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Via Electronic Mail & U.S. Mail

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Re: Revised Draft Environmental Impact Report for Mather Airport
Master Plan (2002-0325)

Dear Ms. Biner:

On behalf of the City of Folsom (“City” or “Folsom”), we have reviewed the February 2014 Revised Draft Environmental Impact Report (“RDEIR”) for the proposed Mather Airport Master Plan. As you are aware, this firm submitted an extensive comment letter on the 2012 DEIR.¹ In response to our DEIR comments and those submitted by many others, the County decided to go “back to the drawing board.” In 2013, it made certain revisions to the proposed Master Plan and commissioned a revised aviation demand forecast for Mather. The County has now released its revised DEIR for the proposed Master Plan.

We wish to acknowledge that some of the changes made by the County since 2012, such as the RDEIR’s use of an updated baseline, respond to our comments/suggestions and improve the RDEIR’s usefulness as a public disclosure document. We thank and applaud the County for taking our comments seriously and

¹ We hereby incorporate that letter (included with this letter as Exhibit A).

making appropriate revisions to the DEIR. In other areas, however, revisions made since 2012 remain deficient in disclosing and analyzing significant environmental impacts posed by the project, and as such do not bring the County into compliance with CEQA. This comment letter focuses on those remaining problem areas and discusses significant concerns that came to light through our recent requests for public records.

As described in detail below, the RDEIR violates CEQA because it: (1) fails to adequately analyze the Project's impacts on noise and air quality; (2) fails to propose adequate mitigation measures to address those impacts; (3) provides an inadequate alternatives analysis; and (4) relies on an inaccurate aviation activity forecast. Consequently, and as required by law, the County will need to prepare and recirculate a revised DEIR if it chooses to proceed with the proposed Master Plan.

Moreover, through our requests for public records, we have uncovered disturbing information regarding the recent activities of Sacramento County Airport System (SCAS) Staff in connection with the Master Plan process. SCAS Staff has apparently been coaching United Parcel Service (UPS) to lobby the Board of Supervisors and others for Master Plan approval. They have also improperly pre-committed to the Master Plan project by devoting substantial financial resources to undertake the single most significant element of the proposed Master Plan: the Category III Instrument Landing System (Cat III ILS) prior to environmental review and project approval. These activities violate the public trust and CEQA. They are also inconsistent with the County's 2008 settlement agreement with the City of Folsom and unwise from a financial standpoint.

I. SCAS Staff Has Made an Improper Pre-Commitment to Cat III ILS.

As we explained at length in our 2012 comment letter, SCAS plans to transform Mather to make it more attractive to air cargo operators. Adding Cat III ILS capability at Mather is the centerpiece of that plan. The Sacramento area experiences heavy Tule fog during the winter months, coinciding with December, the "peak month for air cargo operations." Draft Master Plan at 4-4. Mather's current ILS is insufficient to land planes under thick Tule fog conditions. The problem is particularly acute during the early morning hours, when a significant portion of cargo flights arrive. *Id.* Upgrading the ILS to Category III would reduce the potential for diversions due to poor visibility, allowing SCAS to attract additional cargo operators (including FedEx) to Mather and retain UPS, which currently operates there.

In short, the proposed Cat III ILS upgrade is, without question, a vital component of the proposed Master Plan. RDEIR at 3-13. In fact, it is arguably the most

important element SCAS Staff would like authorized as part of the Master Plan. The County, which recognizes the extensive opposition to the proposed Master Plan, has outwardly assured the public that it has not yet decided whether to approve that Plan; however, SCAS Staff, meanwhile, has been behaving as if the Master Plan approval is a foregone conclusion and undertaking substantial and inappropriate steps to implement the project prior to CEQA review.

Documents recently obtained by the City in response to its California Public Records Act (CPRA)² requests indicate that SCAS Staff has already taken significant and apparently irreversible steps to implement the Cat III ILS upgrade at Mather, without waiting for the completion of the Master Plan/CEQA process. The documents appear to make it clear that SCAS Staff took these steps to appease the primary Mather air cargo tenant, UPS, which wants the Cat III ILS upgrades in order to increase its cost effectiveness and to expand its operations in the future. SCAS Staff took these steps without regard to the Master Plan/CEQA review process under California law. No documents were provided to demonstrate a public, transparent process was used in procuring the ILS equipment. If such a process a process existed, the City wishes to review the records and can modify its comments accordingly. We are commenting based on the information provided to us.

The proposed CAT III ILS component of the Master Plan consists of numerous subcomponents such as runway marking, lighting and instrumentation. SCAS's cost estimates for implementing CAT III ILS vary widely from \$3.5 million up to \$20 million, with \$12 million appearing to be the current best estimate.

The documents obtained under the CPRA show that since 2012, SCAS Staff has committed and expended a substantial amount of money to quietly, systematically and methodically purchase an important Cat III ILS component. To date, we have obtained evidence that SCAS has purchased the High-Intensity Approach Lighting System with Sequenced Flashing Lights (ALSF-2) component of the CAT III ILS from its vendor, New Bedford Panoramex (NBP) Corp. The cost of that purchase is difficult to discern precisely, but appears to be approaching \$750,000. The parts were delivered approximately one year ago and have apparently been in storage since. The installation and acquisition of other related equipment has been handled separately. For

² See Exhibit B (our CPRA requests and complete responses). We are awaiting the FAA's response to our Freedom of Information Act (FOIA) request and will submit relevant documents into the record later.

example, SCAS issued an RFP for Cat III design and development services on September 20, 2012.

Members of SCAS Staff themselves describe what they have done as follows: “Cat III at Mather is our highest priority and we have already taken major steps, including the ordering of required long lead-time equipment, to have the system online as quickly as possible.” November 14, 2012 letter from G. Hardy Acree (SCAS Director of Airports) to Kevin Hoffman (UPS) at page 1 (emphasis added); *see also* November 8, 2012 memo from Ralph Blanchard (SCAS CAO) to Kevin Hoffman (UPS) at page 2 (“I’m sure you can appreciate that the advance commitment of SCAS resources to design the project and acquire equipment represents a substantial material commitment on our behalf to deliver this critical piece of infrastructure upgrade to MHR.”) (emphasis added).

