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north to at least Bankhead Road. Otherwise, safety will be compromised if traffic must sort itself into lanes while crossing the railroad tracks.

Additionally, as noted in the October 14, 2005, letter the DEIR ignores the potential safety issues associated with public safety vehicles and others being potentially stuck behind a passing train. The DEIR attempts to use a "dead" cross-reference (i.e., pretending it is addressed elsewhere) to purport to address concerns relating to blocked vehicular access due to trains. (DEIR, at p. 4.10-9.) The October 10, 2005, letter from Wayne Horiuchi of Union Pacific to the City evidences the need to address a range of railroad related concerns both in the DEIR and through Project modifications and mitigation that so far have not been adequately addressed. The DEIR must consider whether a bridge over or tunnel under the railroad track is needed in order to provide for adequate evacuation from the Project site or safety vehicle access to the site. The DEIR's failure to consider and describe these potential hazards to which people could be exposed, once drawn to the project, violates CEQA. (CEQA Guidelines, § 15126.2(a).)

19-19

In addition to ignoring the potential for public safety vehicles to be stuck behind a train, the DEIR ignores the risk that trains might be obstructed by roadway traffic. By bringing more vehicles to the railway crossing, the Project increases the risk of an auto accident that would obstruct the railroad tracks. In that circumstance, trains would become backed up, and could obstruct public safety vehicles responding from Loomis from accessing points on the opposite side of the tracks. The DEIR neither acknowledges nor analyzes these increased risks to public safety that are due to the Project impacts and with interference with public safety vehicle access caused by those impacts. The DEIR is inadequate because of its failure to acknowledge these risks. And, perhaps more fundamentally, it is inadequate for its failure to properly acknowledge and evaluate the Project's impacts to fire and other emergency services, including those based in the Town of Loomis, that would need to respond to and access emergencies on and relating to roads congested with Project traffic, including but not limited to Sierra College Boulevard.

19-20

**D. The DEIR fails to analyze traffic impacts to I-80.**

The project is located only approximately two miles from I-80. While the Project would add approximately 6,928 daily vehicle trips to area roadways (DEIR, at p. 4.4-19), including Sierra College Boulevard which directly intersects I-80, the DEIR fails to consider or discuss whether anyone might use I-80 to travel to or from the Project site and whether that might have some impact on traffic within that roadway.

19-21

**E. The DEIR fails to analyze impacts to critical intersections.**

As described in the DEIR, Sierra College Boulevard and Park Drive will provide primary access to up to 558 single-family units, a 5-acre commercial site and a 5.3-acre park site. (DEIR, at 4.4-1.) The DEIR describes King Road as "a two-lane roadway in

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Loomis that connects Sierra College Boulevard with Taylor Road. Between Auburn-Folsom Road and I-80, King Road is classified as a rural arterial." (DEIR, at 4.4-4.) The DEIR emphasizes the importance of analyzing intersections, saying that intersections are a "key component" and "critical elements" of the roadway system, and then lists the intersections considered in the analysis. These include the intersection of King Road and Sierra College Boulevard, but not the intersections of: (1) I-80 and Horseshoe Bar Road; or (2) King Road and Taylor Road. (DEIR, at 4.4-4 through 4.4-5.)

The DEIR states that "Although the project site is entirely within the jurisdiction of the City of Rocklin, a portion of the traffic distribution may affect the adjacent Town of Loomis." (DEIR, at 4.4-14.) The DEIR then quotes from the Town of Loomis General Plan, naming several intersections of concern within Loomis, including: "Horseshoe Bar Road and I-80" and "King and Taylor." (DEIR, at 4.4-14.)

The omission of these intersections from the DEIR's analysis is mysterious, inappropriate, and unlawful because the DEIR acknowledges elsewhere that "King Road provides one of the more direct routes to I-80" and "Loomis residents would also use this route [i.e., Valley View Parkway] to get to points west of Clover Valley as well." (DEIR at 4.4-30.)

As a result of the omission of these intersections, there is no consideration, discussion, or indication in the DEIR of whether traffic impacts there will be significant. Consequently, the DEIR provides an insufficient basis for its sweeping and unreasonable inference that "the impact from increased traffic on local streets and roads in the vicinity of the project site resulting from implementation of the proposed project would be *less-than-significant*." (DEIR, at 4.4-23.)

19-22

**F. The DEIR omits consideration of school-time traffic from its analysis of traffic impacts.**

The DEIR fails to consider the impact of Project-related traffic during key school travel times, particularly at the intersections of King and Taylor. For a proposed project of this type, located as this one is, the omission of school-time traffic impacts renders the DEIR's traffic analysis inadequate as an informational document.

