Letter O1A

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Mr. Matt Walsh
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Planning Services Division
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Fairfield, CA 94533

Sent via email: MWalsh@solanocounty.com

Dear Mr. Walsh:

I submit these comments to the re-circulated draft EIR for the Middle Green Valley Specific Plan ("MGVSP" or "Project") on behalf of my client, Upper Green Valley Homeowners ("UGH"). My client continues to oppose the Project, as proposed. In sum, the County fails to present substantial evidence that sufficient water exists for the Project – either from the City of Fairfield or from groundwater resources. The General Plan calls for up to 400 new residences in Middle Green Valley, "*based upon further study*." AR8982.[1] Further study, as provided by the re-circulated DEIR, fails to show the availability of sufficient water for the size of this Project, as proposed. Accordingly, either 1.) more data is required to make an informed determination with respect to water options for the Project; or 2.) the Project must be downsized and reanalyzed; or 3.) the current zoning of agricultural 20 and 40 acre parcels, along with rural residential should simply remain without the Specific Plan.

O1A-1

[1] References to "AR" are to the Administrative Record in Solano County, Superior Court case number FCS036446, *Upper Green Valley Homeowners v. County of Solano, et al.*

First, this letter discusses County's proposal to use groundwater (Option B) and why it is a more likely option than Option A. Secondly, this letter discusses County's bold assertion that the City is legally (or as County has previously argued, "constitutionally") entitled to sell the City of Fairfield's water without a vote of the people of the City of Fairfield. This is not so. Measure L restricts such a sale on its face. (See Court Rulings in FCS036446, *Upper Green Valley Homeowners v. County of Solano, et al.* October 2011 and March 2012). Measure L is attached as Exhibit 1. In addition, Option A has become increasingly uncertain since the 2009 DEIR for this Project, due to the intervening Train Station project.[2] Accordingly, Option B is the most likely possibility for water for the Project and therefore requires analysis commensurate with such likelihood.

O1A-2

OPTION B

County has Failed to Present Substantial Evidence that there is Sufficient Long-Term Groundwater Available to the Project

O1A-3

As detailed below, the County has not provided substantial evidence that Option B is likely available. In sum, this conclusion is based on the following: County fails to provide substantial evidence that sufficient water is available; Thomasson data is not sufficient to support County's conclusion that sufficient water is available; other data

[2] The Train Station project covers almost 3000 acres and approved 6,800 dwelling units on 504 residential acres, industrial businesses on approximately 286 industrial acres, stores and businesses on up to 47 commercial and mixed-use acres, an elementary school and a library on up to 12 acres, a park land totaling at least 156 acres, and 869 acres of conserved open space. The train station requires will use approx. 3,260 afy of City's water and will be located within the City limits

promulgated by the County, such as the Drillers' logs and hydrographs do not fill in County's evidentiary gap; the WSA for Option B is incomplete because it does not provide relevant empirical information to determine the quantity of water available (this is especially important because relevant empirical data shows routine pumping shortages); there is no WSA for the portion of Option B pertaining to SID imports; and County has failed to satisfy the requirements of the Water Code §10910 and that of CEQA.

County's conclusion and lack of evidence is particularly egregious in this case because substantial evidence in the record shows that the groundwater in the subject aquifer is not available at the rate of 186 afy due to "the low transmissibility of the water-bearing materials," *inter alia*. Thomasson, Olmstead and LeRoux (hereafter, "Thomasson") .[3]

O1A-3 cont'd

County's heavy reliance on the data provided by Thomasson fails to provide substantial evidence to support County's findings. On the contrary, Thomasson provides substantial evidence that there is insufficient groundwater available for this Project. This is because Thomasson concluded:

> "The pumping draft in recent years in the Green Valley has been about 1,000 acre-feet per year [net]. The high spring levels in all the wells indicates little or no depletion of storage at this rate of draft. *However, the pronounced seasonal fluctuation indicated the difficulty attendant on the withdrawal of any large quantity due to the low transmissibility of the water-bearing materials*." Thomasson, 356 (emphasis added).

[3] Thomasson, H.G., Olmsted, F.H., and E.F. LeRoux. 1960. Geology, Water Resources and Usable Ground-Water Storage Capacity of Part of Solano County, California, U.S. Geological Survey Water Supply Paper 1464.