A. SCAS Staff Has Violated the Public Trust.

While the County has been telling the public that the Master Plan remains under consideration and subject to change in response to public input, behind the scenes, SCAS Staff has been implementing the single most significant near-term element of the Master Plan: the Cat III ILS. That implementation and expenditure of public funds appears firm and irreversible.³

It is transparently obvious that SCAS Staff proceeded with purchase of the CAT III ILS equipment when they did because they were counting on the Board of Supervisors to approve the Master Plan based on the flawed 2012 DEIR. *See* May 14, 2012 Memo from G. Hardy Acree (Director of Airports) to Bradley Hudson (County Executive). SCAS Staff ignored public opposition and demonstrated impatience with the duration of the Master Plan process when they proceeded to commit substantial public resources to purchase the equipment, gambling that the Master Plan (including the Cat III ILS) would be approved in 2012 or 2013. *Id.*

As it turned out, the contentious Master Plan process was not resolved in 2012 or 2013 and remains unresolved today, but the County has already spent approximately \$750,000 on CAT III ILS (ALSF-2) equipment, which would only be useful at Mather if the Master Plan is approved. This is major breach of public trust,

³ SCAS Staff has indicated that it will install the CAT III ILS ALSF-2 equipment at Sacramento International Airport (not that they would return it) if the Board of Supervisors does not authorize CAT III ILS at Mather. *See* May 14, 2012 Memo from G. Hardy Acree (Director of Airports) to Bradley Hudson (County Executive) at page 2.

which calls into serious question whether the County's ongoing Master Plan public participation process is entirely meaningless, because the County has already committed to undertake the very project it is purporting to evaluate objectively with public input.

Additionally, SCAS Staff has worked with UPS behind the scenes for years to advocate for the CAT III ILS. This effort has included a joint political/lobbying strategy to address the "risk" that the Board of Supervisors might delay Cat III ILS approval or not approve it at all. *See* SCAS/UPS Meeting Notes (January 23, 2012); *see also id.* (referencing ways to "appease locals who don't want more MHR business activity"); November 8, 2012 Memo from Ralph Blanchard (SCAS CAO) to Kevin Hoffman (UPS) at page 1 (referencing ways to "overcome 'political' challenges that are still part of the equation" and messages to "strengthen [the Board of Supervisors'] resolve to immediately approve the project."). Put simply, far from presenting a neutral, fact-based assessment of the relative costs and benefits of potentially installing Cat III ILS, SCAS Staff has been engaged in an all-out lobbying effort with and on behalf of UPS.⁴

B. SCAS Staff Has Likely Wasted Public Resources.

The County's pre-commitment to making Cat III ILS upgrades at Mather is made even more troubling by the fact that because the cost-benefit ratio for those upgrades is inadequate to warrant FAA funding, the cost for the upgrades will have to come out of local coffers.⁵ Our review of the CPRA documents indicates that the County may have attempted to address this by committing to give UPS reduced lease rates and

⁴ It appears SCAS Staff may even have suggested specific local lobbyists to UPS. *See* November 8, 2012 Memo from Ralph Blanchard (SCAS CAO) to Kevin Hoffman (UPS) at page 1 ("we have identified several local lobbyist whom we believe can work with you to develop and deliver an effective message").

⁵ *See* September 11, 2012 email from Glen Rickelton (SCAS Airport Manager, Director Planning and Environment) at page 1 stating, "Jeff [Cornette, SCAS Senior Civil Engineer] and I are both of the opinion that there would be only the slimmest of hopes that the FAA would ever agree to one day take on the maintenance and operations cost of the CAT III system. In my opinion reimbursement for acquisition and installation seems even more remote." *See also* November 14, 2012 letter from G. Hardy Acree (SCAS Director of Airports) to Kevin Hoffman (UPS) at page 20 ("[T]he FAA is unwilling to fund the CAT III ILS upgrade at this time due to higher national priorities and federal budget constraints.")

landing fee give-backs in exchange for contributing to the cost of the Cat III ILS.⁶ The status of those lease and landing fee give-backs remains unclear to us, despite our CPRA request for all public records referencing and/or describing that possible financial arrangement. We would respectfully request that the Board of Supervisors ask SCAS Staff for more information and provide additional documentation related to the status.

Mather continues to be a money losing proposition for the County and the loss of lease and landing fee revenue at Mather would have further significant adverse consequences for the public and public coffers. As Ralph Blanchard (SCAS former CAO) explained in a 2014 email report to Carl Mosher (SCAS Deputy Director, Design and Development), the persistence of annual financial losses at Mather “places a further burden on International Airport and the commercial passenger airlines who must subsidize these losses. This, of course, increases airline costs at International and decreases [SCAS’s] competitive appeal relative to new, or increased, passenger airline services.” In other words, because SCAS operates its airports as part of a single system, covertly granting subsidies to UPS at Mather results in negative financial impacts for operators and passengers at International, which in turn harms Sacramento area residents and businesses generally. The bottom line, then, is that the purchases of the CAT III ILS equipment to date, prior to CEQA review and project approval, constitute an inappropriate expenditure of public resources. This is the case regardless of whether the Cat III ILS is ever approved for Mather.

C. SCAS Staff Has Improperly Pre-Committed to the Project Under CEQA.

CEQA analysis must occur before a public agency decides to proceed with a project, so that the analysis can inform that decision. Public agencies that fail to heed this basic mandate run afoul of improper pre-commitment and produce environmental documents that offer little more than post hoc rationalizations for their projects, all in violation of CEQA. To help public agencies time their environmental review properly, the CEQA Guidelines clearly state that “public agencies shall not undertake actions concerning the proposed public project that would . . . limit the choice of alternatives or mitigation measures, before completion of CEQA compliance.” Cal. Code Regs., Tit. 14

⁶ This arrangement is described as “a public-private partnership for the partial or full financing of CAT IIIb marking, lighting and instrumentation.” See August 29, 2011 Letter from G. Hardy Acree (SCAS Director of Airports) to FAA regarding CAT III ILS at page 3.

“CEQA Guidelines” § 15004 (b)(2). Moreover, the Guidelines explain that : “‘Approval’ means the decision by a public agency which commits the agency to a definite course of action . . .” § 15352(a).

Committing to a major project component before EIR certification, as SCAS Staff has done here, evidences a failure to comply with CEQA. *See Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 134 (“[T]he guideline defines “approval” as occurring when the agency first exercises its discretion to execute a contract or grant financial assistance, not when the last such discretionary decision is made.”); *id.* at 135 (“A public entity that, in theory, retains legal discretion to reject a proposed project may . . . have as a practical matter committed itself to the project . . . [and] will not be easily deterred from taking whatever steps remain toward the project’s final approval.”); *see also Laurel Heights Improvement Assn. of San Francisco v. Regents of the University of Cal.* (1988) 47 Cal.3d 376, 394 (“A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding whether to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved. If postapproval environmental review were allowed, EIR's would likely become nothing more than post hoc rationalizations to support action already taken.”). The approach taken by SCAS Staff violates this black-letter CEQA law and leaves the public with the impression that the remaining CEQA process may be meaningless.

