Blight” is a term with specialized meaning that has not been shown to be applicable.

While the Redevelopment Area may have blighted conditions, this blight is not necessarily related to the retail environment at all; for example, deteriorated residential structures may be blighted but this does not constitute an existing condition with respect to the retail environment. Second, and related to the above, the King Memorandum states that the **DEIR** has not properly taken into consideration existing conditions with respect to urban decay throughout Lodi. This is incorrect. **As** demonstrated by direct quotes from the DEIR as shown (see page 2 of King Memorandum), the DEIR analysis does consider existing conditions in Lodi with respect to urban decay, in the Downtown area. Furthermore, **BAE** conducted an area tour and did not find other retail areas exhibiting deterioration that rose to the level of urban decay. **As** stated on Page 73 of the BAE report:

BAE’s tour of the existing centers found no current evidence of urban decay or physical deterioration resulting from vacancy, deferred maintenance, or disinvestment in the Trade Area’s retail centers and districts, with the exception of some smaller and older structures downtown, some of which are reportedly in need of major seismic upgrades.

While the King Memorandum asserts that **BAE** did not properly inventory existing conditions regarding urban decay, this misconception results in large part from confusion regarding the distinctions between urban decay and blight.

Finally, their conclusions here regarding current conditions contradict their own previous conclusions regarding urban decay in Lodi, as discussed on Page 16 of the analysis of Wal-Mart impacts they submitted to the City in 2005’:

A number of malls as well as the outskirts of the downtown area are already marginal, however *Lodi has not yet experienced significant urban decay or physical deterioration.* [emphasis added]

Omission of Retail Outlets from Analysis

The King Memorandum claims that **BAE** has taken sales data that is then only applied “to selected stores, in effect overstating current sales at those stores.” This assertion is incorrect. The King memorandum has confused **BAE**’s overall estimate of food store sales derived from published

“Economic Analysis of a Proposed Wal-Mart Supercenter in Lodi, California,” California Economic Research Associates (Philip and Sharmila King, preparers), January 18, 2005.

taxable sales data as adjusted and shown in Table 10, with the estimate of total major supermarket sales, as shown in Table 12. The King Memorandum has taken the estimate for the major suuermarkets, and applied it to all food stores, as shown on Page 13 of that memorandum. This mistaken estimate is then used to conclude that sales per square foot for all food stores is lower than stated by BAE, and that BAE “omitted” approximately \$50 million in food store sales. In fact, in its Table 10, BAE estimates total food store sales in the Trade Area at over \$183 million, accounting for most of this purported “omission”.⁷ Another indication of the lack of rigor in the King Memorandum’s analysis of food stores is in the “Partial List of Food Stores Omitted in EIR,” found on Page 12. This list includes two stores, Payless and Salisbury Market, that are actually included in BAE’s analysis (see Table 11, Page 24 of the BAE report). Also interesting is a review of the analysis of Wal-Mart’s impacts in Lodi submitted by the Kings in 2005³ in comparison with their current analysis and BAE’s analysis. In the 2005 document, the Kings estimated supermarket sales at what they considered the major supermarkets⁴ at \$141.7 million annually in 2004 (see Table 1 in their 2005 report), roughly in line with BAE’s 2008 estimate of \$152 million. They estimate the average annual sales per square foot at \$390 (again from Table 1 in their 2005 report), equal to BAE’s 2006 estimate for a similar grouping of stores, rather than the lower number, based on incorrect assumptions, that they choose to use in their more recent analysis. They also estimate impacts by allotting all the losses due to Wal-Mart to this set of supermarkets only, rather than all food stores as in the King Memorandum of 2008, showing that they themselves use the methodology they attempt to discredit in the BAE report.

Finally, with respect to food stores, while not calling them out explicitly, BAE provides reasoned analysis regarding smaller food stores on Page 22 of its report:

The Wal-Mart Supercenter includes space equivalent in function and layout to a supermarket, so the principal new competitors for the Supercenter will be other supermarkets. Other smaller food stores such as small ethnic markets and convenience stores and other outlets are assumed to have a level of sales that already accounts for supermarket-type competition; an additional large supermarket is unlikely to draw a substantial number of shoppers away from these small stores, which survive by focusing on a different market niche than major supermarkets, such as convenience, ethnic, or specialty goods.

King makes several similar errors with respect to the analysis of general merchandise stores,

The remainder may be accounted for by lower sales volumes in some of the smaller independent food stores, or by errors in the King Memorandum’s un-sourced estimate for average store size for these additional outlets.

“Economic Analysis of a Proposed Wal-Mart Supercenter in Lodi, California,” California Economic Research Associates (Philip and Sharmila King, preparers), January 18, 2005.

Their list of major supermarkets differs from BAE’s in including a Grocery Outlet that subsequently went out of business and excluding the very same Payless and Salisbury Market stores that they erroneously state BAE has excluded.

confusing **BAE's** estimate of total sales in the three key major outlets with taxable sales from 2005 from Table 8. While **BAE's** report did not make an adjustment for non-taxable sales in its Lodi analysis, it did note that the overall category total was only taxable sales, while the numbers for this group of stores was all sales, as noted on Page 26:

This \$122.2 million makes up a high proportion of the non-drug-store general merchandise store sales in Lodi, which totaled approximately \$135 million (taxable sales only, see Table 7) in the most recent four quarters reported.

Subsequent research by **BAE** indicates that since these stores often sell non-taxable food items and prescription drugs and based on comparisons of taxable retail sales for non-drug general merchandise stores to sales as reported in the 2002 Census of Retail Trade, taxable sales may only constitute 85 percent to 95 percent of total sales in these stores. Another noteworthy error in the King Memorandum is the inclusion of apparel stores as general merchandise stores. The State Board of Equalization classifies both Ross and Marshall's as apparel outlets, so the total square footage comparing to a taxable sales data estimate should not include these two stores as the King Memorandum does. Additionally, the King Memorandum has vastly overstated the size of the JC Penney store in Lodi; this store is not 75,000 square feet, but less than 35,000 square feet.⁵ The King Memorandum also lists the Mervyns space as 80,000 square feet, this appears to be somewhat overstated also. Thus the estimates of sales per square foot for general merchandise stores found in the King Memorandum are incorrect and understated, invalidating their subsequent analysis of sales performance per square foot and potential impacts.

These errors in the King Memorandum cast doubt on some of the other findings reliant on estimated square footages. In particular, the King Memorandum makes an estimate of sales in Downtown Lodi (Table 1, Page 6) that relies on what could best be called an undocumented guess regarding the average store size in Downtown Lodi. The analysis assumes an average store size of 2,000 square feet (with no stated factual basis for this claim), and then uses this average to calculate an estimated sales per square foot. In fact, in their 2005 report cited above, with respect to Downtown Lodi the Kings assume "the average store is 3,500 square feet," (see Page 12 of their 2005 report) a number they describe at that time as "conservative," yet they have reduced it further for their more recent analysis. The questionable nature of this previous number was addressed in the **EIR** in **BAE's** report, where **BAE** states that it appears they did not base that estimate on actual measurement of store sizes, and on Page 57 of the **BAE** report it further states that

⁵ <http://www.kimmelconstruction.com/retail.html>. Use of the measuring tool in Google Earth confirms that this source's number of 33,796 square feet is likely correct to within 1,000 square feet. This estimate also casts doubt on the credibility of all the square footage estimates used in the King Memorandum. In at least one case, the King Memorandum makes verification of the numbers difficult; Table 2 is supposed to list "Store Closings as Result of Cumulative Impacts of Both Projects," but this appears to be a mistaken duplicate of Table 4, instead of showing the stores listed above Table 2 in the text on Page 7.

Given the smaller buildings and storefronts Downtown, BAE believes that this estimate of average store size may be overstated, thus leading to an understatement of the average sales per square foot. Furthermore, the kinds of small independent businesses found Downtown may not require the level of sales support necessary for a national chain. For example, using *ULI's Dollars and Cents of Shopping Centers: 2004*, the same source as the King Report, overall Restaurants with Liquor in Community Shopping Centers report a national median sales per square foot of \$301.85; however, the national chain median is \$374.09, and the independent outlet median is only \$237.72.

Based on the lack of reliability of the data found in the King Memorandum regarding retail sales and actual store sizes, and the fact that these stores often have a lower performance hurdle, BAE finds no reason to change its conclusions regarding urban decay based on this information in King Memorandum.

Failure to Properly Consider Other Retail Centers

The King Memorandum is correct in that BAE's analysis in the EIR did not consider the Reynolds Ranch at 750,000 square feet, but instead used 640,000 square feet. As noted in a footnote in the King Memorandum, however, the approval of the General Plan Amendment regarding the increase in the retail space occurred in September 2008, well after the BAE analysis. However, because this issue was of such concern to the City, BAE subsequently produced a memorandum considering this size increase, and determined that this increase in retail space would not change BAE's findings regarding urban decay.⁶

The King Memorandum also states that the cumulative analysis should have considered the potential impacts of proposed Supercenters in North Stockton and Galt. However, as stated on Page 3 of the BAE report

These other stores effectively limit the Trade Area for the Lodi Supercenter to customers in Lodi and some surrounding rural areas extending east to the county boundary, north approximately midway to Galt, east to Interstate 5, and south approximately midway to Stockton.

In taking these stores into account, BAE thus conservatively assumed no additional capture of general merchandise store sales from outside the Trade Area. Given events since BAE's analysis, this has proven even more conservative than envisioned. Both the proposed nearby Supercenters, in Galt and in north Stockton, have been significantly downsized since the time of BAE's analysis due to ordinances limiting the size of such stores in both cities. For example, the Stockton store at

⁶ "Review of Lodi Shopping Center/Urban Decay Analysis," completed for Rad Bartlam, Lodi IDA Director, Community Development, completed by BAE, October 1, 2008.

Eight Mile Road has been approved at just under 100,000 square feet total, when it was originally planned at over 200,000 square feet. As a result, neither the Galt Supercenter nor the Eight Mile Road Supercenter will carry the same broad range of merchandise as the proposed Lodi store, which should thus actually be able to attract some shoppers from the areas also served by these stores and outside the defined Trade Area seeking the broader range of inventory available in Lodi.

According to the King Memorandum, BAE's analysis should have also considered development in Amador County beyond the Trade Area, since it might capture shoppers currently journeying to Lodi. In particular, the Kings note the Amador Ridge Regional Shopping Center outside of Jackson. As noted in the King Memorandum, the major anchors are Lowe's, Safeway, and Staples. While this center could draw some shoppers out of Lodi as stated by the Kings, the Lodi Wal-Mart Supercenter demand analysis did not assume additional capture of sales from outside the Trade Area. The major anchor store Lowe's may draw some shoppers from Lodi, but these losses would largely be felt by the Lodi Lowe's, and thus would not likely to lead to closures in Lodi. The Safeway is likely to be more local-serving, and the other smaller stores are not likely to have additional significant impacts on sales in Lodi in combination with the Lodi Shopping Center or cumulatively with other developments. While the King Memorandum indicates shoppers in Amador County frequent stores in Lodi, they are also likely shopping at retail nodes in Folsom (which has a much broader range of retailers than Lodi, including both Costco and Sam's Club as well as being the gateway to an even wider array of retail in the greater Sacramento area), Placerville and Stockton. The proportion of loss to Lodi is not likely to have a significant impact on retail sales in Lodi overall. Furthermore, the King Memorandum fails to note the existing Wal-Mart in Jackson, which serves Amador County residents such that they would be less likely to come to the existing Wal-Mart in Lodi; the presence of a Supercenter with its broader selection may actually serve to attract additional sales to Lodi out of Amador County. The BAE analysis conservatively assumes no additional capture from Amador County for the Lodi Shopping Center.