Under the heading, "Long-Term Supply from Ground Water" Thomasson concludes the following with respect to Green Valley:

> "The water levels in Green Valley (pl. 22 and fig. 28) indicate that pumpage did not reduce the volume of water in storage appreciably from 1919 to 1952. . .Thus, the pumpage of 300-1400 acre-feet per year (estimated net draft, 200-1,000 acre-feet per year from 1945-1949 (table 47) apparently was replenished each winter and very little was derived from storage. *The difficulty seems to be in the extraction of water at economic rates of discharge and drawdown rather than in the replenishment each ear. Further development is possible, but that wells of large capacity can be obtained is doubtful.*" Thomasson, 364 (emphasis added).

O1A-3 cont'd

County's conclusion that groundwater is adequate contradicts Thomasson's conclusions.

Relevant Empirical Data Provides Substantial Evidence that there is Insufficient Groundwater, Even for More Modest Pumping Demands than is Required by the Project

Relevant empirical data indicates that water is inadequate for more modest water demand, than that required by the Project.[5] As detailed below, current well users and the official history of the Green Valley Country Club ("GVCC") provides substantial evidence of inadequate and unavailable groundwater in the subject area.

O1A-4

[5] The Project consists of 1,000 + people in a mixed-use development covering approximately 415 acres in 400 residences; 100 secondary units; ag. tourism; retail; community facility uses; etc. along with irrigated agriculture.

The GVCC began in 1949 and there were only "31 residences and a 2 room grammar school within the five mile length of Green Valley." "History of Our First Twenty Five Years (1949 to 1974) Including both Green Valley Country Club and Green Valley Land Development Company" By: Ernest D. Wichels and Robert W. Boardman, dated October 5, 1974, 9, ("Wichels"). Wichels is a 53 page document and is attached as Exhibit 2. GVCC owned 180 acres of improved bottom lands. Wichels describes the area as an ideal setting, except for one major issue that plagued the GVCC until it was rescued by SID water in or about 1960 – inadequate groundwater. *Id.* at 48. Wichels details the very difficult struggle lasting over a decade for the GVCC due to "inadequate water." Historic records of the GVCC state:

> "In the presence of creeks and an artesian well, we mistakenly assumed that the two existing wells would furnish a plentiful supply of irrigation water." Wichels, 9.

O1A-4 cont'd

> "For irrigation of the golf course, two large capacity wells were drilled. The one near our present equipment yard proved to be much the best. (This was the site of the old artesian well.) The second well was on our No. 1 Fairway and was never reliable in hot, dry periods. At times it was going dry and pumping almost as much air as water. During our first 12 years, these two wells were our sole source of irrigation water. It would have been possible to buy Vallejo water, but the cost was prohibitive. We had some bad years when we could do only selective watering." *Id.* at 16-17.

> "The minutes of August 9, 1954 includes a report of an acute water shortage. The existing wells had dropped off to a point where only four sprinklers at a time could be operated. A new well was drilled to a depth of 400 feet without finding any water of sufficient quantity to justify pumping. Another exploratory well was

drilled without sufficient quantity to justify pumping. Another exploratory well was drilled without success. One of our existing wells was deepened by 20 feet, which increased its capacity but not enough for our needs. We had no alternative but to accept the fact that in extra dry years we would not have a sufficient supply of irrigation water to keep our fairways green, but just enough to keep the areas close around our tees and putting greens reasonably green. An experiment was made with the use of water from the City of Vallejo mains, but it was found that the cost of one single watering of said limited areas was $400, and this was beyond our financial means. (We shared this problem with our neighboring ranchers)." *Id.* at 28-29.

O1A-4 cont'd

Finally, when SID relieved the GVCC of its inadequate groundwater supply in or about 1960, the authors referred to it as "one of the major happenings in our history." *Id.* at 43.

This empirical data from the GVCC is even more important because Thomasson notes that yields for wells constructed in the Sonoma Volcanics in the northern part of the valley may be greater than well yields for those in the southern part of the valley. See for example, DEIR 16-5. The GVCC is in the northern part of the valley, yet yields were abysmal in dry years, even for a much smaller demand than required by the Project.

County Failed to Accurately Disclose and Analyze Thomasson's Data

The DEIR argues that "The U.S. Geological Survey (USGS) study by Thomasson (1960) provides the most thorough and foundational characterization of the geology and hydrogeology of Green Valley, as confirmed by the *Consolidated Final Program Environmental Impact Report for the Central Valley Flood Protection Plan* (DWR 2012) ("FPEIR"). However, this FPEIR does not say it was "thorough and foundational" as

O1A-5

much as it says there is "no more recent info to revise it." This is exactly the point. A WSA requires relevant empirical information in addition to the rough estimates and general geology provided by Thomasson. The WSA was required to put forth recent information to revise Thomasson based on empirical data and analysis. Thomasson and the Drillers' logs and hydrographs do not provide sufficient information to evaluate the pros and the cons of the project pertaining to: water availability, drawdown, impacts on wildlife, creeks and other wells, etc. In addition, Thomasson's data is based on *estimations* and does not constitute substantial evidence *for a WSA* and for the informational and environmental protection requirements of CEQA.