It is not possible to “unring” a bell. In much the same way, it may be difficult to undo SCAS Staffs’ improper pre-commitment of resources to the proposed Cat III ILS. Moreover, it is obviously impossible to “take back” the lobbying and political efforts orchestrated by SCAS Staff. Regarding the equipment already purchased, the most appropriate remedy would be for SCAS to return/sell it, which would help put the County back at square one. If that is not possible, then the members of the Board of Supervisors must be explicitly cautioned that the fact that SCAS has already spent considerable resources on the Cat III ILS should not influence their decision regarding whether to approve, reject or modify the proposed Master Plan for Mather. In fact, the behavior of SCAS Staff should give the Board of Supervisors great pause and concern for diminishing the importance of the public’s participation in the review process, as well as the Board’s consideration of the proposed Master Plan. These actions are very troubling to the residents of Folsom, who have cooperated with County staff on projects like the Hangtown STAR, yet feel they are misled and misrepresented as to what is going on behind the scenes.

D. SCAS Staff Violated the County's 2008 Settlement Agreement with the City of Folsom

In 2007, the City of Folsom filed suit against the County challenging its “piecemeal” implementation of projects Folsom thought should properly be evaluated as part of the Master Plan process. That lawsuit was resolved in a 2008 settlement agreement between the City and the County, which provides in relevant part: “County agrees not to propose or approve Master Plan projects until the Master Plan EIR has been certified and the updated Master Plan has been approved.” SCAS Staff’s decision to proceed with the purchase of Cat III ILS system components prior to certification of the Master Plan EIR and approval of the Master Plan violates this settlement provision. The County’s breach of the 2008 settlement agreement through actions of the SCAS Staff is a significant concern to the City. In submitting comments to the RDEIR, the City is not waiving any rights to address the County’s breach of the 2008 settlement agreement.

II. The RDEIR Is Misleading Due to Reliance on Inaccurate Assumptions Regarding Future Air Traffic.

In our October 4, 2012 comment letter on the prior version of the DEIR, we commented at length on the fact that the County must acknowledge and evaluate the fact that the proposed Master Plan improvements (especially the Cat III ILS) are designed to allow for a dramatic increase in aviation activity at Mather. The prior version of the DEIR was built on the faulty assumption that the proposed Master Plan projects – including Cat III ILS, taxiway improvements, and extension of the second runway – would have no effect on aviation activity at Mather. The revised version of the DEIR is an improvement over the prior version in that it acknowledges that the Master Plan will induce some growth in aviation activity at Mather. The revised version of the DEIR is still flawed, however, because it understates that potential for growth. The failure to fully acknowledge that improving the airport’s facilities will enable and drive an increase in aviation activity infects nearly all of the RDEIR’s conclusions, including those in the noise, air quality, and alternatives analyses.

Prior to preparing the current version of the Master Plan DEIR, Staff sought approval from the Board of Supervisors for a number of revisions to the proposed Master Plan. *See* May 2013 revised version of the Master Plan. That update included a complete replacement of Chapter 3 (aviation forecast), which includes as an “alternative” an evaluation of the possibility of a second integrated air cargo carrier (i.e., FedEx) relocating to Mather following Master Plan approval/implementation. We applaud this acknowledgment that the Master Plan (and in particular the Cat III ILS) would open the

door to increased cargo operations at Mather. Due to the reasons stated below, we are nonetheless concerned that the updated forecast does not go far enough.

SCAS's forecast fails to point to any physical or other constraint at Mather that could be relied upon to limit air cargo activity following build-out of the Master Plan. SCAS's forecast is fundamentally an analysis of assumed economic demand, not an acknowledgment of the full extent of the cargo operations that would be made possible by the proposed Master Plan. One particularly telling SCAS email received in response to our CPRA request states "SCAS still sees Mather, with a relatively moderate investment, as the best opportunity that we have to provide 'immediate' and essentially limitless air cargo capability to the region." April 19, 2011 Email from Glen Rickelton (SCAS Airport Manager, Planning and Environment) to K. Hoffman (UPS) re: "MHR letter" (emphasis added). SCAS's forecast and RDEIR do not evaluate this "essentially limitless" air cargo capability that would result from the Master Plan. They must be updated as well. The City's concern has, all along, been the limitless air traffic directly down the ILS over our residents at all hours of the day and night.

We also note that the possibility of a second integrated air cargo carrier relocating to Mather following Master Plan approval/implementation is addressed in an "alternative forecast scenario" rather than as part of the main report. It is therefore not entirely clear which forecast is used as the basis for the RDEIR's analysis. We respectfully request that the County either confirm its exclusive use of the "alternative forecast scenario" for that purpose or revise the RDEIR so that is based on that scenario.

We acknowledge that in 2013, the Board of Supervisors gave direction to SCAS Staff to consider a "balanced" role for Mather in which it would serve as the County's primary air cargo airport while also accommodating general aviation demand. We interpret this as an attempt by SCAS Staff to distance themselves from prior statements about making Mather a cargo hub.⁷ While we would certainly support

⁷ For example, a journalist cited SCAS officials as having "marked Mather as the cargo hub for the region" and as expecting UPS to build a regional hub there once the Category III ILS is installed. Mark Larson, "Study Sees China as Huge Boost to Mather" Sacramento Business Journal (April 17, 2005). Also in 2005, the County commissioned a study that identified SCAS's mission as increasing cargo traffic at all the Sacramento airports by 50%, from 8% of the Northern California market to 12%. Sabre Airline Solutions, "Air Cargo Market Study for Sacramento Airports," January, 2005, at page 2. Because the lack of ILS and second runway capacity is a constraint on growth at Mather, (footnote continued)

abandonment of all cargo hub plans for Mather, we are not convinced that the changes made to the proposed Master Plan in 2013 accomplish that shift. The changes appear to be mostly window-dressing because they do not remove any of the Master Plan elements most likely to result in new and increased cargo operations at Mather. The modifications at Mather will fully support two or more large air cargo carriers and most notably, the Master Plan still includes the Cat III ILS, significant upgrades to landside cargo facilities, and (now in planning activity levels “PAL” 2) extension of Mather’s shorter runway (4L-22R).