19-23

**G. The DEIR fails to adequately disclose its assumptions regarding traffic projections.**

The DEIR fails to disclose its assumptions regarding levels of buildout associated with future scenarios, such as the analysis of conditions in 2025. For example, it is unclear from the DEIR whether the DEIR's analysis contemplates that all roadway improvements that have ever been contemplated would be built, or some, or none. The traffic analysis is necessarily based on some idea of how wide the roadways will be, but

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↑ the DEIR fails to make these types of assumptions clear, thereby frustrating review of the DEIR by the public and governmental decision makers. Indeed, it is not even clear from the DEIR how many lanes are assumed to be associated with the analysis of current conditions on Sierra College Boulevard, or whether proposed improvements that are presently unfunded or unbuilt are assumed to be built. The DEIR is therefore inadequate as an informational document.

**H. The DEIR fails to adequately discuss the feasibility of traffic alternatives.**

19-24

The DEIR concludes that, considering cumulative impacts, the project will cause the intersection of Sierra College Boulevard and King Road to "operate at unacceptable levels." (DEIR at 4.4-31.) The DEIR then describes four improvements that it describes as "necessary" to bring that intersection back to LOS "C." The DEIR then deems the project's cumulative impacts to local streets and roads outside Rocklin "significant and unavoidable," stating that "the Sierra College Boulevard and King Road intersection is in the Town of Loomis, not Rocklin, and thus the City of Rocklin has no direct control over improvements that take place at the intersection. Therefore, the increased traffic at the intersections of Sierra College Boulevard and King Road would result in a *significant* impact." (DEIR at 4.4-31.)

The DEIR fails to consider the feasibility of alternatives that might reduce these impacts below a level of significance. When only alternatives can lessen or avoid a significant impact, CEQA does not permit an agency to rely solely on mitigation measures and to not consider the feasibility of alternatives. (*Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal.App.3d 433; Pub. Resources Code, § 21081(a)(3).) A statement of overriding considerations cannot cure such a defect. (CEQA Guidelines, § 15091(f).)

19-25

In addition, the DEIR demonstrates confusion describing the provisions in CEQA regarding an agency's ability to make findings that changes or alterations in "the project" which would avoid or substantially lessen a project's significant environmental effects are "within the responsibility and jurisdiction of another public agency and not the agency making the finding." (CEQA Guidelines, § 15091(a)(2).) In order to be able to use such a finding, the approving agency must be able to conclude that the "other" public agency not only should but also can make such changes or alterations in "the project." (Id.)

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↓ While certain intersections impacted by the project are located within the Town of Loomis, Loomis has no direct ability to make changes or alterations in the Clover Valley development project. The project is neither within Loomis' jurisdiction nor within its responsibility. It is within the City of Rocklin's jurisdiction and responsibility, and it is the City's responsibility to provide for the mitigation of the project's impacts.

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These traffic impacts originate on the Project site, emanate from the Project site, and then travel over jurisdictional lines, to be received in Loomis. The City can no more ignore its responsibility to mitigate traffic impacts that find their way into Loomis than the City could ignore ways to address foul odors from a landfill or amplified music from a concert venue if such were proposed for the same spot. The DEIR recognizes that "Project traffic emissions would have an effect on air quality outside the project vicinity" (DEIR, at p. 4.5-12) and proposes to mitigate those impacts in part through collection of fees and disbursement of those fees to another agency (DEIR, at p. 4.5-14). So, as explained below, there is no reason why the City could not recognize and mitigate relevant portions of the direct traffic impacts themselves, which lead to such air quality impacts, through fees collected by and then payable by the City over to Loomis.

**I. The DEIR fails to discuss the feasibility of a mitigation measure whereby the City of Rocklin would collect and disburse a mitigation fee to the Town of Loomis for necessary roadway improvements.**

19-27

The DEIR makes clear that it is feasible for the City to collect an impact fee to fund roadway improvements aimed at mitigating the project's impacts. For example, with respect to four key segments of Sierra College Boulevard, the DEIR states that improvements will "be funded or credited" by fees which the City intends to collect. (DEIR at 4.4-15.) The DEIR makes this acknowledgment in connection with a discussion of how such funds will be collected and distributed through the mechanism afforded by the operation of SPRTA, a joint exercise of powers agency.

The DEIR makes no effort to explain why collection and distribution of impact fees using SPRTA might be feasible, but not collection of fees by the City from the Project applicant followed by payment of those fees over to Loomis. The only difference between the two situations is that, through SPRTA, a number of agencies have agreed to such a mechanism in a formal joint exercise of powers agreement, whereas Loomis has had to repeatedly state in a series of comment letters to the City that Loomis is willing and able to receive and apply such funds and that the City is legally required to collect and disburse them to Loomis for traffic mitigation purposes.