Thomasson *repeatedly* refers to Green Valley "where *about 1,000 acre-feet* of water is pumped each summer for irrigation…" Thomasson, 355, 356, 358, emphasis added. See also, Thomasson, 363-364 indicating that the actual net pumping draft between the years 1941 and 1951 was only 200 - 1,000 afy. Thomasson further states:

O1A-5 cont'd

> Pumping draft from 1918 to 1922 was probably on the order of 500 acre feet a year, where as during the period of this investigation it had increased gradually to about 1,000 acre-feet annually. The graphs show no material change in water level from 1918-1922 to 1950-51, indicating that the pumping draft to date has not depleted ground-water storage in this valley." Thomasson, 358-59.

Notably, Thomasson, provides a rough estimate of "about 1,000." He does not say "over 1,000" or "1,000" because *it is merely an estimation,* and not substantial evidence for the purposes used by the County. Thomasson notes that this rate -- *500 afy, gradually increased to about 1,000 afy*-- has *not depleted ground-water storage*. Thomasson's foregoing conclusion over the larger 2,400 acres is far more modest than County's extrapolation in FN 30 of the DEIR that 525 afy is available to the Project area with "no adverse effects" based Thomasson's determination that 1,400 afy could be pumped in the

2,400 USGS area.[6] There are in fact adverse environmental effects related to the dewatering of waterways and wetlands. And, the County must disclose and analyze such effects. Moreover, Thomasson's data does not support County's conclusion that 525 afy is available to the Project because, *inter alia*, 1.) Thomasson's gross analysis may be highly skewed due to the unique characteristics of the aquifer; 2.) Thomasson maximum yield in one year cannot be extrapolated to the Project which must prove water availability for several years; and 3.) Thomasson's analysis shows that the maximum yield in 1949 was about 1,000 afy, not 1,400 afy, due to recharge from irrigation.

Pumping in 1949 for irrigation is a different animal than pumping in 2013 for residential. The difference is that there is not the same recharge to the aquifer for residential usage due to lack of irrigation and impervious surfaces. In addition, other groundwater users are also, at least in significant part for residential purposes, such as the 55 wells in the Plan area (91afy) and the DEIR's estimated users in upper Green Valley (150 afy) and in Cordelia (122 afy). Moreover, the quantity of impervious surfaces has dramatically increased since 1949 – north and south of the Plan area are urbanized (Figure 4-2) and the Plan itself proposes to develop 415 acres, creating yet more impervious surfaces, which hastens runoff and adversely interferes groundwater recharge. After all there were only people living in the 5 miles known as Green Valley in 1949. Wichels, 9. Further yet, farmers in the Specific Plan area are irrigating less and less as of 2011, further minimizing recharge in comparison to 1949 when groundwater was used mostly for irrigation. The WSA briefly acknowledges that Thomasson refers to 1,000 afy net draft, but it fails to use it in its analysis, but instead uses a the more favorable, but inaccurate

O1A-5 cont'd

[6] For the same reasons as discussed in this section, the County's additional conclusion that Green Valley's groundwater resources have a surplus of 744 afy is not supported by substantial evidence.

1,400 afy.[7]

Even 1,000 afy must be downsized because County has not provided sufficient evidence to indicate that the maximum pump in 1949 achieved by all wells in the USGS Area (2,400 acres) can be achieved in the Plan area. Thomasson indicates that his data is skewed in favor of wells in the north with greater pumping rates and from the recharge from Green Valley Creek. Accordingly, this Project cannot rely on Thomasson's maximum pump because recharge to wells from Green Valley Creek is not available to the Project, nor are the more productive wells that are located in the northern section of the Plan area available.

Further yet, Thomasson's data analysis has limited use. For example, Thomasson's data, such as the hydrographs (Plate 22) do not span sufficient time and County relies *heavily* on the *single* year pump of 1,400 afy (net of 1,000 afy) in 1949, not an average over the span of years. This is not substantial evidence of long-term pumping, nor the cumulative effects as required by CEQA. Moreover, about 1/2 of the wells analyzed in Thomasson are outside the Specific Plan area and thus the results are unreliable for the Plan area.