It is also critically important that the Mather aviation forecast capture the fact that UPS would increase its current operations at Mather if the Cat III ILS is installed, which would mean significant growth over and above that associated with FedEx relocating to Mather. The documents we received in response to our CPRA requests make clear that UPS will not only remain at Mather if Cat III ILS is installed, but increase operations. *See* SCAS Summary of January 21, 2011 Meeting with UPS at page 4 (“Cat III capability is key to further growth and development of their operation at MHR”); February 11, 2011 Letter from Kevin Hoffman (UPS) to Glen Rickelton (SCAS Airport Manager, Planning and Environment) at page 1 (“UPS and SCAS both need a CAT 3 ILS at MHR in order to maintain our current business and to grow our operations”).

Simply stated, SCAS still has not met its burden of presenting a credible aviation forecast. This failing undermines the entire RDEIR, which must be redone based on a more realistic and accurate build-out forecast which takes into account the full extent cargo and other operations could be accommodated at Mather with and without the proposed improvements.

the study concluded that improvements to these facilities were necessary to meet this goal. *Id.*

III. The RDEIR's Analysis of the Project's Noise Impacts Fails to Satisfy the Requirements of CEQA.

As discussed extensively in our October 2012 comments, the DEIR provided an incomplete analysis of the Project's noise impacts. The RDEIR perpetuates the DEIR's failures. Specifically, the RDEIR fails to adequately analyze the Project's impacts related to night awakenings, fails to analyze daytime single event noise, and fails to analyze the Project's compliance with local standards. Until these failures are remedied, the EIR will remain incomplete and insufficient under CEQA.

A. The RDEIR's Analysis of the Project's Impacts on Night Awakenings Remains Inadequate.

An analysis of aircraft single event noise describes the effect of noise generated from a single flight, and more importantly, its impact on receptors. In this regard, the RDEIR repeats the failings of its predecessor. The RDEIR fails to determine the threshold of significance for impacts related to single event noise. Accordingly, while the document includes an analysis of the Project's impacts related to single event noise, the analysis is incomplete. The RDEIR argues that the objective of establishing a threshold is to offer a target for revisions or mitigation measures. RDEIR at 9-72. The RDEIR goes on to state that since regulation of aircraft operations is outside the County's jurisdiction, it is not practical to use such a threshold to identify mitigation measures that would reduce aircraft operations, and related noise. *Id.* This approach does not comport with CEQA.

First, the CEQA Guidelines define the threshold of significance as "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." CEQA Guidelines § 15064.7(a). Thus, the objective of establishing thresholds is first and foremost to determine the significance of an adverse effect, not as the EIR claims, to set a target for mitigation. Second, whether or not the lead agency may find it practicable to identify feasible measures to mitigate an impact is not the question at hand. The EIR has an obligation to first establish a threshold, then to analyze the Project's impact and make a determination as to whether the impact would exceed that threshold. Only after these steps have been completed does an EIR identify feasible alternatives and mitigation measures.

Having skipped the first and most critical step of setting a significance threshold, the RDEIR presents what is termed "an information only" discussion, but then

ignores its obligation to determine whether the impact is significant. RDEIR at 9-72 and 9-85. This failure is particularly egregious given the RDEIR's disclosure that the Project would result in a substantial increase in nighttime awakenings. RDEIR at 9-79. For example, the percentage of residents suffering from airport-related night awakenings in the City of Folsom will roughly double by 2035, increasing from 4.5 percent in 2012 to 8.1 percent in 2035. *Id.* According to the Sacramento Area Council of Governments ("SACOG"), the population of Folsom was approximately 73,000 people in 2012 and is anticipated to exceed 100,000 by 2035. Therefore, the percentage increase in night awakenings would translate to approximately 8,000 people potentially being awakened at least once each night due to the increase in nighttime flights in 2035.

By any reasonable measure, this increase in nighttime disturbance is a significant impact. Especially given the existing conditions (i.e., a surrounding community that is already excessively burdened with aircraft noise), there is no question that any increase in noise levels will result in significant noise impacts to neighboring residents. Moreover, as explained in our previous comments, a metric measuring awakening of "at least once" does not distinguish between project alternatives that may disturb sleep only once per night from those that may disturb sleep multiple times per night. Thus, the RDEIR likely underestimates the potential for sleep disturbance. Regardless, with implementation of the Project as proposed, thousands of residents have the potential to be awakened on a nightly basis. The nighttime awakening will only be exacerbated by additional flights and adding additional carriers. Further, the SCAS efforts to "convince UPS to fly a quiet approach from Hangtown have, in Folsom's opinion, failed and when pilots do not comply, there appears to be absolutely nothing that can be done about it. Of course, cargo flights are predominantly late at night when residents sleep.

The RDEIR's failure to reach a significance conclusion violates CEQA, which requires findings of significance in order to inform the public and decision makers. CEQA Guidelines, § 15065 (titled "Mandatory Findings of Significance"). Under CEQA, it is not sufficient for a lead agency to simply divulge information related to the impacts of a project. Instead, CEQA compels an agency to determine the significance of such impacts, to analyze alternatives that would avoid or lessen those impacts, and to mitigate all impacts determined to be significant to the fullest extent feasible. The RDEIR fails to comply with CEQA's mandate. Pub. Res. Code § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(f); *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 443-45.

B. The RDEIR's Analysis of Daytime Noise Ignores Significant Impacts from Single Event Noise.

The RDEIR continues to improperly downplay the effects of Project-related increased noise events by focusing solely on Community Noise Equivalent Level ("CNEL") measurements and ignoring single event noise levels during daytime hours. See RDEIR at 9-72 to 9-88 (analysis of single event noise does not address daytime noise) and RDEIR at 9-59 to 9-60 (analysis of daytime aircraft noise presented using CNEL measurements). The CNEL metric does not characterize the intermittent nature of the noise from the overflying aircraft and does not adequately predict how increased over-flights may interfere with speech and other activities in the affected neighborhoods. As explained in detail in our October 2012 comments, analyzing only average noise impacts has been rejected by California courts because impacted residents do not hear noise averages, but single events. *Berkeley Keep Jets Over the Bay Comrs. v. Port of Oakland* (2001) 91 Cal.App.4th 1344, 1382 ("*Berkeley Jets*"). Single event noise levels have been shown likely to result not only in sleep disruption, but speech interference and heightened levels of stress and annoyance. Noting that "sound exposure level [SEL] has been found to be the most appropriate and useful descriptor for most types of single event sounds," the court in *Berkeley Jets* held that calculation of single-event sounds was necessary to complete the noise analysis. *Id.* Accordingly, the RDEIR for the Project should have analyzed the impacts of daytime single event noise on speech, stress, and annoyance levels, should have analyzed alternatives that avoid or lessen those impacts, and should have analyzed adequate measures to mitigate those impacts.