Current Housing Crisis and Economic Downturn

The King Memorandum indicates that BAE should have taken into account the housing crisis and economic downturn in its analysis. Simply put, these events largely happened after BAE completed its analysis (while the report for the DEIR was finalized in October, the research baseline was late 2006/early 2007), and thus were not considered in the analysis for the EIR. At that time, the economy was still expanding, and the depth of the subsequent downturn was largely unanticipated. Currently, the turmoil in the economy make any kind of long term predictions difficult, and any further analysis by BAE could be subject to a "moving target" problem, where the updates to the analysis would not be able to keep pace with events. Even the King Memorandum falls prey to this problem; they discuss the Mervyns closure, which they highlighted as an example of a property at risk of urban decay. Within a few days of the King Memorandum.

Kohl's announced it was taking over this store site along with many other former Mervyn's sites. This also demonstrates that even in the current economy, retailers see opportunities for growth in Lodi.

In considering the impacts on the Lodi Shopping Center, while this economic downturn is very severe by post-WWII standards, it should be noted that BAE's analysis assumed that the center would be fully operation in 2008. The actual completion date is more likely to be in 2011 or 2012 at the earliest, given that this EIR is almost certain to be subject to additional litigation. By that time, the economy is likely to have come out of even this serious recession. Furthermore, while not considered in BAE's cumulative analysis, the economic downturn is likely to stall or slow other pipeline retail projects, such as Reynolds Ranch. In other words, the market will adjust to the slowdown by slowing down the pace of overall retail real estate development. Thus, while the current economic conditions were not entirely anticipated, BAE does not believe that these changes affect its findings regarding urban decay.

Ordinances Regarding Urban Decay

Finally, the King Memorandum asserts that, partly in light of some of the above factors, the City's enforcement of ordinances regarding prevention of blight and urban decay will not be effective in preventing the deterioration of closed retail spaces. Based on BAE's field work in Lodi as well as the past history of Lodi's commitment of resources to combat physical deterioration, BAE finds no reason to change its finding on this matter. The King Memorandum as evidence shows pictures of a vacated store in another City, but tellingly does not provide any similar photos from Lodi. BAE's analysis acknowledges that there are existing deteriorated properties, but provides evidence that the City is taking steps to abate these problems, many of which are not related to retail market conditions but instead to the need to do seismic repairs on historic structures worthy of preservation even if City subsidy is required. Additionally, BAE's Memorandum of October 1, 2008 further addresses this issue in light of the increased size of Reynolds Ranch's retail component. BAE continues to conclude that its findings regarding urban decay with respect to this issue are correct.

Conclusions

In summary, the King Memorandum reaches different conclusions than BAE, but these conclusions are in large part based on incorrect assumptions, confusion regarding the concepts of urban decay and blight, and assertions that are not documented with adequate factual support. Therefore, BAE finds no reason to change its findings in light of the analysis found in the King Memorandum.

Qualifications for BAE and Raymond Kennedy

About BAE

BAE has provided comprehensive real estate and urban development advisory services to public, private, non-profit, and institutional clients throughout the U.S. since **1986**.

BAE's experience spans statewide policy studies to local development projects. Based in the San Francisco Bay Area with additional offices in Sacramento, Washington D.C., and New York City, our projects reflect our commitment to excellence, stewardship of communities and resources, and dedication to the future of our places.

Our expertise includes:

- Economic Impacts Analysis
- Development Feasibility
- Redevelopment & Revitalization Strategies
- Affordable Housing
- Economic Development
- Public/Private Transactions
- Community Facilities, Parks, and Services
- Public Financing Strategies
- Place and Site Marketing

Our key asset is our highly-skilled core team of staff members who have worked together for many years. Collectively, we bring training in real estate development, city planning, geography, economic development, marketing, and public policy to every engagement. Many BAE staff are expert in community involvement and strategic planning, while others excel in technical analysis and the application of GIS to urban problems. We have provided public sector real estate advisory services to some of the largest revitalization efforts in the U.S.

The outstanding quality of our work has been recognized by the American Planning Association (APA) and the National Association of Installation Developers (NAID) through numerous awards for excellence. The *San Francisco Business Times* has recognized BAE as one of the 100 Largest Women-Owned Bay Area Businesses each year since 2000.

Raymond Kennedy, M.A., Vice President

Mr. Kennedy has worked on retail analysis and economic impact studies for many store proposals, including projects in Tracy, Crescent City, Antioch, Eureka, Lodi, Petaluma, Morgan Hill, Petaluma, Redding, Suisun City, and Windsor CA. This involves supervising research staff and undertaking the analysis of retail leakage, supportable footage, and potential economic decay and physical deterioration. Mr. Kennedy has specialized in demographic research, retail market studies, financial analysis, and survey research since joining **BAE** in 1988. His quantitative work is characterized by a combination of innovative and sophisticated computer applications. He completed detailed cash flow analyses for base conversion projects including the Presidio of San Francisco, Mare Island Naval Air Station, NAS Alameda, as well as for housing and mixed-use projects in Oakland, San Jose, and throughout California's Central Valley. He has also supported market feasibility studies of live-work units and affordable housing projects throughout the U.S., and analyzed the benefits of redevelopment in San Jose. Mr. Kennedy received a B.A. in Anthropology and an M.A. in Geography from the University of Cincinnati. He also completed specialized training in real estate financial analysis at the University of California, Berkeley.

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for military
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Jennifer Perrin

From: Randi Johl
Sent: Wednesday, March 11, 2009 3:15 PM
To: Jennifer Perrin
Subject: FW: Letter to Council Re: Lodi Shopping Center



3-11-09COGLetCou Attachment1.pdf Attachment2.pdf (3
ncil.pdf (1 MB... (56 KB) MB)

--- Original Message-----

From: Don Mooney [mailto:dbmooney@dcn.org]
Sent: Wednesday, March 11, 2009 2:34 PM
To: Randi Johl
Cc: Larry Hansen; Phil Katzakian; Susan Hitchcock; Bob Johnson; JOA
Subject: Letter to Council Re: Lodi Shopping Center

Attached is a letter on behalf of the Citizens for Open Government Council regarding the Council's meeting tonight on the Lodi Shopping

Mounce

the Lodi City
enter.

Don Mooney
Law Office of Donald B. Mooney
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Davis, CA 95616
530-758-2377
530-758-7169 (fax)

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DC MOONEY

March 11, 2008

VIA ELECTRONIC MAIL AND HAND DELIVERED

City Council
City of Lodi
221 West Pine Street
Lodi, California 95241-1910

Re: Appeal of Lodi Planning Commission's *Determination Not to Certify the Final Environmental Impact Report for the Lodi Shopping Center*

Dear Honorable Council Members:

On behalf of the Citizens for Open Government ("Citizens"), we urge you to affirm the common sense decision of the Planning Commission to not certify the City of Lodi's ("City") Final Environmental Impact Report ("FEIR") for the Lodi Shopping Center project (or the "Project"). The Citizens base their opposition to the Wal-Mart/Browman appeals on the following grounds.

1. The Record Foils to Support Certification

Our October 2007 comments on the Revised Draft EIR, our October 2008 comments to the Planning Commission on the FEIR and our December 10, 2008 letter to the City Council detail the numerous flaws in the FEIR that render it not certifiable. We will not repeat those comments here but rather incorporate them by reference. As the decision of the Planning Commission to not certify the FEIR is, in fact, the appropriate decision, we urge the City Council to affirm.

2. Changed Circumstances Render EIR Invalid and Require Recirculation

Significant time has passed since the EIR was prepared. Two events have occurred which undermine basic conclusions in the EIR. First, the economic downturn renders the EIR's economic impact and urban decay analysis unreliable without further work. As explained in the attached memorandum from Economic & Planning Systems, fundamental assumptions regarding economic growth that undergird the EIR's analysis simply are now longer true. (Attachment 1.) In addition, the economic downturn has caused the City to radically adjust its budget, slashing some \$3,000,000 in just the last eight months. The EIR's conclusions on urban decay candidly rely upon heightened City staff code enforcement. How will that occur in light of massive budget cuts, a hiring

freeze and furloughs? In light of the substantially altered economic climate, the City must conduct a realistic assessment of the impact of adding so much new commercial floor space in an era when existing business are hanging on by a thread, a tight to nonexistent credit market and the City lacking additional resources to increase code enforcement.

Second, the City must review its Hydrology and Water Quality conclusions in light of the State Water Resources Control Board's December 23, 2008 a Draft Water Quality Order that may restrict the capacity of the White Slough Water Pollution Control Facility and therefore preclude the approval of large new development within the City. (Attachment 2.) The City must take into account the numerous findings of environmental degradation documented in the SWRCB's Draft Water Quality Order and possible impacts of the order will have on development within Lodi.

3. Consistent Illegality Pervades the Process

Citizens are very concerned regarding Browman and Wal-Mart's undue pressure to obtain approval for the Lodi Shopping Center and the new Wal-Mart Supercenter that has resulted in repeated legal violations. First the City, over the objection of many parties, certified a fundamentally flawed EIR. After the San Joaquin County Superior Court unsurprisingly held the EIR inadequate, the City produced another flawed document, again thumbing its nose at legitimate comments from Citizens and many others. After the Planning Commission rejected the EIR, the City Council proceeded to reverse the Planning Commission's decision on December 10, 2008 at a meeting rife with Brown Act violations. Faced with these stark errors, the City on February 4, 2009, reversed course and rescinded its approval of the appeals, and reset a special meeting. Now, we recently learn that Browman and Wal-Mart violated the Subdivision Map Act, as described in Lodi First's February 24, 2009 letter, by recording a final map without appropriate City approval. (The Citizens incorporate as their own, the issues raised by Lodi First in its February 24 letter). Lastly, as explained below, the proposed resolution granting the appeals and overturning the Planning Commission's decision presents more Brown Act and CEQA violations. This pattern of illegal and questionable conduct arises from the overriding desire by Browman and Wal-Mart to obtain approval of this project notwithstanding sound, fundamental process and substantive objections.

4. Proposed Resolution Overturning the Planning Commission is Illegal

CEQA contemplates a two steps process when a public agency considers a project in reliance on an EIR. First, the public agency determines whether to certify the EIR pursuant to CEQA Guidelines Section 15090(a). In this step, the public agency decides whether the EIR has been completed in compliance with CEQA, that the public agency decisionmakers have reviewed and considered the EIR, and that certification represents these decisionmakers' independent judgment. (*Id.*) After the public agency certifies the EIR, it then turns its attention to project specific findings under Guidelines Section

15091, whether to approve the project under Section 15092 and, if necessary, overriding significant but unavoidable environmental impacts under Section 15093. This second step is distinct from EIR certification. (See Kostka & Zischke, *Practice under the California Environmental Quality Act*, § 17.22.)