**IV. NOISE**

19-28

**A. The DEIR contains an inadequate analysis of noise impacts and the degree of attenuation obtainable from proposed mitigation.**

According to the standard of significance identified in the DEIR, where ambient noise levels are above 65dB, any traffic noise level increase in excess of 1.5 dB may be considered significant, and where ambient noise levels are 60 to 65 dB, any traffic noise level increase in excess of 3 dB may be considered significant. (DEIR, at pp. 4.6-10 and

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4.6-16.) Cumulative noise levels on Sierra College Boulevard without the Project exceed 65 dB; so, an increase of 1.5 dB represents a significant increase.

The DEIR states that "Given a cumulative plus project traffic noise exposure of 70 dB Ldn along Sierra College Boulevard, the proposed 6-foot tall noise barriers would be insufficient to reduce outdoor activity area noise exposure to 60 dB Ldn or less at these locations." (DEIR, at p. 4.6-18.) The DEIR then proposes 8-foot tall barriers and declares that, with mitigation, project noise impacts to residences within the Project site would be less-than-significant. (DEIR, at p. 4.6-18.)

The DEIR contains no information stating the degree of attenuation that can be achieved by barriers of various heights, or whether, with 8-foot barriers, noise impacts would be below 60 dB. Thus, the DEIR contains or points to no substantial evidence that these noise impacts will be successfully mitigated below a level of significance.

On the contrary, the evidence that is in the DEIR suggests that the proposed mitigation will fail. The DEIR suggests that existing noise barriers only have the potential to reduce noise by approximately 5 dB. (DEIR, at p. 4.6-16.) So, the DEIR is proposing to obtain double the degree of attenuation (the more than 10 dB needed to bring 70 dB down below 60 dB) with less than double the height barrier (8 feet, not 10). On the DEIR's own terms, these levels of attenuation appear illogical and unattainable with the mitigation proposed. In light of the elevated noise levels existing at selected areas within the Project vicinity, the DEIR's analysis of cumulative noise impacts is inadequate. (See *Los Angeles Unified Sch. Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019.)

Looking beyond the DEIR to other sources, it is even more evident that the DEIR's proposed mitigation will be ineffectual. According to the Federal Highway Administration, "After [a noise barrier] breaks the line-of-sight, it can achieve approximately 1.5 dB of additional noise level reduction for each meter of barrier height." (U.S. Dept. of Transportation, Federal Highway Administration, *Keeping the Noise Down: Highway Traffic Noise Barriers*, at p. 6 ("Federal Highway Administration"), attached to this letter.) The DEIR's mitigation measure, proposing to add 2 additional feet to a previously proposed 6-foot barrier would add 0.6096 meters to the height of the wall. (DEIR, at p. 4.6-18.) At 1.5 dB per meter, the additional 2 feet would add only 0.91 to the extent of the wall's attenuation, much too little to reduce noise impacts below a level of significant impact.

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In addition, "noise barriers provide very little benefit for homes on a hillside overlooking a highway or for buildings which rise above the barrier." (Federal Highway Administration, at p. 6.) The Project homes that are targeted by this proposed mitigation are located directly above Sierra College Boulevard. The DEIR proposes to use backyard elevation to measure required barrier height. (DEIR, at p. 4.6-18.) The appropriate

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elevation measure for wall height is not the backyard elevation but the height of the home, because the line of sight of people inside the home will determine the location of the receptors (i.e., ears). (Federal Highway Administration, at p. 6.)

Even if backyard elevation were an appropriate measure, it would be insufficient for the DEIR to merely specify "backyard" and nothing more, because the particular backyards in question are sloped. (See, DEIR, at pp. 3-5 and 3-6.) A person standing at the highest point of the backyard would have a different and higher line of sight than a person standing at the lowest point (closer to the road). Neither 6 nor 8 feet will do the job. The proposed barriers must significantly exceed that person's line of sight in order to achieve even the low levels of attenuation contemplated by the DEIR, and the required barrier height must be reckoned from the highest point of the backyards of the affected homes. (See Federal Highway Administration, at p. 6.)

**V. CULTURAL AND PALEONTOLOGICAL RESOURCES**

- A. The DEIR inappropriately relies on details of the Historic Properties Management Plan to mitigate Project impacts but admits that the plan's contents have not been established.**

19-30

The DEIR states that the Historic Properties Management Plan is still being developed: "In summer and fall of 2005, Tribe Representatives began meetings with Clover Valley Partners regarding specific measures to reduce substantive project effects and to increase protection for cultural resources. The Tribe has been involved in the drafting of the Historic Properties Management Plan. These discussions are ongoing." (DEIR, at p. 4.7-31.)

The DEIR also notes that the plan cannot be released for public review. (DEIR, at p. 4.7-33.) At the same time, some of the proposed mitigation measures that the DEIR concludes are needed to reduce the Project impacts to less-than-significant rely upon the contents of that plan. (DEIR, at pp. 4.7-34, 4.7-38.)