C. The RDEIR Fails to Analyze the Project's Consistency with Folsom's Noise Standards.

The RDEIR explains that the Project would have a significant impact if it would conflict with applicable land use plans, policies, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. RDEIR at 5-18, 9-20. The Project is inconsistent with numerous provisions of the Noise Element of the City of Folsom's General Plan and the City's Municipal Code, but the RDEIR fails to provide any discussion whatsoever of this inconsistency. *Id.* The RDEIR then erroneously concludes that the Project would not conflict with any applicable plans so that related impacts would be less than significant. RDEIR at 5-18 to 5-21.

The Noise Element of the City of Folsom's General Plan and the City's Municipal Code specifies that exterior noise levels shall not exceed 65 A-weighted decibels ("dBA") during the day and 60 dBA at night for noise lasting for one minute in a

one hour time period. City of Folsom Municipal Code, Section 8.42.040. The RDEIR makes clear that City of Folsom residents and schoolchildren already experience noise events in excess of these standards due to airport operations. *See* RDEIR at 9-13 Table NS-3 (Interior Maximum Sound Level (“Lmax”) as high as 74 dBA at site 8) and RDEIR ESA Noise Technical Note, Classroom Disruption Analysis at 6, Table 2 (Lmax noise values related to aircraft are as high as 67 dBA at some school sites.) Those impacts would increase as a result of the proposed Project, however, as discussed earlier, the RDEIR improperly downplays these effects by focusing solely on CNEL measurements and ignoring single event noise levels. RDEIR at 9-59 to 9-60.

CEQA requires that the RDEIR discuss any inconsistencies between the Project and any applicable general plans, specific plans and regional plans. CEQA Guidelines § 15125(d). The RDEIR provides no explanation for the omission of the analysis of the Project’s consistency with Folsom’s General Plan and noise standards in the Folsom Municipal Code. Because the Project will increase noise levels that already exceed City standards, the Project will have significant noise impacts on Folsom and its residents. These impacts are not disclosed by the RDEIR. Compliance with CEQA would require that these impacts be disclosed, that alternatives be analyzed, and that significant impacts be mitigated to the extent feasible.

D. The RDEIR Fails to Identify Feasible Alternatives and Measures to Mitigate Significant Project-related Noise Impacts.

Because the RDEIR fails to make a determination of significance, the County did not analyze alternatives to lessen or avoid Project-related significant noise impacts, and did not adopt any mitigation measures related to noise impacts. However, because the Project-related noise will cause a significant impact, the EIR must analyze, and the County must adopt, all feasible mitigation to reduce those impacts.

The RDEIR clearly identifies schools that would experience interior noise levels that exceed the American National Standards Institute standards for classrooms, with the logical result that these receptor locations would be significantly impacted. *See* RDEIR at 9-13 Table NS-3 (Lmax as high as 74 dBA at site 8) and RDEIR ESA Noise Technical Note, Classroom Disruption Analysis at 6, Table 2. Similarly, the RDEIR identifies a significant increase in sleep disturbance. RDEIR at 9-79. Yet, the document fails to identify these impacts as significant, fails to analyze alternatives to avoid these impacts, and fails to identify any mitigation for these related impacts. RDEIR at 2-2, 2-7 to 2-9.

Like the DEIR before it, the RDEIR limited its consideration of potential noise abatement measures to mandatory noise limits and curfews and concluded that implementation of these two measures is not feasible. RDEIR at 9-72. The County has a duty to consider other feasible mitigation. CEQA Guidelines §15126.4(a). Instead, the RDEIR ignored feasible measures recommended by commenters, including the use of insulation for area schools, identification of alternative approaches into Mather, operational restrictions that could reduce noise impacts on neighboring communities. In sum, the RDEIR fails to remedy the failings of the DEIR and provides an entirely insufficient analysis of the noise impacts resulting from the Project's implementation.

IV. The RDEIR's Approach to Analysis of Air Quality Fails to Comply with CEQA.

A. The RDEIR Substantially Understates the Severity and Extent of the Project's Air Quality Impacts Because the Document Relies on an Inaccurate Aviation Forecast.

As discussed above, the RDEIR uses an aviation forecast for build-out of the Project at 2035 that is too low. The aviation forecast employed by the RDEIR understates the Project's potential to induce growth and fails to take into account the full spectrum of increased operations that will be reasonably foreseeable if the Project is implemented. See Section II supra. Had the RDEIR analyzed impacts based on Mather's full capacity, the analysis would likely have shown that Project emissions with the potential to contribute to degrade air quality would exceed the thresholds of significance. Thus, the RDEIR fails to disclose and evaluate all implicated environmental impacts, including air emissions, based upon full operational capacity and a more realistic forecast.

B. The RDEIR Fails to Adequately Analyze the Project's Operational Air Emissions.

The RDEIR establishes significance thresholds for ozone precursors of reactive organic gases ("ROG") and nitrogen oxides (NO_x). RDEIR at 11-24. The RDEIR acknowledges that aircraft are the dominant source of Project-related emissions for all pollutants, including ROG and NO_x. However, the RDEIR inexplicably fails to include aircraft emissions in its analysis. RDEIR at 11-31. Thus, the RDEIR conducts its analysis on only a portion of the Project's expected emissions and concludes that this impact is less than significant. *Id.* This conclusion is incorrect. In fact, the RDEIR itself provides evidence that implementation of the Project will result in exceedance of the

significance threshold for NOx. RDEIR Air Quality Technical Study at 43. By the RDEIR's own threshold of significance, this impact is significant.

The RDEIR reasons that since aircraft emissions are regulated by the Federal Aviation Administration, they must be addressed at the federal level, not the local level. RDEIR at 12-9. However, the fact that the County does not have jurisdiction to impose mitigation on aircraft emissions does not impede a finding of significance in the first instance. That finding should accompany a significance determination and appropriate mitigation. See Public Resources Code § 21081(a)(2): agency can approve project with significant effect if it finds “with respect to each significant effect . . . [mitigation is] within the responsibility and jurisdiction of another public agency and [has], or can and should be, adopted by that other agency.” Moreover, the County does have complete authority to design the Master Plan and authority over whether to proceed with implementation of that Plan, gives the County the ability to avoid significant effects on the environment. Therefore, the County has an obligation to analyze alternatives to the Master Plan that would avoid or lessen the significant impacts of the Plan. Pub. Res. Code § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(f); *Citizens for Quality Growth*, 198 Cal.App.3d at 443-45. The City has been frustrated for years over SCAS Staff statements that they are powerless to address the noise from planes overhead; instead the response is to push on to expand the airport without offering any mitigation.