On October 8, 2008, the Planning Commission voted not to certify the Lodi Shopping Center EIR as it did not meet the minimum CEQA requirements. The Planning Commission specifically did not take action on any CEQA findings or project approval. (See Minutes from October 8, 2008 Planning Commission Meeting, at 11.) Thus the only action the Planning Commission took was under CEQA Guidelines Section 15090. Wal-Mart and Brownman thereafter appealed this decision only. (See October 10, 2008 letter from Sheppard Mullin; October 13, 2008 letter from Remy Thomas Moose & Maaley.) In addition, the public notices for this meeting specify that the City Council will only take up the question of whether to certify the EIR. (See February 4, 2009 Public Notice at 1; October 11, 2009 Agenda at 1.) In short, as noted in the Staff Report, the project is simply not before the City Council at this time. (See March 11, 2009, Council Communication.)

Unfortunately, the draft resolution granting the appeals goes beyond the Planning Commission's action (denial of Section 15090 certification), the scope of Wal-Mart and Brownman's appeals (seeking to reverse the denial of certification) and the City's public notice (limited to consideration of certification). The draft resolution contains project-related findings under Section 15091 and statements of overriding consideration pursuant to Section 15093. Because the Planning Commission did not make or find that it could not make either of these sets of findings, the Wal-Mart/Brownman appeals did not address and the public notice did not include action on these issues. Indeed, under the City's own ordinances, the City Council may only "uphold, uphold in part or reverse" the decision of the Planning Commission. (Lodi Municipal Code § 17.88.060(D)(1)(b).) The draft resolution seeks to do more: adopt findings not made or considered by the Planning Commission. The City Council cannot make these inherently project related findings as the specifics of the Lodi Shopping Center project is not before the Council at this time. If the City adopts the resolution certifying the EIR as drafted, it will do so in violation of its own code, CEQA, and the Brown Act.

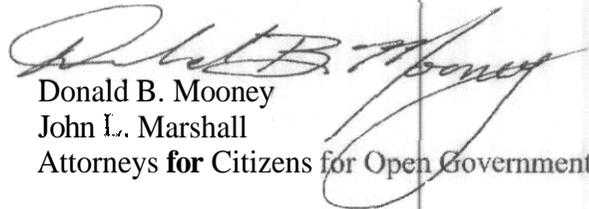
The draft resolution also contains other infirmities. For example, the certification portion of the resolution addresses only the "Final Revisions to the Environmental Impact Report" ("Final Revisions to the EIR") (Draft resolution at 2.) However, as recited by the draft resolution, the City decertified the entire EIR on May 3, 2006 and the Draft (at 1) and the Final Revisions to the EIR (at i) specifically note the scope of the Revision to the EIR did not include only those elements either remanded by the court or voluntarily undertaken by the City. As drafted, the City cannot rely upon the certification to make findings articulated in the resolution because the full EIR would lack certification.

City Council Members
March 11, 2009
Page 4 of 4

Similarly, the draft finding on global warming/GHG emissions lacks **legal** support. **The** City raised global warming concerns in the **Energy** section of the Draft and Final Revisions to the EIR. The Planning Commission thereafter considered the absence of a legitimate **analysis** as one of its basis to reject certification of the FREIR. The City cannot **now** say that the issue has not been **fairly** raised in the context of EIR before the City. Moreover, *the* City's ultimate reliance on a *last minute* Wal-Mart submitted study without subject to CEQA processes is simply contrary to law.

In conclusion, the Citizens urge the City Council **to** affirm the Planning Commission's sound decision to not certify the FEIR.

Sincerely,


Donald B. Mooney
John L. Marshall
Attorneys **for** Citizens for Open Government

Attachment 1: Memorandum dated **March 11, 2009** from Jason Moody and Garrett K. Gray, Economic & Planning Systems to Donald B. Mooney and John L. Marshall.

Attachment 2: Letter from State Water Resources Control Board dated **December 23, 2008** Regarding Waste Discharge Requirements and Master Reclamation Permit (City of Lodi). and attached Draft Order.

MEMORANDUM

To: Donald B. Mooney and John Marshall
From: Jason Moody and Garrett K. Gray
Subject: Lodi Shopping Center Economic Impact/Urban Decay Analysis Peer Review; EPS #17166
Date: March 11, 2009

The Economics of Land Use



This memorandum updates the key findings from a "Peer Review" conducted by Economic & Planning Systems (EPS) on the Lodi Shopping Center Economic Impact/Urban Decay Analysis prepared by Bay Area Economics (BAE) in October 2007. This update is designed to refine the original EPS conclusions in light of evolving economic conditions since 2007. It also addresses the adequacy of BAE's subsequent update in October 2008 to account for a proposed adjustment in the Lodi Shopping Center development program.

Summary of Key findings

The following summarizes key EPS findings upon reviewing the applicability of the BAE Report and subsequent updates to current economic conditions.

- 1. The original BAE Analysis suggests that the Lodi Shipping Center is likely to contribute to conditions conducive to urban decay and the subsequent BAE analyses designed to reflect programmatic changes in the project only reinforce these original findings.***

The original BAE report was submitted in October 2007 and refined to reflect the development programmatic changes in October 2008. The effect of the programmatic change increased the percentage of sales captured from existing businesses from 30 percent to 34 percent. The original EPS "Peer Review" concluded that the level of sales capture from existing businesses posited by BAE was likely to exceed the threshold needed to allow some of the more vulnerable retail tenants in Lodi to continue operations. The subsequent BAE update only reinforces this conclusion. Moreover, the BAE 2008 revision simply adjusted the anticipated new retail space without utilizing updated market analyses and data. Further, it appears

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as if the updated analysis and findings were made in the context of the circumstances occurring in 2007 and earlier, as opposed to the current conditions experienced through 2008 and projected to continue through 2009.

San Joaquin County has experienced a number of new planning efforts that since completion of the original BAE analysis include or anticipate additional retail supply at the periphery of the Lodi Trade Area. For example, Stockton market is anticipating significant retail growth as a result of several major projects, including Spanos Gateway project located on the northwest edge of the City and including about 2.7 million square feet of regional commercial flex and retail space. As these projects move forward, it will further segment the Trade Area and reduce the geographical spectrum of households that the Lodi Shopping Center and competitive establishments can realistically expect to attract. These new projects were not anticipated or accounted for in the original BAE analysis or subsequent update.

The original BAE analysis acknowledged the existence of urban decay within the Trade Area, as well as discussed the presence of a redevelopment zone where special attention would likely be required to prevent further economic decline. This dynamic will only be exacerbated by the significant amount of retail space included in the development programs of Reynolds Ranch and Lodi Shopping Center, despite qualitative anecdotes regarding product differentiation and public policy "eliminating" urban decay. The presumption of effective policy intervention was not adequately supported in the original BAE analysis and is even less tenable in light of worsening and more competitive market conditions.

2. The national economic downturn has exacerbated the conditions experienced by local retailers since the original BAE report and consequently the potential impacts of the Lodi Shopping Center are likely to be more severe than originally anticipated.

The deepening economic downturn that has spread across national and global markets has had a particularly profound effect on the retail sector, especially in the United States. The depth and length of this economic downturn and its impact on the retail sector were not anticipated in the original BAE analysis nor adequately addressed in the October 2008 update. Moreover, the transformative nature of the current economic conditions at both the local and national level warrants a fundamental change in the BAE approach to evaluating the impact of the Lodi Shopping Center project and the capacity of the Trade Area to support continued expansion in retail supply. For example, assumptions regarding average consumer spending per household and potential re-tenanting opportunities for vacated properties should be revisited.

At the national level, the combination of a weakening market, reduced consumer credit, and an over-supply has resulted in bankruptcies, store closures, and consolidations among a wide range of formerly successful retail chains. Examples include Mervyn's, Sears, KB Toys (bankruptcy); Linens 'N Things, Circuit City, Office Depot, and Sears; and CVS's acquisition of Long's Drugs (consolidation). Recent events have led many retail analysts to conclude that the United States is potentially "over-retailed," particularly when considering the amount of retail square feet per person relative to rates experienced in other European nations—41.6 square feet per person compared to approximately 10 feet per person.¹

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¹ KAHR Real Estate Group Bulletin, December 2008

The most recent retail sales data shows that 2008 total retail sales dropped by 0.1 percent compared to 2007, culminating with December 2008 total sales lagging behind December 2007 total sales by 7.9 percent.² December was referred to as the "worst holiday shopping season in decades" and even the high-end retailers, like Saks and Nordstrom's, experienced below-cost sale margins despite "aggressive holiday promotions."³ In lieu of these events, the national retail landscape has been altered and future analyses should be viewed in the context of more tempered expectations.

These national trends have been particularly acute in Lodi and San Joaquin County as a whole because of an already abundant amount of retail space, above average unemployment, and relatively high foreclosure rates. A variety of sources have identified several establishments in the Lodi market that are in danger of closing, most notably multiple grocery stores near the downtown area and project site. These identified businesses are in addition to the Mervyn's and Ace Hardware stores that have already closed.

In addition, Lodi has experienced stagnant or declining taxable sales, as summarized in the table below. Specifically, in 2007, Lodi experienced only one quarter with positive retail sales growth relative to 2006. Further, total annual taxable retail sales declined from 2006 to 2007 by nearly \$30 million. Although detailed data for 2008 is unavailable, anecdotal information suggests that the retail conditions in Lodi deteriorated further in 2008, and are unlikely to recover in 2009. These deteriorating market conditions, which will have a material affect on the ability of existing Lodi businesses to withstand increased competition, were not anticipated in the original BAE analysis nor addressed in its subsequent update.

**City of Lodi
Taxable Retail Sales (\$000's)**

	2007	2006	Difference
Year	\$687,609	\$716,856	-\$29,247
1st Qtr	\$167,993	\$167,203	\$790
2nd Qtr	\$177,567	\$186,850	-\$9,283
3rd Qtr	\$169,966	\$183,550	-\$13,584
4th Qtr	\$172,083	\$179,253	-\$7,170

Source: California State Board of Equalization

J.C. Williams National Retail Bulletin, January 14, 2009

"After Weak Holiday Sales, Retailers Prepare for Even Worse", New York Times, January 8, 2009

3. The BAE analysis should incorporate revised population and employment data and projections to assess their impact on the current and future retail sector in San Joaquin County.

The original report was submitted in October 2007, and utilized local population and employment data through 2006. Economic conditions have changed significantly since then and require an update of key variables to reflect the actual circumstances experienced in 2007 and 2008. Specifically, the worsening economic outlook for San Joaquin County, including increased unemployment and reduced population growth, should be considered when evaluating the ability of local businesses to withstand increased competitive pressures.

Recent economic and demographic developments reveal the following broad and inter-related themes in communities throughout the San Joaquin Valley: home values have declined, population growth has leveled, household incomes have decreased, and the employment base has retracted. All of these factors will have a negative impact on retail sales by reducing total discretionary spending. This dynamic is also expected to increase the level of sales reductions that existing businesses must endure to accommodate a significant addition to the local retail stock.

Reduced employment, population and income are typically felt most in growing areas that are dependent on economic expansion to a greater degree than established areas. In this instance, the San Joaquin Valley retail sector is particularly susceptible since its survival has been linked to population-led economic development. These socio-economic trends, combined with an inordinately high level of home foreclosures in the County, are likely to have a cumulative and self-fulfilling psychological effect that will induce conservative consumer behavior, fueling further declines in retail spending. This, in turn, will make it more difficult to re-tenant vacated retail space and reduce the economic incentive for property owners to maintain their properties in anticipation of attracting viable tenants. Again, these factors and trends were not anticipated or accounted for in the original BAE analysis and subsequent update.