In short, the DEIR relies upon a plan that is at once secret, incomplete, and likely to change. It is impossible for those privy to its contents, much less members of the public or governmental decision makers, to evaluate the feasibility or sufficiency of the DEIR's mitigation measures for resources covered by the plan. Because the feasibility of the proposed measures depends in part upon the location of these resources relative to other features of the proposed Project, the DEIR's analysis of cultural and paleontological resources is defective.

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**VI. PUBLIC SERVICES AND UTILITIES**

**A. The DEIR and City have not identified legally adequate water supplies.**

On December 15, 2005, Placer County Water Agency ("PCWA") provided the City with a letter purporting to address the requirements of SB 221 and SB 610. PCWA's letter states that the estimated buildout water demand is estimated to be 631 acre feet per year, and states that the proposed Clover Valley Subdivision area was included in PCWA's draft 2005 Urban Water Management Plan. The letter concludes:

"depending on the timing of water needs from this project and because [PCWA] has a first-come, first-served policy for serving new customers, the completion of any or all of numerous Agency planned infrastructure projects may be required before the Agency can provide water service for the build out of the Clover Valley Subdivision. Those projects include completion of the permanent American River Pump Station, which is currently under construction and completion of additional treatment capacity and transmission facilities associated with the Agency's planned Ophir area water treatment plant project, which are currently under design. [¶] In addition, the Clover Valley Subdivision will need to extend the Agency's existing transmission infrastructure to the project site and construct the needed onsite infrastructure, including the potable water distribution system."

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PCWA's admonishment to the City raises a compliance dilemma that the City has so far failed to resolve. First, the DEIR unlawfully fails to evaluate the environmental impacts of the water infrastructure features that PCWA describes in the above passage. Based on PCWA's letter it is reasonably foreseeable that these features will be built if the Project proceeds. If the City wants to conclude that the needed water will (not merely might) be available, then the City must admit that these infrastructure facilities are currently reasonably foreseeable and must analyze their impacts in this DEIR. On the other hand, if the City wishes to argue that these features are not reasonably foreseeable, then the City cannot meet the evidentiary standards for verifying the availability of an adequate water supply, as described more fully below.

If read carefully, this letter from PCWA does not identify or verify an adequate water supply for the Project. Rather, it says, in effect, that PCWA is presently unable to answer the basic question posed because Project build-out will take so long. The DEIR, however, misreads this letter as a statement that adequate facilities "would exist" to serve the project, and reaches a conclusion of less-than-significant as a result. (DEIR, at p. 4.12-33.)

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The information provided to the City by PCWA, together with the rest of the record, provide no substantial evidence to support a conclusion that adequate and sufficient water will be able to be supplied to the Project in addition to the supplies to be provided to other existing and planned uses. Accordingly, the City cannot legally make a finding of sufficiency as described by Water Code, section 10911(c), and Government Code, section 66473.7.

19-32

Moreover, the character of PCWA's conclusions regarding the uncertainty of water availability have placed on PCWA and the City an added evidentiary burden pursuant to Government Code, section 66473.7. The City must now itself be concerned with finding substantial evidence to establish that water will in fact be able to be supplied to the project through infrastructure that is currently merely in the design stage. The evidentiary standards must be met before the Project can be approved by the City's elected decision makers (not merely before each phase is built). Neither the DEIR nor the assessment and letter from PCWA, nor any other part of the present record, would support the City's needed findings.

**VII. ALTERNATIVES ANALYSIS**

- A. **The DEIR is defective because it fails to explicitly label the No Development alternative as being environmentally superior to the proposed Project.**

19-33

The section of an EIR where the environmentally superior alternative is identified should be a place for environmental considerations to predominate. In that section, the DEIR must state, clearly and unequivocally, what alternative would be best for the environment. That section is not the place to distract the reader by introducing a range of non-environmental issues that city officials think about when reviewing projects. After pages of analysis of environmental considerations, that is not the place for the DEIR to leave the reader muddled about whether the DEIR's conclusion about what would be best were based on environmental considerations.

Yet this DEIR seems determined to place stumbling blocks before the public's ability to understand the environmental bottom line. For example, prominently within a section where the DEIR should be stating the environmental bottom line, this DEIR takes pains to spell out and emphasize that "other factors of importance" must be considered in deliberations on the proposed Project and alternatives, such as "urban design, economics, social factors, and fiscal considerations." (DEIR, at p. 6-22.)

That is an inappropriate distraction. This DEIR misleads further, however, by misstating its conclusion and the legal requirements pertaining to that conclusion. The alternatives analysis identifies as the environmentally superior alternative the "Maximum of 180 Units Alternative." (DEIR, at pp. 2-9, 6-22.) The DEIR acknowledges that the