V. The RDEIR Fails to Adequately Evaluate and Mitigate the Project's Contribution to Climate Change.

The law is clear that lead agencies must thoroughly evaluate a project's impacts on climate change under CEQA. In 2007, the state Legislature passed Senate Bill (“SB”) 97, which required the Governor's Office of Planning and Research to prepare guidelines “for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions as required by [CEQA], including, but not limited to, effects associated with transportation or energy consumption.” SB 97 (2007), codified as Pub. Res. Code § 21083.05. Consistent with this mandate, the state Natural Resources Agency adopted revisions to the CEQA Guidelines that require lead agencies to determine the significance of a proposed project's greenhouse gas (“GHG”) emissions. Guidelines § 15064.4.

The RDEIR's analysis of GHG emissions attributable to the Project is deficient and does not comply with CEQA. The RDEIR provides a summary of recent climate change legislation, an overview of literature citing potential impacts associated with predicted changes in climate, and a list of RDEIR project elements that result in GHG emissions. RDEIR at 12-1 to 12-10. The RDEIR's climate change analysis, however, is essentially perfunctory. Like the document's air quality analysis, it ignores

aircraft emissions, which constitute a huge portion of the Project's carbon emissions. As explained earlier, the RDEIR states that the County does not have jurisdiction to regulate aircraft emissions, implying that it would not be feasible to impose mitigation for those emissions. RDEIR at 12-9.

The California Supreme Court rejected an argument that an agency was excused from analyzing an impact where the only applicable mitigation was legally infeasible: *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 325 "That a particular mitigation measure may be infeasible or precluded, as by the applicant's vested rights, is not a justification for not performing environmental review; it does not excuse the agency from following the dictates of CEQA and realistically analyzing the project's effects." Similarly here, the County is obliged to thoroughly analyze the impacts from *all* of the Project's components, including aircraft.

Likewise, its conclusion that the Project will not have significant GHG-related impacts is alarming. The RDEIR discloses that the Project would result in an increase of more than 7,000 metric tons of carbon annually. RDEIR at 12-12. By any rational measure, the Project will have a significant impact related to climate change. The RDEIR concludes otherwise only because it distorts the Project's actual impacts by analyzing only a portion of them. *Id.* Because the RDEIR concludes that the Project will not have a significant climate-related impact, it fails to adopt feasible mitigation to minimize the effects of those carbon emissions. Instead, the RDEIR only considers the Project's carbon emissions excluding aircraft and thus identifies mitigation for only a small fraction of the emissions (or 237 metric tons). *Id.* However, because the Project's impact will far exceed the emissions mitigated, the RDEIR must identify and include additional mitigation measures to reduce or avoid the Project's contribution to global warming.

In addition the RDEIR's proposed mitigation for greenhouse gas emissions is inadequate. The RDEIR discloses the Project's emissions through project build-out in 2035, but proposed measures only mitigate to the state-established emission reduction targets for 2020. RDEIR at 12-3. Given that the life of the Project is to at least 2035, and much of the construction is likely to take place after 2020, the RDEIR must be revised to correct this error. Until it does so, this environmental review will remain inadequate.

VI. The RDEIR's Analysis of Alternatives is Flawed.

Every EIR must describe a range of alternatives to the proposed project and its location that would feasibly attain the project's basic objectives while avoiding or

substantially lessening the project's significant impacts. Pub. Res. Code § 21100(b)(4); CEQA Guidelines § 15126(f). A proper analysis of alternatives is essential for the County to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. Pub. Res. Code § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(f); *Citizens for Quality Growth*, 198 Cal.App.3d at 443-45. As stated in *Laurel Heights*, "[w]ithout meaningful analysis of alternatives in the DEIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. . . . [Courts will not] 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." 47 Cal.3d at 404. The RDEIR's discussion of alternatives in the present case fails to live up to these standards.

As a preliminary matter, the RDEIR's failure to disclose the extent and severity of the Project's impacts necessarily distorts the document's analysis of Project alternatives. That is because when the RDEIR fails to disclose impacts properly, it fails to identify areas that would benefit from properly framed alternatives. Moreover, those alternatives that are included cannot be properly evaluated against an inaccurate representation of the Project's impacts. Proper identification and analysis of alternatives is impossible until Project impacts are fully disclosed.

Sound planning principles dictate that the County carefully consider alternatives in the present case because the proposed Project is located immediately adjacent to residential communities and would result in significant noise impacts to thousands of residents. Furthermore, the Project would result in significant impacts related to cumulative traffic and climate change. RDEIR at 2-1. The RDEIR's analysis of alternatives is insufficient under CEQA because the document fails to consider a reasonable range of options that would reduce Project impacts. CEQA Guidelines § 15126.6(c); *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 533, 566. In addition, it impermissibly overstates impacts associated with the "no project" alternative.

A. The RDEIR's Narrow Project Objectives Prevent Consideration of Reasonable Alternatives.

The first step in conducting an alternatives analysis under CEQA is to define the project's objectives. This step is crucial because project objectives "will help the Lead Agency develop a reasonable range of alternatives to evaluate in the EIR." CEQA Guidelines § 15124(b). Here the County has identified multiple Project Objectives including a "Navigational Aid Requirement" objective to: "reduce the frequency of diverted flights during inclement weather and better accommodate Airport

users during peak periods.” RDEIR at 3-13. The RDEIR makes clear that this objective can only be accomplished with implementation of the CAT III ILS. *Id.* at footnote 1. However, by specifying that the Project is to reduce diverted flights, the RDEIR ensures that only a limited range of alternatives could possibly qualify for consideration. This criterion yields the result that any alternative that does not include the CAT III ILS will fail to meet the project objectives.

By designing its objectives to make the selection of the proposed Project a foregone conclusion, the EIR fails to proceed according to law. Under CEQA, an agency cannot “avoid an objective consideration of an alternative simply because, prior to commencing CEQA review, an applicant made substantial investments in the hope of gaining approval for a particular alternative.” *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736. The County may not define the Project’s objectives so narrowly as to preclude a reasonable alternatives analysis. *Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1089 (the “key to the selection of the range of alternatives is to identify alternatives that meet most of the project’s objectives but have a reduced level of environmental impacts,” not to identify alternatives that meet few of the project’s objectives so that they can be “readily eliminated”). The EIR’s narrow objectives prevent the County from reviewing a reasonable range of project alternatives and thus violates CEQA. Guidelines § 15126.6(a); see *National Parks & Conservation Assn. v. Bureau of Land Management* (9th Cir. 2010) 606 F.3d 1058, 1072 (striking down a narrowly drawn statement of project objectives where it “necessarily and unreasonably constrain[ed] the possible range of alternatives” and “foreordain[ed] approval of the [proposed project]”).