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Office of Chief Counsel

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P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 ♦ FAX (916) 341-5199 ♦ <http://www.waterboards.ca.gov>



Arnold Schwarzenegger
Governor

December 23, 2008

CERTIFIED MAIL

Mr. Bill Jennings
Executive Director
California Sportfishing Protection Alliance
3536 Rainier Avenue
Stockton, CA 95204
deltakeep@aol.com

Dear Mr. Jennings:

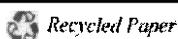
OWN MOTION REVIEW OF WASTE DISCHARGE REQUIREMENTS AND MASTER
RECLAMATION PERMIT (CITY OF LODI), CENTRAL VALLEY REGION
BOARD MEETING NOTIFICATION
SWRCB/OCC FILE A-1886

Enclosed is a copy of the proposed order in the ~~above-entitled~~ matter. The State Water Resources Control Board (State Water Board) will consider this order ~~at~~ its meeting that will be held on **Tuesday, February 3, 2009** commencing at **10:00** a.m. in the Coastal Hearing Room, Second Floor of the Cal/EPA Building, 1001 I Street, Sacramento, California, You will separately receive an agenda for this meeting.

At the meeting, interested persons will be allowed to comment orally on the draft order, subject to the following time limits. The petitioner, California Sportfishing Protection Alliance, discharger, City of Lodi, and the Central Valley Regional Water Quality Control Board will each be allowed five minutes for oral comment, with additional time for questions by the State Water Board members. Other interested persons will be allotted a lesser amount of time to address the State Water Board. At the meeting, the State Water Board may adopt the draft order as written or with revisions, it may decide not to adopt the order, or it may continue consideration until a later meeting.

All comments shall be based solely upon evidence contained in the ~~record~~ or upon legal argument. Supplemental evidence will not be permitted except under the limited circumstances described in California Code of Regulations, title 23, section **2050.6**. Written comments on the draft order and any other materials to be presented at the meeting, including power point and other visual displays, must be received by **12:00** noon, January **23, 2009**. Please indicate in the subject line, comments to A-1886—February 3, 2009 Board Meeting. Those comments must be addressed to:

California Environmental Protection Agency



Mr. Bill Jennings

- 2 -

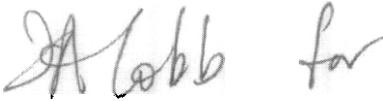
December 23, 2008

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
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P.O. Box 100
Sacramento, CA 95812-0100
(tel) 910-341-5800
(fax) 916-341-5620
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If there are any questions or comments, please contact Sheila K. Vassey, Senior Staff Counsel, in the Office of Chief Counsel. at (916) 341-5173 or email svassey@waterboards.ca.gov

Staff Counsel,
svassey@waterboards.ca.gov.

Sincerely,



Michael A.M. Lauffer
Chief Counsel

Enclosure

cc: See next page

Mr. Bill Jennings

- 3 -

December 23, 2008

cc: **All w/enclosure and wlo ip list**

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Sacramento, CA 95812-0110

DRAFT

December 23, 2008

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER **WQ 2009-**

In the Matter of Own Motion Review of

**CITY OF LODI WASTE DISCHARGE REQUIREMENTS AND MASTER RECLAMATION
PERMIT (ORDER NO. R5-2007-0113 [NPDES NO. CA0079243])**

Issued by the
California Regional Water Quality Control Board,
Central Valley Region

SWRCB/OCC FILE A-1886

BY THE BOARD:

In this order, the State Water Resources Control Board (State Water Board or Board) reviews on its own motion **waste** discharge requirements for the City of Lodi's White Slough Water Pollution Control Facility. Our review **focuses** primarily on **whether the** requirements are consistent with State Water Board regulations governing waste disposal to land. These regulations are contained in title 27 of the California Code of Regulations (Title 27). The Board concludes that the requirements are not consistent with **Title 27** and remands the requirements to the Central Valley Regional Water Quality Control Board (**Central Valley Water Board**) for appropriate revisions. In addition, the Board remands the **requirements** to the Central Valley Water Board to revise a requirement governing wintertime **irrigation** and to include a narrative limitation for chronic toxicity.

1. BACKGROUND

A. White Slough Facility

The White Slough Water **Pollution** Control Facility (White Slough Facility or Facility) is located in San Joaquin County, southwest of the City of Lodi, along **the west side** of Interstate 5. Adjacent land use **is** primarily agricultural, with large dairy operations to the **north** and northeast and irrigated farmland to the east and **south**. To the west of the Facility are Delta waterways and farmlands.

The City disposes of treated municipal effluent from the Facility through both a surface water discharge and land application. In addition, the Facility provides recycled water year-round to the Northern California Power Agency and San Joaquin County Vector Control District. During the winter months, the Facility provides tertiary treatment and disinfection for the effluent, which is discharged to Dredger Cut, a dead-end slough within the Sacramento-San Joaquin Delta. During the remainder of the year, from mid-April through mid-October, the City disposes of effluent through land application.

The land application facilities consist of 49 acres of unlined ponds, comprised of four storage ponds and three equalization basins, and about 790 acres of agricultural fields adjacent to the Facility. The storage ponds cover 40 acres. The City disposes of a mixture of waste streams through land application, including municipal effluent, industrial wastewater, biosolids, and storm water. Municipal effluent that will be discharged to the agricultural fields is treated to undisinfected secondary standards and pumped to the equalization basins. From there, it is either first placed in the storage ponds or applied directly to the agricultural fields for irrigation use. The agricultural fields are used to grow fodder and feed crops, which are not used for direct human consumption.

In addition to the secondary-treated municipal wastewater, the City discharges untreated industrial wastewater through land application. The City maintains a separate industrial wastewater line, which, unlike the municipal influent line, does not deliver wastewater to the White Slough Facility. Rather, during the irrigation season, untreated industrial wastewater is blended with the secondary-treated flows in the storage ponds and discharged to the agricultural fields. In the winter, the industrial waste stream is directed to the storage ponds.

The industrial line receives food processing wastewater, metal finishing wastes, cooling water, stormwater from industrial areas, and runoff and stormwater flows from agricultural areas. During the summer months, about 90 percent of the industrial flow consists of food processing wastewater, seven percent is from metal finishers, and approximately one percent is winery waste.

Biosolids are treated by anaerobic digestion and stored at the White Slough Facility in a fined biosolids stabilization lagoon. Fluids decanted from the lagoon, the biosolids supernatant, are stored in the Facility's storage ponds. During the summer months, a biosolids

slurry is created by blending sludge with wastewater in the storage ponds, and the slurry is applied by flood irrigation to 225 acres of the agricultural fields.

The City has been upgrading the White Slough Facility to improve treatment. The latest improvements expanded the Facility's daily average flow capacity from 7 to 8.5 million gallons per day (mgd) and added tertiary filtration and ultraviolet disinfection. The final improvements are scheduled to be fully implemented in 2009. They include modifications to the aeration process to improve nitrification and denitrification, redirecting the biosolids supernatant from the onsite ponds to the domestic treatment train, and repairing the leaking municipal influent line.

B. Order No. R5-2007-0113

On September 14, 2007, the Central Valley Water Board reissued waste discharge requirements and a master reclamation permit for the City's White Slough Facility in Order No. R5-2007-0113. The requirements also serve as a National Pollutant Discharge Elimination System (NPDES) permit. Order No. R5-2007-0113 regulates the City's land disposal activities principally through land discharge specifications, groundwater limitations, and special study requirements. The land discharge specifications require that the:

- hydraulic loading to any individual agricultural field be at reasonable agronomic rates designed to minimize percolation of wastewater constituents below the evaporative and root zone;
- total nitrogen loading to any field not exceed the agronomic rate for the plant available nitrogen for the type of crop to be grown;
- biochemical oxygen demand (BOD) loading to the agricultural fields not exceed specified rates;
- wastewater applied to the fields not exceed specified cumulative metals loading limits; and
- secondary effluent discharged to the onsite ponds meet maximum daily and monthly average effluent limits for BOD and settleable solids.¹

The groundwater limitations prohibit waste releases from any portion of the Facility, including the agricultural fields, from causing concentrations of fourteen waste constituents in groundwater to exceed specified limits or natural background quality, whichever

¹ Order No. R5-2007-0113, Land Discharge Specifications IV.B. 1 through B.5.

is greater.² Those constituents include total dissolved solids (TDS), boron, chloride, nitrogen, nitrates, and ammonia. The limitations, however, do not become effective until the City characterizes natural background groundwater quality, after at least two years of monitoring, in a technical report that must be submitted to the Central Valley Water Board by August 1, 2010.³ If the groundwater monitoring indicates that waste releases to groundwater have caused or threaten to cause increases in background concentrations, the City must submit a workplan for a technical evaluation of each Facility component to determine best practicable treatment or control for each waste constituent of concern. Any necessary Facility modifications must be completed no later than four years after the Central Valley Water Board Executive Officer's determination that the technical evaluation is adequate, unless the Executive Officer approves a longer schedule.

In addition to the groundwater study, Order No. R5-2007-0113 directs the City to conduct a study to characterize the wastewater influent collected by its industrial line.⁴ The study's goal is to isolate and identify the primary, unique components of the industrial influent. Once a workplan is submitted and approved, the City must complete the study within two years after the study is commenced.

C. Basin Plan

The water quality control plan for the Sacramento and San Joaquin River Basins (Basin Plan)⁵ provides the basis for many of the requirements in Order No. R5-2007-0113. The Basin Plan designates the beneficial uses for groundwater underlying the Facility, which include municipal and domestic supply, agricultural supply and stock watering, and industrial process water and service supply.⁶ Water quality objectives to protect the uses include narrative objectives for chemical constituents, taste and odors, and toxicity. In addition, groundwater designated for domestic and municipal supply must, at a minimum, meet specific numeric objectives for chemical constituents, including maximum contaminant levels at secondary maximum contaminant levels contained in title 22 of the California Code of Regulations

² *Id.* Receiving Water Limitations, V.B.1.C

³ *Ibid.* Provisions VI. C.2.d.

⁴ *Id.* Provisions VI. C.2.c.

⁵ Fourth Edition (1998)

⁶ Basin Plan at II-3.00.

(Title 22).⁷ The Basin Plan provides, however, that the objectives "do not require improvement over naturally occurring background concentrations."⁸

The Basin Plan also incorporates the State Water Board's antidegradation policy, Resolution No. 68-16.⁹ The policy, entitled Statement of Policy with Respect to Maintaining High Quality of Waters in California (Antidegradation Policy), generally protects high quality surface waters and groundwater from degradation. Reductions in water quality are allowed only if the changes are (1) consistent with maximum benefit to the people of the state, (2) do not unreasonably affect present and anticipated beneficial uses, and (3) do not result in water quality less than applicable water quality objectives. Any activity that can lower the quality of high quality waters must comply with waste discharge requirements that "will result in the best practicable treatment or control of the discharge necessary" to prevent pollution and nuisance and to maintain "the highest water quality consistent with maximum benefit to the people of the State."

D. Title 27

In addition, the State Water Board's Title 27 regulations apply to the City's land disposal activities. The regulations establish minimum standards governing the water quality aspects of waste discharges to land for treatment, storage, or disposal.¹⁰ The regulations classify wastes and contain siting, design, construction, monitoring, and closure requirements for waste management units, which include landfills, waste piles, surface impoundments, and land treatment units. For wastes classified as "designated wastes," Title 27 establishes containment criteria, including liner requirements, to prevent the wastes or leachate from migrating from the units to waters of the state and extensive monitoring requirements to detect releases of waste to groundwater or surface water.¹¹ "Designated wastes" include nonhazardous wastes that contain pollutants that could be released from a waste management unit in concentrations exceeding applicable water quality objectives or that could reasonably be

⁷ *Id.* at III-9.00 through 10.00.