In addition, Thomasson's discussion of a maximum pump in 1949 (net 1,000 afy) is *roughly estimated* based on power records, pump efficiency and total horsepower used throughout the valley that were obtained from Green Valley for merely 5 years.[8] In light of the factors unique to the aquifer underlying Green Valley and due to the inherent slim margins of groundwater availability in excess of the Project demands, Thomasson's

O1A-5 cont'd

[7] Addtionally, the WSA misquotes Thomasson, stating that the Thomasson indicated that the no adverse effects from pumping a net of 1,000 afy was for the late 1950s, when in fact Thomasson applies the 1,000 afy figure to 1941-1951. See Plate 22 and p. 356, 364.

[8] For the years 1941-1951 Thomasson estimated pumpage and for the neighboring Suisun Valley.

rough estimate does not provide substantial evidence.

Thomasson's figure of 1,400 afy, is estimated from power records that were obtained from Green Valley for merely 5 years. Thomasson made such *estimates* for Green Valley for the years 1945-1949 as follows: 300, 500, 800, 900, 1,400. Thomasson, p. 362-63.[9] These *estimates* relate to Plates 17 and 18, where Thomasson references the pump-efficiency tests at 30 wells in the years 1941-45 and at 77 wells in the full period 1941-48. Thomasson, 359-60.

Thomasson used these pump efficiency tests to *estimate* 1,400 pumped in 1949 (1,000 afy net). (See p. 361 "Pumpage for irrigation was estimated from power records and the energy factors derived from the pump-efficiency tests.") Thomasson is referring to the 100 pump-efficiency tests on pages 359-360 and as shown in Plates 17-18. Notably, Plates 17 and 18 reveal that *only 2 well efficiency tests* were performed in Green Valley. Additionally, Plates 17 and 18 date from the years 1938-1948, but do not include the year 1949.

Thomasson made a rough estimate of net draft of 1,000 afy in 1949, but does not explain how pump efficiency tests from the previous decade are tied to his estimate of a net 1,000 afy pump 1949, derived from power records. Thomasson also acknowledges that 2 of the 16 wells that he classified according to rated horsepower rating of the motors were "not reported." Thomasson, 359. Accordingly, 12.5% (or 1/8) of the data for horsepower rating is missing. This does not constitute substantial evidence that 1,400 afy 1,000 afy is available in 2013 to 2035, and beyond.

O1A-5 cont'd

[9] Thomasson further remarks that it was "necessary to extrapolate quantities for Green Valley in the years 1941-44 and 1950-51." P. 362-63. Thomasson provides no explanation as to how he extrapolated the quantities and therefore they are not substantial evidence.

The DEIR also inaccurately assumes that the data from the 2,400 acre Thomasson Study area is substantial evidence of water available to the Project, but this assumption does not comport with the unique facts of this groundwater basin -- low transmibility of these soils. The wells canvassed by Thomasson located in lower Green Valley are down gradient from the Plan area. Without creating a reverse flow (that would create unique significant impacts to that scenario and is impossible with this low of transmissivity), the water in the lower part of the Valley is *not available* to the Project.

The WSA also indicates that the water sources in Suisun-Fairfield groundwater basin and various water systems' infrastructure will be available to this project. What are "various water systems' infrastructure"? How is water in the in the contiguous Suisun-Fairfield groundwater basin available to the Project? Will this require a reverse flow? How would this affect the wells in the contiguous Suisun-Fairfield groundwater basin?

O1A-5 cont'd

County further states that, Thomasson hypothesized that lowering water levels 100 feet beneath 1,000 acres in the northern part of Green Valley would result in a yield of 10,000 af of water. WSA, 22. Thomasson, however, concluded said that "the usable ground-water storage capacity in the Suisun-Fairfield area is *not capable of any reasonably accurate estimation from data available at this time*. Thomasson, 370 (emphasis added). Therefore, County's inference that it is entitled to rely on the storage capacity is not based on substantial evidence. Moreover, it contradicts Thomasson's findings.

County's primary conclusion, that 525 afy is available for the Project, is based on Thomasson's data that 1,400 afy were pumped out of 2,400 acres, of which 900 of those acres are located in the MGVSP area. How did the County determine that 900 acres of the Specific Plan were in the Thomasson Study area? This seems like a round number to the nearest hundredth. Is it an estimation? Where are the facts in support of this conclusion? Was it computer-generated or added manually?