B. The RDEIR Improperly Overstates the No Project Alternative and Its Impacts.

CEQA provides that “public agencies should not approve projects as proposed if there are feasible alternatives . . . which would substantially lessen the significant environmental effects of such projects.” Pub. Res. Code § 21002. As such, a major function of the EIR “is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.” *Save Round Valley Alliance v. Cnty. of Inyo* (2007) 157 Cal.App.4th 1437, 1456 (citation omitted). To fulfill this function, an EIR must consider a “reasonable range” of alternatives “that will foster informed decisionmaking and public participation.” CEQA Guidelines § 15126.6(a). “An EIR which does not produce adequate information regarding alternatives cannot achieve the dual purpose served by the EIR. . . .” *Kings County*, 221 Cal.App.3d at 733. The requirement to analyze alternatives includes a requirement to analyze a “no project” alternative. CEQA Guidelines § 15126.6(e). The “no project” analysis should discuss

“what would be reasonably expected to occur in the foreseeable future if the project were not approved.” *Id.* § 15126.6(e)(2).

The RDEIR, while acknowledging that Cat III ILS would decrease diversions, fails to acknowledge that in the absence of that upgrade, cargo operations at Mather would decline. That predictable result should have been the basis for the RDEIR’s no project alternative.

SCAS takes the position that future aviation activity levels at Mather will remain the same even if the Master Plan (and in particular the Cat III ILS) is not approved and implemented. SCAS’s position – that UPS will remain at Mather regardless – is directly contradicted by documents obtained through our CPRA requests. Those documents make clear that without the Cat III ILS, UPS can reasonably be expected to move its cargo operations back to Sacramento International Airport (SMF). This bullet list provides illustrative examples:

- In the February 11, 2011 Letter from Kevin Hoffman (UPS) to Glen Rickelton (SCAS Airport Manager, Planning and Environment) UPS states at page 1 that “UPS and SCAS both need a CAT 3 ILS at MHR in order to maintain our current business and to grow our operations” and states at page 2 that “UPS fully supports SCACs’ efforts to obtain, install and maintain the required instrumentation to bring the County’s designated Air Cargo Airport up to a Category 3 ILS. In lieu of this, UPS would like to return to SMF (where our chief competitor maintains a competitive advantage) after the additional buildings, roadways, ramps, taxiways and associated infrastructure is constructed.” (emphasis added).
- In an April 18, 2011 SCAS Staff email string regarding UPS’s desire to have Cat III ILS installed at Mather as soon as possible and frustration with delay, Glen Rickelton (SCAS Airport Manager, Planning and Environment) notes at page 2 that “Sr. UPS management is asking why can’t they move to SMF, or what would it take to move to SMF?” (emphasis added).
- An August 29, 2011 Letter from G. Hardy Acree (SCAS Director of Airports) to FAA Regarding CAT III ILS, states at page 2 “Air cargo carriers and other commercial and corporate operators have been patient with CAT IIIb delivery. However, the passage of time and industry

challenges may require these operators to re-assess their Mather business plans, ever more likely without CAT IIIb capability.”

- A May 14, 2012 memo from G. Hardy Acree (SCAS Director of Airports) to Bradley Hudson (County Executive) states at page 2 “Without the CAT III ILS upgrade Mather cannot support the business model required by air cargo carriers and will be unable to fulfill its role as the County’s primary air cargo airport.”

In light of this clear evidence that UPS can reasonably be expected to move its cargo operations back to SMF if Mather does not provide Cat III ILS, the “no project” analysis in the RDEIR should have assumed no UPS operations at Mather. Instead, the RDEIR assumes UPS will remain at Mather, and in fact assumes some increase in cargo flights. RDEIR at 4-8. This approach is misleading and not supported by substantial evidence. Including this inflated “no project” alternative in the RDEIR vastly overstates the environmental impacts associated with rejecting the Master Plan, and improperly skews the analysis in favor of Master Plan approval.

It is worth noting that the documents we received in response to our initial CPRA requests hint at the possibility that major improvements would be necessary at SMF to accommodate a return of UPS cargo operations.⁸ As a follow up, we asked for all public records referencing and/or describing the possible return by UPS to SMF, including those documents describing the potential costs and environmental impacts associated with the additional buildings, roadways, ramps, taxiways and associated infrastructure that might be needed to accommodate UPS. SCAS produced no such documents.

This naturally leaves us with the impression that there is no basis for SCAS’s “estimate” that it would cost \$80+ million and therefore be financially infeasible to re-accommodate UPS and SMF. SCAS’s position that there is no room at SMF lacks credibility. It is, as even SCAS Staff acknowledges in email correspondence, just a

⁸ See April 19, 2011 Email from Glen Rickelton (SCAS Airport Manager, Planning and Environment) to K. Hoffman (UPS) re: “MHR letter” in which Mr. Rickleton states at page 1 “We estimate \$20 Million to implement CAT III at MHR, approximately 25% or less than the estimated \$80+ Million it would take to accommodate UPS and SMF.”

“mantra.”⁹ In reality, it seems UPS could be re-accommodated at SMF if SCAS Staff was willing to let the cargo carrier move. It is telling, for example, that UPS would apparently relocate to SMF temporarily during the proposed installation of the Cat III ILS at Mather, so it appears there must be space available at SMF to accommodate UPS cargo operations.

C. The RDEIR Improperly Rejects the SMF Alternative.

The RDEIR presents only one alternative in addition to the legally required “no project” alternative: the Wetlands Avoidance Alternative. RDEIR at 4-11 – 4-12. This alternative is designed to avoid impacts to biological resources but fails to reduce impacts in other categories, including noise, traffic and climate change. As a result, the alternative would still result in significant adverse impacts and thus fall short of CEQA’s requirement that the EIR consider “meaningful” alternatives. CEQA Guidelines § 15126.6(a), (c), (f).