⁸ *Id.* at III-9.00.

⁹ *Basin Plan* at IV-8.00 & appen. A.2.

¹⁰ Cal. Code Regs., tit. 27, § 20080(a).

¹¹ See *id.* § 20210.

expected to affect beneficial uses of state waters." The wastes discharged by the City to land at the Facility fall into this category.

Title 27 conditionally exempts certain activities from its provisions. To qualify for an exemption, the activity must meet, and continue to meet, specified preconditions. Title 27 contains three conditional exemptions that are relevant to the City's land application activities. These include exemptions for domestic sewage, wastewater, and soil amendments. Title 27, at section 20090, exempts these activities "so long as the activity meets, and continues to meet, all preconditions listed:

(a) Sewage – Discharges of domestic sewage or treated effluent which are regulated by [waste discharge requirements] . . . , or for which [waste discharge requirements] have been waived, and which are consistent with applicable water quality objectives, and treatment or storage facilities associated with municipal wastewater treatment plants, provided that residual sludges or solid waste from wastewater treatment facilities shall be discharged only in accordance with [Title 27].

(b) Wastewater – Discharges of wastewater to land, including but not limited to evaporation ponds, percolation ponds, or subsurface leachfields if the following conditions are met:

(1) the applicable [regional water quality control board] has issued [waste discharge requirements], or waived such issuance;

(2) the discharge is in compliance with the applicable water quality control plan; and

(3) the wastewater does not need to be managed. . . as a hazardous waste. . .

(f) Soil Amendments – use of nonhazardous decomposable waste as a soil amendment pursuant to applicable best management practices, provided that [regional water quality control boards] may issue waste discharge or reclamation requirements for such use. (Emphasis added.)

¹² See Wat. Code § 13173. "Designated wastes" also include hazardous wastes that have been granted a variance from hazardous waste management requirements pursuant to Health and Safety Code § 25143.

The Central Valley Water Board found that the City's land disposal activities were exempt from Title 27 under section 20900(a).¹³ The Central Valley Water Board included within the scope of the exemption the discharge of municipal sewage and the other waste streams to the agricultural fields and to the storage ponds.

E. California Sportfishins Protection Alliance Petiiion

The California Sportfishing Protection Alliance (CALSPA) filed a timely petition for review of Order No. R5-2007-0113 in October 2007. In July 2008, the State Water Board determined, in Order WQ 2008-0005, to review the requirements on its own motion. The following discussion addresses some of the issues raised in the CALSPA petition.¹⁴

II. ISSUES AND FINDINGS

A. Title 27

Issue CALSPA asserts that the White Slough permit authorizes the land disposal of sludge, untreated industrial wastewater, and domestic effluent in violation of Title 27

Discussion: The Board agrees with this assertion. Order No. R5-2007-0113 does not contain the necessary findings that the City's land disposal activities meet all of the preconditions for an exemption under Title 27. In particular, the order does not contain findings, nor is there evidence in the record supporting the conclusion that, the City's land disposal operations are consistent with the applicable water quality objectives in the Basin Plan. The monitoring that has been performed to date is inadequate to demonstrate compliance. Further, the limited evidence that is in the record indicates that, at a minimum, discharges from the unlined storage ponds at the Facility have released waste constituents to groundwater at concentrations that exceed applicable water quality objectives.

In the following discussion, the Board first addresses which Title 27 exemption could most appropriately apply to the City's land disposal activities. The Board then analyzes

¹³ Order No. R5-2007-0113, appen. F at F-56.

¹⁴ Issues raised by CALSPA that are not discussed in this order are hereby dismissed as not substantial or appropriate for State Water Board review. See *People v. Barry* (1987) 194 Cal.App 3d 158, 177; *Johnson v. State Water Resources Control Board* (2004) 123 Cal.App.4th 1107; Cal Code Regs., tit. 23, § 52, subd. (a)(1).

the Central Valley Water Board's findings regarding an exemption. Third, the Board addresses the sufficiency of the evidence to demonstrate compliance with the preconditions for an exemption. Finally, the Board addresses additional CALSPA contentions regarding Title 27.

1 Applicable Exemption

The Central Valley Water Board found that section 20090(a) applied to all of the City's waste disposal activities. This exemption covers sewage, defined as discharges of domestic sewage or treated effluent and treatment and storage facilities associated with municipal treatment plants. The exemption excludes residual sludges or solid waste, which are subject to Title 27. Because of the exclusion, CALSPA contends that section 20090(a) does not exempt the City from complying with Title 27 with respect to the biosolids slurry. The City contends that the discharge of secondary effluent is properly covered under section 20090(a) and that the discharge of industrial wastewater is subject to the exemption under section 20090(b) for wastewater. The City also asserts that the discharge of both the biosolids slurry and the biosolids supernatant are exempt from Title 27 -- as soil amendments -- under section 20090(f).

The preconditions for an exemption for sewage under subsection (a) and wastewater under subsection (b) are similar. Nevertheless, the Board finds that the most appropriate exemption for the wastewater mixture that is seasonably applied to the agricultural fields and stored in the onsite ponds is subsection (b). This exemption covers wastewater that is discharged to land, including to evaporation or percolation ponds. The sewage exemption is not applicable because the City discharges a wastewater mixture to the ponds and to the agricultural fields, which includes not only treated sewage but also wastes that do not go through the municipal treatment plant. As stated previously, the wastewater mixture applied to the fields and discharged to the ponds includes, at various times, secondary effluent, untreated industrial wastewater, a biosolids slurry, stormwater and runoff, and biosolids supernatant.

CALSPA correctly asserts that the sewage exemption in Title 27 does not include residual sludges. However, residual sludges may be discharged in compliance with Title 27 if the sludges are discharged in accordance with any other applicable exemption under section 20090, such as the wastewater exemption. In this case, the Board concludes that the wastewater exemption is more appropriate than the soil amendment exemption. The biosolids slurry and supernatant are applied to land as part of a wastewater mixture, as noted previously.

In addition, the soil amendment exemption applies to decomposable wastes¹⁵ and the wastewater mixture applied to land includes waste components that are likely not decomposable, such as metal finishing wastes and a considerable amount of non-nutritive salts

Based on the foregoing discussion, the Board concludes that it is the wastewater, rather than the sewage, exemption that could apply to the discharge. The Board will, therefore, consider whether the findings in Order No. R5-2007-0113 and the evidence in the record support the conclusion that the City's land disposal activities meet the preconditions for the wastewater exemption. The Central Valley Water Board has issued waste discharge requirements for the City's land disposal activities and the discharges do not appear to be hazardous. Consequently, the Board will focus its analysis on whether the findings and the evidence indicate that the City's land disposal activities comply with the remaining precondition under section 20090(b) that "the discharge is in compliance with the [Basin Plan]." The City bears the burden of proof on this issue. The City must demonstrate, with appropriate data, that its land disposal activities comply with the Basin Plan.

2. Findings

The Central Valley Water Board concluded that the City's land disposal activities were exempt under the sewage exemption in Title 27, but did not explicitly find that the City's discharge currently complies with the Basin Plan. Instead, the record reflects that the Central Valley Water Board stated that additional information on groundwater quality and discharge characterization was necessary to assess whether the City's discharge complies with the Basin Plan. Without this information, however, the Central Valley Water Board could not legally make the necessary finding that the City's land disposal activities meet the precondition for an exemption. Both the sewage and wastewater exemptions presuppose a monitoring program that is adequate to demonstrate compliance with the precondition. Both Title 27 and the Facility have been in place many years; it is reasonable to conclude that the City should, by now, be able to prove its compliance with the exemption criteria.

As discussed above, the Basin Plan contains narrative and numeric groundwater objectives for waste constituents that apply to the City's activities, unless "naturally occurring

¹⁵ "Decomposable wastes" are wastes "which, under suitable natural conditions, can be transformed through biological and chemical processes into compounds that do not impair the quality of wastes of the state." (Cal. Code Regs. tit. 27, § 20164.)

background concentrations" exceed the objectives. In the latter case, the higher, naturally occurring background values serve as the objectives. At a minimum, therefore, natural background groundwater quality must first be established, through an appropriate monitoring program, for those constituents that can be expected to be present naturally in groundwater. These constituents include, for example, electrical conductivity (EC), sodium, and chloride. This information is essential in order to define the applicable water quality objectives for the City's discharge. To date, this has not occurred. Although the City has apparently been conducting groundwater monitoring since 1989, the City and the Central Valley Water Board agree that background groundwater quality has not yet been adequately characterized. Hence, the City's compliance with the Basin Plan cannot be determined.

Likewise, prior monitoring has been inadequate to characterize the wastes discharged to the unlined ponds and agricultural fields at the Facility and to assess potential groundwater impacts. The sampling program for the ponds has focused primarily on nitrogen compounds, EC, and TDS, which are the three constituents most difficult to distinguish from the historic legacy of other discharges in the area. There may be many other wastewater constituents of concern that are percolating through the bottom of the ponds to groundwater, such as volatile organic compounds or certain metals, that have not been addressed. In this regard, the Board notes that the City's analytical monitoring results from June 2000 through August 2006 indicate that there are no data for the great majority of pollutants with maximum contaminant levels identified in the Title 22 regulations.¹⁶

The Central Valley Water Board has taken steps to address this lack of data by imposing expanded monitoring requirements in Order No. R5-2007-0113. For example, the Central Valley Water Board required additional monitoring of wastewater in the storage ponds to assess degradation in the underlying groundwater and "to derive appropriate numerical groundwater quality objectives for the Facility that are consistent with the Basin Plan."¹⁷ Likewise, the Central Valley Water Board required the City to conduct an industrial influent characterization study to "determine the potential impacts of the untreated waste on the underlying groundwater quality." The Board notes, however, that the City is required to monitor the pond wastewater, the wastewater mixture applied to the agricultural fields, and the

¹⁶ Central Valley Water Board Administrative Record (AR), vol. 2, item 32, att. F, Table F-14 at pp. F-61 through F-63.

¹⁷ Order No. R5-2007-0113, att. F at p. F-65.

¹⁸ *Id.* at F-72.

groundwater itself for priority pollutants, other than certain metals, only once during the permit term¹⁹ One sampling event is unlikely to provide sufficient data to assess the potential impacts of discharging priority pollutants on groundwater. In any event, the lack of data in the current record leads to the conclusion that an exemption from Title 27 is not justified at the present time

3 Evidence in the Record on Basin Plan Compliance

In the area near the White Slough Facility, the regional groundwater flow direction appears to be from the Delta waterways in the west toward a large groundwater depression to the south and east. The current regional flow regime is profoundly influenced by intensive groundwater withdrawals in an area bounded by Highway 99 on the west and the foothills to the east and by Highway 12 to the north and the city of Stockton to the south. The deep groundwater depression caused by pumping draws groundwater toward it from all directions. At the center of this depression, the local water table elevation is as much as 70 feet below the nearly sea level elevation of the Delta's waterways. In the area just to the east of the White Slough Facility, the local expression of this regional groundwater flow regime results in eastward flow. The groundwater level in the Delta area to the west is lowered in some areas by agricultural well pumping, but that effect tends to be localized due to the continual groundwater recharge by the Delta's surface water channels.