The RDEIR should have considered other feasible alternatives that would actually lessen impacts to the surrounding communities. The document provides no reasonable explanation as to why additional alternatives that offer features necessary to reduce impacts from the proposed Project were not proposed. The RDEIR should have fully evaluated the alternative of focusing increased cargo activity at SMF and other alternatives.¹⁰

The RDEIR takes the position that use of SMF would be inconsistent with the County’s 2003 Airport System Policy Plan, which designates Mather Airport for air cargo and general aviation uses. RDEIR at 4-14. This entirely circular logic is incorrect and assumes its own conclusion. The County’s 2003 Airport System Policy Plan was a high-level visioning document for which no CEQA document was apparently prepared. It described a two possible uses of Mather: primarily accommodating air cargo or primarily accommodating general aviation. *See* Master Plan (redline) as revised May 2013 at page 1-5 to 1-6. The Board of Supervisors recognized that “[e]ither potential Mather role is feasible, but economic and environmental trade-offs are associated with

⁹ *See* April 18, 2011 SCAS Staff email string at page 2, which refers to Kevin Hoffman (UPS) “repeating our [i.e., SCAS Staff’s] mantra that there is no space [at SMF] and that the cost would be prohibitive.”

¹⁰ Under this alternative, Mather could continue to accommodate substantial general aviation activity as well as military operations and limited cargo.

both.” The Board directed staff to prepare a detailed review of “[p]otential environmental impacts associated with alternative development concepts (in addition to aircraft noise)” and also to evaluate “[t]he cost and sources of funds to construct necessary facilities and mitigate environmental impacts.” *Id.* at 1-6; *see also* 2003 Airport System Policy Plan at 6-3.

In other words, the 2003 Airport System Policy Plan cannot accurately be characterized as a Board decision to favor Mather over SMF for air cargo. Rather, that Plan framed the issues for later consideration by the Board, which clearly recognized from the start that expanding cargo operations at Mather would have potentially significant environmental impacts and involve potentially troublesome costs. Hence, it is wholly inappropriate for the RDEIR to argue that the County’s 2003 Airport System Policy Plan precludes consideration of cargo growth at SMF as an alternative to cargo growth at Mather.¹¹

The RDEIR’s dismissal of the SMF Alternative is particularly egregious given the proposed Project’s significant impacts related to night awakenings of residents in nearby communities. RDEIR at 9-79. As noted earlier in this letter, project-related night awakenings will, without question, impact thousands of area residents at project build-out. Given the extent and severity of this impact, the RDEIR should have included a thorough evaluation of the SMF Alternative. This alternative would reduce cargo flights into and out of Mather, which are the main source of night awakenings in residential areas surrounding Mather.

D. The RDEIR Improperly Rejects the Scaled-Back Alternative.

The RDEIR acknowledges the City of Folsom’s request to evaluate an alternative that does not include the CAT III ILS or the runway extension, but then fails to perform such an evaluation. RDEIR at 4-15. The RDEIR reasons that since all Project impacts are reduced to less-than-significant levels, the County is not under any obligation

¹¹ It is also worth noting that with the passage of time, the “vision” in the County’s 2003 Airport System Policy Plan has become increasingly outdated. The Board of Supervisors itself recognized this when, in 2013, it directed that changes be made to the proposed Mather Master Plan. *See* Master Plan (redline) as revised May 2013 at page 1-6 (“[g]iven the changes in the economy, air cargo industry and actual inquiries received since this Plan was initially developed, a third role is now being recommended for the Airport . . .”).

to perform such an analysis. However, as discussed earlier in this comment letter, the Project as proposed would result in significant unmitigated noise impacts to a substantial number of Folsom residents and residents in other communities. See Section III supra.

Under CEQA, an agency may not approve a proposed project if a feasible alternative exists that would meet most of the project's objectives and would diminish or avoid its significant environmental impacts. Pub. Res. Code § 21002; *Kings County*, 221 Cal.App.3d at 731; *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 603. Given the extensive environmental impacts this Project will have, the consideration of alternatives will not be complete until an EIR presents decision-makers and the public with a rigorous, good-faith assessment of options that reduce the environmental consequences of the Project.

Here, the RDEIR's failure to disclose the severity of the Project's noise and air quality impacts necessarily distorts the document's analysis of Project alternatives. As a result, the alternatives are evaluated against an inaccurate representation of the Project's impacts. Proper identification and analysis of alternatives are impossible until Project impacts are fully disclosed and Project setting is accurately described. The RDEIR's conclusion that the Project's noise-related impacts on surrounding communities would be less than significant are erroneous. Proper analysis in a manner consistent with CEQA would have revealed that the impacts are, in fact, significant. This information necessitates consideration of additional alternatives. Without sufficient analysis of the Project's underlying environmental impacts, the RDEIR's comparison of this Project to the identified alternatives fails CEQA's requirements.

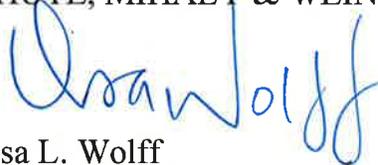
VII. Conclusion

In light of the numerous adverse environmental impacts, many of which have not yet been fully disclosed and properly analyzed in the RDEIR, the City of Folsom opposes SCAS's plans to expand cargo operations at Mather. Doing so would exacerbate the already significant adverse impacts suffered by Folsom residents. As aircraft arrive at Mather using established flight patterns, they disturb residents in the otherwise quiet community of Folsom. This is particularly true at night when the most problematic cargo flights occur and the expansion will further exacerbate the current problem. Permanent modifications in flight patterns, flight track management, additional steps to eliminate flights over the City of Folsom, as well as other mitigation measures are essential to avoid the adverse impacts to Folsom's residents; however, the RDEIR offers no noise relief and is seriously flawed for the reasons described in this comment letter.

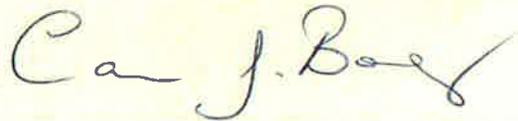
Folsom is also deeply concerned about the many serious other problems described above, including the purchase of Cat III ILS equipment prior to CEQA review and project approval, the violation of a material term and condition of the 2008 settlement agreement between the City and the County, joint lobbying efforts by SCAS Staff and UPS, and the resulting breaches of the public trust. The City encourages the Board of Supervisors to review the RDEIR objectively, receive and hear the public's comments without pre-committing to the project, and evaluate the project's merits in light of its numerous significant environmental impacts. The Board should also put an end to the SCAS "mantra" that cargo must move to Mather, not be located at International, and take other appropriate steps to avoid noise impacts from Mather. Based upon the numerous adverse environmental impacts, this project, if approved, would have on the City of Folsom and its residents, the City respectfully request that the Board reject the RDEIR and the Mather Airport Master Plan project as well as ask tough questions of SCAS Staff pertaining to actions that have apparently been taken.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Osa L. Wolff



Carmen J. Borg, AICP
Urban Planner

List of Exhibits (provided by U.S. Mail):

- Exhibit A: SMW 2012 Comment Letter
- Exhibit B: CPRA requests and complete responses