The land surface elevations on the City's property range from about 0 to 5 feet above mean sea level near the western edge of the property to about 10 feet above mean sea level near the eastern edge. Groundwater underlying the Facility is very shallow, ranging from the ground surface near the western edge of the property to more than 20 feet below mean sea level near the eastern edge of the property. Groundwater elevations in the immediate vicinity of the treatment plant change little throughout the year, ranging from 1 to 2 feet below mean sea level in the spring to about 2 to 4 feet below mean sea level in the fall.

Evidence in the record indicates that there is a persistent, slight groundwater mound underlying the Facility, which influences the groundwater gradient and flow direction within the City's property.²⁰ While groundwater from the mound does flow to the east, in

¹⁹ *Id.*, art. E, VI.A., VII.B., VIII.B.

²⁰ See, e.g., City of Lodi White Slough Water Pollution Control Facility Groundwater Monitoring Status Report (June 2003). Central Valley Water Board AR. vol. 12. item 412.

response to the regional gradient, the mound also appears to induce flow away from the facility to the south and west. City property located immediately north of the Facility exhibits a northeasterly flow; while property located immediately southeast exhibits a seasonal shift from southeasterly in the winter months to northeasterly/easterly in the summer months. Property located further to the east from the mound shows a dominant easterly flow throughout the year. At the southwest corner of the City's property, the mound apparently induces flow away from the Facility to the south and west.

The most likely cause of the groundwater mound is a continued discharge to groundwater in the area of the Facility. The unlined storage ponds at the Facility are the most likely source for the flow causing the groundwater mound. The onsite storage ponds are extensive, and they appear to provide the only large quantity, constant source of water available for creating and maintaining the mound. The four storage ponds have depths ranging from 7 to 9 feet, and they hold approximately 97 million gallons when full.

Evidence in the record indicates that there is significant leakage from the ponds. The average annual percolation rate from the 49-acre pond area is estimated to be approximately 0.3 inches per day, totaling about 109 million gallons of wastewater per year lost to percolation.* This equates to nearly 10 percent of the average annual flow to the agricultural fields. In addition, Central Valley Water Board staff observed rapid percolation of untreated industrial wastewater during an inspection in November 2005. At that time, the pond was relatively dry and the industrial flow "was observed to be percolating into the pond bottom within a short distance from the outfall."²²

An additional concern is that the thickness of the soil between the pond bottoms and groundwater may be inadequate to allow soil treatment of the percolating wastewater to occur. The bottom elevation of Pond 1 is 5.5 feet and of Pond 4 is 2.5 feet above mean sea level. The groundwater elevation recorded in a nearby monitoring well has historically varied from a high of 3.2 feet above mean sea level to a low of 11 feet below mean sea level. Historically-recorded high groundwater levels indicate that the separation between the bottom

²¹ City of Lodi White Slough WPCF Soil and Groundwater Investigation Existing Conditions Report, Final Report (Sept. 2006) (Final Report) at pp. 2-18, Central Valley Water Board AR. vol. 13, item 415.

²² Letter from Pat Leary, Senior Engineer, Central Valley Water Board, to Richard Prima, Director, Public Works Department City of Lodi, with enclosed Inspection Report (May 3, 2006) at p. 5 of Inspection Report, Central Valley Water Board AR. vol. 3, item 63.

of Pond 1 and groundwater has been as little as 2.3 feet, and Pond 4 has been inundated by nearly a foot

A review of quarterly nitrate concentration and groundwater table elevation maps, matched by date, in the City's 2003 Groundwater Monitoring Status Report indicates that onsite nitrate concentrations remain highest in the pond area, an area near the center of the mound.²³ The four closest groundwater monitoring wells to the storage ponds are WSM2, WSM3, WSM4, and WSM8. Because of the persistent groundwater mound underlying the Facility in the storage pond area, these wells are assumed to be hydraulically downgradient of the ponds for most, if not all, of the year. Between August 2001 and November 2005, all four wells exhibited median nitrate concentrations over 11 milligrams per liter (mg/L) as N.²⁴ The applicable groundwater objective for nitrate is the maximum contaminant level of 10 mg/L as N. Three of the wells had peak concentrations, during this period, of over 36 mg/L, more than three times the maximum contaminant level for nitrate as N.²⁵ This result would not be expected if the nitrate source were off-site. Groundwater in the area to the north of the Facility appears to flow in an easterly or northeasterly direction, making it unlikely that higher nitrate concentrations to the north of the Facility are responsible for the high onsite nitrate concentrations in the pond area.

Peak EC concentrations are also present within the area of the mound. The highest median value was found in WSM-2, located near the onsite ponds.²⁶ The value was 1 750 micromhos per centimeter ($\mu\text{mhos/cm}$). In contrast, the secondary maximum contaminant level and the agricultural water quality goal are 900 and 700 $\mu\text{mhos/cm}$, respectively. On the other hand, the City contends that the elevated EC levels may be due to regional groundwater conditions, which have been influenced by the predevelopment intrusion of brackish to saline water in the Delta region.

There is little information in the record on concentrations of wastewater constituents in the storage ponds. Limited data indicates that TDS and EC values in the pond exceed water quality objectives for groundwater during much of the year. Nitrate concentrations as N, on the other hand, have been relatively low. From 2002 to 2004, average

²³ Fn 19, *supra*, appendices A & C.

²⁴ Final Report, fn. 20, *supra*. Figure 5-10.

²⁵ *Ibid.*

²⁶ *Id.* at pp. 5-14.

monthly nitrate concentrations in the storage ponds varied from roughly 1 to 7 mg/L as N. On the other hand, ammonia concentrations in the ponds are relatively high, and the City has indicated that transformation of ammonia to nitrate in the storage ponds and subsurface may be occurring.²⁷ Leakage of wastewater from the ponds along with subsequent nitrification could lead to nitrate concentrations in groundwater well above the maximum contaminant level.

Based on the available evidence in the record, the Board concludes that at least some of the Facility's activities have adversely affected groundwater underlying the site. The groundwater mounding provides physical evidence of a release from the Facility. Groundwater monitoring data from wells downgradient from the unlined ponds show nitrate and EC levels that exceed the applicable Basin Plan objectives. Although it is unclear whether the pre-discharge EC values in the groundwater underlying the Facility were elevated, it is clear that the EC concentrations currently existing within the downward-and-outward flowing groundwater mound could only have been caused by the ongoing downward percolation of wastewater discharged within the Facility. The Board concludes that wastewater releases from the unlined storage ponds have resulted in nitrate and EC concentrations above the applicable Basin Plan objectives in the underlying groundwater. Therefore, the City's discharge of wastewater to the unlined ponds does not qualify for an exemption from Title 27 at the present time.

As explained previously, there is insufficient evidence in the record to assess whether naturally occurring concentrations of some constituents, such as EC, in groundwater underlying the Facility exceed the applicable Basin Plan objectives. The Board notes that the mound exerts such a strong influence on the underlying groundwater that it makes a determination of "naturally occurring" background concentrations extremely difficult. The mound, which is composed of wastewater draining from the surface, induces flow down and away from the Facility. Because the mound interferes with groundwater flow across the site, it is difficult at this time to determine what upgradient, or background, conditions might be. In any event, the City bears the burden of demonstrating that its discharge complies with the Basin Plan, and, in particular, that the discharge meets Basin Plan objectives or naturally occurring concentrations, whichever values are higher.

²⁷ *Id.* at pp. 6-11; Water Pollution Control Facility Report of Waste Discharge (July 28, 2004), p. 45, Central Valley Wafer Board AR, vol. 4, item 128.

4. Additional Contentions

a. Disposal of Eiosolids

During the summer months, the City mixes a biosolids slurry with storage pond wastewater and industrial wastewater and applies this mixture by flood irrigation to the agricultural fields. The solids content of the slurry is between approximately 2 and 4 percent. CACSPA contends that land application of the biosolids wastewater mixture is not exempt from Title 27 because the bulk concentrations of waste constituents in the sludge in units of milligrams per kilogram (mg/kg) violate water quality objectives. In addition, CALSPA asserts that the wastewater mixture, when applied to the agricultural fields, will result in groundwater degradation, due to the very shallow groundwater depths at the site.

The evidence in the record is insufficient to determine whether the field application of the biosolids wastewater mixture complies with the Basin Plan. As the Board concluded above, the monitoring that has been done to date at the Facility has been inadequate to demonstrate that the City's land disposal activities comply with the Basin Plan. In addition, it is infeasible to isolate and assess the water quality impacts of applying this wastewater mixture to land due to the masking effects of the nitrogen-rich and salt-rich groundwater mound underlying the facility unless other waste constituents are tested.

The bulk content of waste constituents in the sludge is not relevant. The bulk concentrations do not indicate what the resulting concentrations will be once the slurry is diluted in the wastewater mixture and applied to the fields. The City's monitoring of the biosolids wastewater mixture applied to the fields for priority pollutants indicates that metals are not a concern. While the bulk concentrations of coliform and nitrogen are high, it is not clear what coliform values or nitrogen concentrations would be mobilized for these constituents once the biosolids are diluted with wastewater and applied to the fields.

In the onsite fields surrounding the ponds, the distance to groundwater from the land surface is between 2 and 14 feet, and this short distance to groundwater may be a critical factor in assessing whether the field application of wastewater causes adverse water quality impacts. The distance to groundwater is also a concern in those portions of the fields initially receiving furrow or flood-irrigation of the wastewater mix. Each initial application area at the

head end of a field has a considerably longer time period for the downward movement of wastewater to occur than at the other end of the field. An additional concern related to the land application of the biosolids wastewater mixture is that, except for nitrogen compounds and potassium, the majority of the TDS is non-nutritive. Because plants do not have a significant uptake of these salts, they tend to move unchanged down to groundwater.

b. Industrial Wastewater

CALSPA contends that the industrial waste stream does not qualify for a Title 27 exemption because the cannery wastewater exceeds water quality objectives for nitrogen and EC. Further, the other waste generators are capable of producing wastewater containing metals and other hazardous constituents.

There is insufficient evidence in the record to assess this contention. The EC and TDS values for the industrial waste stream generated during the canning season often do exceed water quality objectives. The food processing wastewater also contributes significant nitrogen loading. The salts in this waste stream are of particular concern, as discussed above, because the majority of the salts are expected to move directly to groundwater. However, the waste stream is mixed with other liquid wastes before it is applied to the agricultural fields. Therefore, the focus must be on the wastewater mixture that is applied to the fields, and our conclusions on the potential water quality impacts of the land application of the biosolids wastewater mixture apply as well here.

There are limited data in the record on the quality of the other industrial waste streams discharged by the City. In 2000, the Central Valley Water Board required the City to investigate whether three metal finishers were discharging hazardous waste to the industrial influent line. Based on data collected between 1997 and 1999, the Central Valley Water Board determined that the constituents in all samples did not exceed the hazardous waste levels specified in the Title 22 regulations; however, the investigation was limited to metals and fluoride.²⁸ The record does not contain data for all users nor for all pollutants, such as organic pollutants, that could be present in the wastewater. The Central Valley Water Board has addressed this issue by requiring the City to submit an industrial influent characterization study.

²⁸ See letter from Del Kerlin, Assistant Wastewater Treatment Superintendent, City of Lodi, to Robert Fagerness, Central Valley Water Board (Feb. 8, 2001). Central Valley Water Board AR, vol. 5, item 183.

c. Secondary Wastewater

Additionally, CALSPA contends that it is not appropriate to exempt the secondary treated wastewater from Title 27 because this waste stream has not been adequately characterized. CALSPA asserts that secondary effluent can be expected to have more contaminants and at higher concentrations than tertiary-treated effluent.

CALPSA's concern has merit. The secondary waste stream is stored in the onsite ponds and applied to the agricultural fields at the Facility. As explained previously, there is very little monitoring information on the wastewater in the ponds, other than for nitrogen and salts. Order No. R5-2007-0113 contains only two effluent limitations, for BOD and suspended solids, that apply to the discharge of secondary effluent to the onsite ponds. The Central Valley Water Board has recognized the need to better characterize wastewater in the ponds and has required additional pond monitoring. To the extent that secondary effluent is mixed with industrial wastewater and the biosolids slurry and applied to the agricultural fields, the conclusions on the wastewater mixture discussed above apply here as well.

5. Action on Remand

The Board has concluded that the monitoring performed to date at the White Slough Facility is inadequate to show that the City's land disposal activities comply with preconditions for an exemption from Title 27. In addition, evidence in the record indicates that the releases of wastewater from the onsite storage ponds have caused the underlying groundwater to exceed the applicable Basin Plan nitrate and EC objectives. Therefore, the findings in Order No. R5-2007-0113 must be revised, on remand, to reflect that the City's land disposal activities do not currently meet the criteria for an exemption. Until the City demonstrates compliance, the Central Valley Water Board can regulate the City's land disposal activities under an appropriate enforcement order, such as a time schedule order or under an appropriate time schedule included in Order No. R5-2007-0113.²⁹

To demonstrate compliance with the exemptions from Title 27, the City must develop an appropriate monitoring program that adequately characterizes groundwater quality and the wastewater applied to land and that is capable of demonstrating that the application of wastewater complies with the Basin Plan. The Board notes that Order

²⁹ See Wat. Code §§ 13263(c), 13300

No. R5-2007-0113 contains expanded monitoring requirements that may address this deficiency, although, as noted previously, the monitoring frequency for priority pollutants in the groundwater, pond wastewater, and wastewater used for agricultural irrigation is probably inadequate to meaningfully assess groundwater impacts.

The City has several options to address the waste releases from ponds to ensure consistency with Title 27. The City can line the ponds to prevent waste releases to groundwater. Alternatively, the City can improve the quality of wastewater discharged to the ponds in order to ensure that waste releases comply with Basin Plan groundwater objectives. As stated previously, the City is proposing repairs and improvements to the Facility that could significantly reduce nitrogen concentrations in the wastewater effluent. These include redirection of the biosolids lagoon supernatant, repair of the leaking municipal influent pipe, and improvements to enhance nitrification and denitrification. Done properly, the expanded monitoring program may be able to assess whether these changes are successful. Operational and design improvements to the onsite pipe and treatment facilities can also be evaluated to address groundwater quality impacts. The City should consider enhanced pretreatment requirements for its industrial dischargers. In addition, the City can improve the treatment of the municipal effluent applied to land beyond secondary standards.

With respect to salt management, the Board notes that Order No. R5-2007-0113 requires the City to prepare a salinity evaluation and minimization plan to address salt sources and to provide annual progress reports on salinity reductions in its discharges to the Dredger Cut and the agricultural fields.³⁰ Experience shows that sources of salt in municipal wastewater can be managed and reduced. Likewise, the City can control salinity in the untreated industrial wastewater line through pretreatment requirements. The Board recognizes that elevated salinity in surface water and groundwater throughout the Central Valley is an increasing problem. The State Water Board and the Central Valley Water Board have initiated a comprehensive effort to address salinity problems in the valley and to adopt long-term solutions that will lead to enhanced water quality and economic sustainability.

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³⁰ Order No. R5-2007-0113, VI.C.3.b.

B. Flooding

Issue: CALSPA contends that Order No. R5-2007-0113 authorizes the application of biosolids to lands within the 100-year floodplain in violation of federal regulations governing the use of biosolids as a soil amendment,

Discussion: The Board concludes that Order No. R5-2007-0113 does not violate the federal regulations, but that the order should be revised to require management practices that prevent biosolids discharges to surface waters. Order No. R5-2007-0113 requires that the use and disposal of biosolids comply with the standards in part 503 in title 40 of the Code of Federal Regulations, governing the use of biosolids as a soil amendment. CALSPA contends that these regulations prohibit the application of biosolids to lands that may be flooded or in such a manner that biosolids may enter surface water or wetlands. While the regulations clearly prohibit application of biosolids to land "that is flooded," the regulations do not directly address the application of biosolids to lands within a floodplain."

About half of the City's agricultural fields are located within the 100-year floodplain and are not protected from inundation during a 100-year flood event. Winter crops are grown in these areas and may be irrigated with wastewater during the winter. Biosolids, however, are only applied to the corn fields, which are tilled in every year in the fall. Therefore, biosolids that were applied to the agricultural fields during the irrigation season would be incorporated into the soil before the start of the rainy season. In addition, the western agricultural fields are bordered by levees on the west and cannot naturally drain to the Delta. If the levees are overtopped due to flooding, the floodwaters tend to remain onsite until they drain off the agricultural fields through the tailwater system.

Order No. R5-2007-0113 requires the City to prepare and implement a wintertime irrigation management plan to minimize water quality impacts during flooding events.³² The management plan must include land application operations and management practices to "minimize or prevent washout of . . . biosolids during 100-year flood events." In State Water Board Order No. 2004-0012, this Board adopted general waste discharge requirements governing the use of biosolids as a soil amendment. The general order prohibits the "discharge of biosolids from . . . applications areas to . . . surface waters, or to surface

³¹ 40 C.F.R. § 503.14(b)

water drainage courses ³³ The general order does not apply to the City's activities. Nevertheless, the Board concludes that, at a minimum, Order No. R5-2007-0113 should be revised to require that the management plan address only practices that "prevent," rather than "minimize," biosolids discharges to surface waters.

C. Chronic Toxicity

Issue: CALSPA objects to Order No. R5-2007-0113 on the ground that it fails to include a numeric effluent limitation for chronic toxicity regulating the discharge of tertiary-treated wastewater to Dredge Cut.

Discussion: The Board previously addressed this issue in a precedential decision in Water Quality Order 2008-0008 (City of Davis), adopted on September 2, 2008. In that order, the Board concluded that a numeric effluent limitation for chronic toxicity was not appropriate in the permit under review, but that the permit had to include a narrative effluent limitation for chronic toxicity. In that case, the Central Valley Water Board had determined that the discharge had the reasonable potential to cause or contribute to an excursion above the Basin Plan's narrative toxicity objective. The Central Valley Water Board reached the same determination on the City's discharge. Therefore, on remand, the Central Valley Water Board must amend Order No. R5-2007-0113 to add an appropriate narrative chronic toxicity limitation.

111. CONCLUSIONS

Based on the above discussion, the Board concludes that:

1. The appropriate exemption for the Central Valley Water Board to apply to the wastewater mixture applied by the City to land is subsection (b) of section 20090 of the Title 27 regulations;
2. Order No. R5-2007-0113 does not contain findings supporting the conclusion that the City's land disposal activities qualify for an exemption under Title 27;

³² Order No. R5-2007-0113, VI.C.3.c.

³³ Division of Water Quality Order No. 2004-0012, Prohibition A.6.

3 The monitoring that has been conducted, to date, is inadequate to demonstrate that the City complies with the precondition for an exemption under Title 27 that the discharge comply with the Basin Plan:

4. Evidence in the record indicates that releases of wastewater from the City's unlined storage ponds have caused the underlying groundwater to contain nitrate and EC levels that exceed Basin Plan objectives;

5 Evidence in the record is insufficient to determine whether the field application of the biosolids wastewater mixture complies with the Basin Plan;

6 Evidence in the record is insufficient to determine whether the discharge of untreated industrial wastewater to the storage ponds or to the agricultural fields complies with the Basin Plan,

7 The secondary waste stream has not been adequately characterized and there is insufficient evidence in the record to assess the water quality impacts of discharging this waste stream to the ponds or to the agricultural fields;

8. Order No. R5-2007-0113 must be revised to reflect that the City's land disposal practices do not currently meet the preconditions for an exemption from Title 27:

9. Order No. R5-2007-0113 does not violate the federal regulations in part 503 of title 40 of the Code of Federal Regulations governing the use of biosolids as a soil amendment;

10. Order No. R5-2007-0113 must be revised to require that the wintertime irrigation management plan include practices that only "prevent," rather than "minimize," the discharge of biosolids to surface waters:

11. Order No. R5-2007-0113 must be revised to include an appropriate narrative effluent limitation for chronic toxicity.

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DRAFT

December 23, 2008

IV. ORDER

IT IS HEREBY ORDERED that, for the reasons discussed above, Order No R5-2007-0113 is remanded to the Central Valley Water Board for reconsideration and revision, consistent with the conclusions of this order.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on February 3, 2009.

AYE.

NO:

ABSENT:

ABSTAIN:

DRAFT

Jeanine Townsend
Clerk to the Board

B-1

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NOTICE OF RESCISSION AND WITHDRAWAL OF APPROVAL OF THE PARCEL MAP
RECORDED ON FEBRUARY 18, 2005 IN BOOK 23 OF PARCEL MAPS AT PAGE 98, SAN
JOAQUIN COUNTY RECORDS

NOTICE IS HEREBY GIVEN that the approvals supporting the parcel map recorded on February 18, 2005 in Book 23 of Parcel Maps at page 98 of the San Joaquin County Records as Document No. 2005-040321, a true and correct copy of which is attached hereto as Exhibit A (the "Parcel Map"), have been rescinded. The facts supporting this notice of rescission are as follows:

1. On or about February 15, 2005, the City Council of the City of Lodi adopted Resolution 2005-38 approving Use Permit U-02-12 and Tentative Parcel Map 03-P-001 (the "Project Approvals").

2. The Parcel Map relied upon, and was processed pursuant to, the Project Approvals.

3. The City of Lodi processed and approved the Parcel Map as a phased map consistent with the Project Approvals. The phased map was approved by the Director of the City of Lodi prior to recordation.

4. On or about February 10, 2006, the San Joaquin Superior Court issued a Peremptory Writ of Mandate directing the City to vacate the Project Approvals. A true and correct copy of the Peremptory Writ of Mandate is attached hereto as Exhibit B and incorporated herein by reference.

5. Consistent with the Court's order, on May 3, 2006, the City Council of the City of Lodi adopted Resolution 2006-81, rescinding the Project Approvals, which resulted in the rescission of the Parcel Map. A certified copy of Resolution 2006-81 is attached hereto as Exhibit C and incorporated herein by reference.

Dated: March 09, 2009

CITY OF LODI, a

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Peremptory Writ of Mandate. A true and correct copy of the Peremptory Writ of Mandate is attached hereto as Exhibit B and incorporated herein by reference.

On May 3, 2006, the City Council of the City of Lodi adopted Resolution 2006-81, rescinding the Project Approvals, which resulted in the rescission of the Parcel Map. A certified copy of Resolution 2006-81 is attached hereto as Exhibit C and incorporated herein by reference.


Blair King
City Manager

ATTEST:


Randi Johl
City Clerk, City of Lodi

APPROVED AS TO FORM:


D. Stephen Schwabauer,
City Attorney, City of Lodi

**EXHIBIT A
(Parcel Map)**

911304.3 11233.26

EXHIBIT B
(Peremptory Writ of Mandate)

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ROSA NQUEIRO, CLERK
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Attorneys for Respondent
CITY OF LODI

(ADDITIONAL COUNSEL LISTED
ON THE FOLLOWING PAGE)

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN JOAQUIN

LODI FIRST, a California non-profit
unincorporated association,

Petitioner,

v.

CITY OF LODI, BY AND THROUGH
THE CITY COUNCIL; and DOES I
THROUGH XXX,

Respondents.

CASE NO. CV025199
~~RESPONDENT'S PROPOSED~~
JUDGMENT GRANTING PEREMPTORY
WRIT OF MANDATE

Date: November 9, 2005
Time: 8:30 A.M.
Dept: 41
Judge: Hon. E. Humphreys

1 **JAMES G. MOOSE** (State Bar No. 119374)
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8 Attorneys for Real Party in Interest
9 **BROWMAN DEVELOPMENT CO.**

10 **ARTHUR J. FRIEDMAN** (State Bar No. 160867)
11 **JUDY V. DAVIDOFF** (State Bar No. 103434)
12 **BETH C. TENNEY** (State Bar No. 197249)
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17 Telephone: (415) 788-0900
18 Facsimile: (415) 788-2019
19 Attorneys for Red Party in Interest
20 **WAL-MART STORES, INC.**

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818819.1

1 This matter came on regularly for hearing on November 9, 2005 at 8:30 a.m. before the
2 Honorable Elizabeth Humphreys, Judge of the Superior Court, in Department 41 of this Court,
3 located at 222 E. Weber Ave., Stockton, California. Steven A. Herum and Brett S. Jolley
4 appeared on behalf of Petitioner, LODI FIRST; Jonathan P. Hobbs appeared on behalf of
5 Respondent, CITY OF LODI; James G. Moose and Andrea K. Leisy appeared on behalf of Real
6 Party in Interest, BROWMAN DEVELOPMENT CO.; and Arthur J. Friedman appeared on
7 behalf of Real Party in Interest WAL-MART STORES, INC.

8 The Court having reviewed the record of Respondent's proceedings in this matter, the
9 briefs submitted by counsel, and the arguments of counsel; the matter having been submitted for
10 decision; and the Court having directed that judgment and a peremptory writ of mandate issue in
11 this proceeding,

12 IT IS ORDERED that:

13 1. Judgment be entered in favor of Petitioner in this proceeding.

14 2. A peremptory writ of mandate directed to Respondent and Real Parties in Interest
15 issue under seal of this Court, ordering Respondent to vacate approval of the following
16 resolutions:

17 a. Planning Commission Resolution 04-64 certifying the Environmental
18 Impact Report 03-01 ("EIR") (State Clearinghouse No. 2003042113) adopted on December 8,
19 2004;

20 b. Planning Commission Resolution 04-65 approving Use Permit U-02-12
21 and Tentative Parcel Map 03-P-001 adopted on December 8, 2004;

22 c. City Council Resolution 2005-06 certifying the Environmental Impact
23 Report 03-01 ("EIR") (State Clearinghouse No. 20030421 13) adopted on February 3, 2005; and

24 d. City Council Resolution 2005-38 approving Use Permit U-02-12 and
25 Tentative Parcel Map 03-P-001 adopted on February 16, 2005.

26 3. The peremptory writ of mandate shall further command Respondent and Real
27 Parties in Interest to refrain from further approvals in connection with Use Permit U-02-12,
28 Tentative Parcel Map 03-P-001, and the EIR until full compliance with CEQA and state law is

8819.)

RESPONDENT'S [PROPOSED] JUDGMENT GRANTING PEREMPTORY WRIT OF MANDATE

1 demonstrated in accordance with this Court's Order Granting Petition for Writ of Mandate date
2 December 19, 2005.

3 4. Pursuant to Public Resources Code section 21168⁹(b), this Court shall retain
4 jurisdiction over Respondent's proceedings by way of a return to the peremptory writ until the
5 Court has determined Respondent has complied with the provisions of CEQA and state law.

6 5. Petitioner to be awarded its costs of suit.

7 6. The Court shall reserve jurisdiction to determine Petitioner's entitlement to
8 attorney's fees.

9 DATED: FEB 10 2006

ELIZABETH HUMPHREYS
JUDGE OF THE SUPERIOR COURT

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FEB 10 2006
Filed
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By CHARLENE GRAY
DEPUTY

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6 CITY OF LODI
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15 Attorneys for Respondent
16 CITY OF LODI

17 (ADDITIONAL COUNSEL LISTED
18 ON THE FOLLOWING PAGE)

19 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
20 IN AND FOR THE COUNTY OF SAN JOAQUIN

21 LODI FIRST, a California non-profit
22 unincorporated association,

23 Petitioner,

24 v.

25 CITY OF LODI, BY AND THROUGH
26 THE CITY COUNCIL; and DOES I
27 THROUGH XXX,

28 Respondents.

CASE NO. CV025999

RESPONDENT'S [PROPOSED]
PEREMPTORY WRIT OF MANDATE

29 BROWMAN DEVELOPMENT
30 COMPANY, INC., a California
31 corporation; WAL-MART STORES, INC.,
32 a Delaware corporation; and DOES XXXI-
33 XXXXX, inclusive,

34 Real Parties in Interest.

Date: November 9, 2005
Time: 8:30 A.M.
Dept: 41
Judge: Hon. E. Humphreys

35 8/22/05

RESPONDENT'S [PROPOSED] PEREMPTORY WRIT OF MANDATE

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11 WAL-MART STORES, INC.

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1 Judgment having been entered in this proceeding, ordering that a peremptory writ of
2 mandate be issued from this Court,

3 IT IS ORDERED that, forthwith upon the service of this writ, Respondent, CITY OF
4 LODI shall:

5 1. Vacate approval of the following resolutions:

6 a. ~~Planning Commission~~ Resolution 04-64 certifying the Environmental
7 Impact Report 03-01 ("EIR") (State Clearinghouse No. 2003042113) adopted on December 8,
8 2004;

9 b. ~~Planning Commission~~ Resolution 04-65 approving Use Permit U-02-12
10 Tentative Parcel Map 03-P-001 adopted on December 8, 2004;

11 c. City Council Resolution 2005-06 certifying the Environmental Impact
12 Report 03-01 ("EIR") (State Clearinghouse No. 2003042113) adopted on February 3, 2005; and

13 d. City Council Resolution 2005-38 approving Use Permit U-02-12 and
14 Tentative Parcel Map 03-P-001 adopted on February 16, 2005.

15 2. Refrain from further approvals in connection with Use Permit U-02-12, Tentative
16 Parcel Map 03-P-001, and the EIR and any other actions taken by the City Council on February 3
17 2005 or February 16, 2005 connected to the applications until full compliance with CEQA and
18 state law is demonstrated in accordance with this Court's Order Granting Petition for Writ of
19 Mandate dated December 19, 2005.

20 3. Pursuant to Public Resources Code section 21168.9(c), this Court does not direct
21 Respondent to exercise its lawful discretion in any particular way.

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Pursuant to Public Resources Code section 21168.9(b), this Court will retain jurisdiction over Respondent's proceedings by way of a return to this peremptory writ of mandate until the Court has determined that Respondent has complied with the provisions of CEQA and state law.

DATED: FEB 10 2006

ELIZABETH HUMPHREYS
JUDGE OF THE SUPERIOR COURT

EXHIBIT C
(City of Lodi Resolution 2006-81)

RESOLUTION NO. 2006-81

A RESOLUTION OF THE LODI CITY COUNCIL
RESCINDING CERTAIN PLANNING COMMISSION
AND CITY COUNCIL RESOLUTIONS RELATING TO
THE LODI SHOPPING CENTER APPROVALS

WHEREAS, the proposed Lodi Shopping Center is located at the southwest corner of Kettleman Lane and Lower Sacramento Road and is anchored by a Super Wal-Mart and will contain other retail tenants; and

WHEREAS, the Planning Commission and City Council evaluated and certified an environmental Impact Report (EIR) and approved a Use Permit and Tentative Map for the Lodi Shopping Center; and

WHEREAS, the City of Lodi's certification of the EIR was challenged in Superior Court and on December 19, 2005, the Court found the EIR to be deficient; and

WHEREAS, on February 10, 2006, the Court ordered the City of Lodi to rescind approval of the following Planning Commission and City Council resolutions approving the project:

- a. Planning Commission Resolution 04-64 certifying the EIR 03-01 adopted on December 8, 2004;
- b. Planning Commission Resolution 04-65 approving Use Permit U-02-12 and Tentative Parcel Map 03-P-001 adopted on December 8, 2004;
- c. City Council Resolution 2005-26 certifying the EIR 03-01 adopted on February 3, 2005; and
- d. City Council Resolution 2005-38 approving Use Permit U-02-12 and Tentative Parcel Map 03-P-001 adopted on February 16, 2005.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby rescinds the above-referenced Resolutions pursuant to the Superior Court Order of February 10, 2006, relating to the Lodi Shopping Center.

Dated: May 3, 2006

I hereby certify that Resolution No. 2006-81 was passed and adopted by the city-Council of the City of Lodi in a regular meeting held May 3, 2006, by the following vote:

AYES: COUNCIL MEMBERS - Hansen, Johnson, Mounce, and Mayor Hitchcock

NOES: COUNCIL MEMBERS - None

ABSENT: COUNCIL MEMBERS - None

ABSTAIN: COUNCIL MEMBERS - Beckman



SUSAN J. BLACKSTON
City Clerk

Continued July 16,2008

Jennifer Perrin

From: Randi Johl
Sent: Tuesday, March 31, 2009 2:18 PM
To: Jennifer Perrin
Subject: FW: Wall Mart Super Store

fyi

From: Randi Johl
Sent: Tuesday, March 31, 2009 2:18 PM
To: 'louisereiswig@sbcglobal.net'
Cc: City Council; Blair King; Steve Schwabauer; Jeff Hood; Rad Bartlam
Subject: RE: Wall Mart Super Store

Thank you fur your email. It was received by the City Council and forwarded to the appropriatedepartment(s) for information, response and/or handling.

Randi Johl, City Clerk

From: louisereiswig@sbcglobal.net [mailto:louisereiswig@sbcglobal.net]
Sent: Saturday, March 21, 2009 11:07 AM
To: City Council
Cc: louisereiswig@sbcglobal.net
Subject: Wall Mart Super Store

I am firmly against building a Super Walmart Store. There are plenty of grocery stores, pharmacies, fast food restraunts, meat markets, and the list goes on and on. We do need dining and clancing places, there is absolutely no decent places for singles of all ages to attend. For those of us older singles, as a widow, I would never go into a bar. But it would be nice to have a place to have a nice meal or just go dancing. We have all kinds of stores in which I feel would be hurt by building a huge store such as this. Personally, I buy most of my groceries at Safeway or Apple market. Lakewood Sausage on Ham Lane and Salisbury Meats are the best as far as a good quality of meat is concerned. Our Lodi is and always has been known as a small town community. We have already lost two nice dress shops and are forced to go to Lincoln Center, Macy's and Dillards to buy clothing and better cosmetics. Why do we need a huge market that has everything, I very seldom shop at Wall Mart on Kettleman. Please don't make it harder on other stores that would be hurt from this! Thank you. Louise Reiswig

3/31/2009