County Failed to Disclose Relevant Information Related to Number of Storage Units Required by the Project.

The Project proposes storage in the amount of 500,000 gallons for "fire hydrants and sprinklers" (1.53 af). What is the source of the water for fire hydrants and sprinklers? What type of storage is required for the potable water for the project? What is the total number of storage tanks for the Project? County should disclose the likely number of storage tanks for fire hydrants, sprinklers, potable waters and all other uses is a potentially significant impact to aesthetic and oak woodlands from locating storage tanks in the hills. O1A-6

What is the source of the water for construction of the infrastructure? Will the wells be drilled prior to building roads, laying pipelines, etc.?

County Failed to Accurately Disclose the Water Demand

County indicates that each well will have its own treatment facilities for filtration and disinfectant. County has not accounted for water usage required to treat groundwater. How much water will the water treatment plant require to treat the 186 afy of water? What is the source of this water? What is an estimated cost for such treatment? O1A-7

With respect to Options A and B, the DEIR asserts that current residences use approximately 2 afy of water, yet the new residences will use only .34 afy per unit. This dramatic decrease in water usage is purportedly due to the water conservation measures. While water conservation is admirable, it is *unrealistic* that water usage per unit is *capped* at .34 afy, especially when that is so much less than current water users.

Additionally the size of the units vary greatly and a compound will not use the same amount of water as a bungalow. Moreover, many of the water conservation measures are not mandatory and limited in their ability to reduce overall water usage. DEIR 16-23. The plan includes water using lawns, fields, agriculture, private property, all of which may use more water than the hopeful limits in Table 16.3. The DEIR fails to account how all lawns and green spaces are accounted for in Table 16.1? For example, the Specific Plan includes Neighborhood Greens and Gathering Spaces (Specifc Plan page 3-25, AR 225) indicates that there will be 465+ acres of active open lands? How much water is required for lawns, neighborhood Greens and Gathering Spaces? How is that accounted for in Table 16.1 of the DEIR? AR1507. Are there any recent projects with comparable water usage reduction? Is the .34 afy for all of the units, regardless of size of the parcel? How are inevitable leaks accounted for in the estimated water usage for the Project?

O1A-7 cont'd

Additionally, 2003 was the last year of a land use survey by DWR, but surface water usage is not known from that year. Therefore, County uses the year 2011 to more "accurately" measure current groundwater usage, but the year 2011 is not accurate of current groundwater usage due to the skewed reduction in farming for the year 2011. This is because the Specific Plan was approved by the County in 2009 before the County was required to vacate such approvals in 2012. Accordingly, many farmers reduced farming due to the impending change in the land use scheme.

<u>County Must Account for Thomasson's Limitations</u>

As noted above, Thomasson's estimates are not based on measurements of actual water pumped, but rather was *roughly estimated* from power records, pump efficiency and horse power. County must acknowledge that there is potentially significant error from such a method. This is because power records only reflect pump motor activity, but not

O1A-8

whether actual water was being pumped. This is especially relevant in this case because empirical evidence shows that some pumps were pumping as much air as water and thus power records would make it appear, though falsely, that twice as much water was pumped than actual at least for that well during dry periods. Wichels, 16-17. 1949 was an *extremely dry year* with only 12.49 inches of rain. Thomasson, 363. Average precipitation is about 22 inches of rain per year. Thus, in an extremely dry year many pumps are consuming electricity, but the empirical data shows that water was not being pumped. Power records provide such information, but it is limited and does not constitute substantial evidence in this case.

In addition, it is notable that there were big rainfall years before and after 1949 – in 1941-43 and in 1951-52. Therefore, the data showing rebound from the mega-pump of 1949 is skewed by the rainy years on either side of 1949. Thomasson, 363.

Thomasson notes that all the wells recover in part ***"from flow in Green Valley Creek, which passes near all the wells except 4/3W-13G1. The recovery in that well was not nearly so abrupt."*** Thomasson, 357 (emphasis added). As such, part of the success of the wells canvassed by Thomasson was due to their proximity to stream flow. Yet County promises, in accordance with Mitigation 16-2a, that ***"The wells under water supply Option B shall be designed to avoid any potential interference between new Plan wells and ... surface streams."*** DEIR, 16-36 (emphasis added). Accordingly, County cannot rely on the maximum pump from the wells canvassed by Thomasson because they were a result of stream interference. Yet, even "any potential stream interference" shall be avoided by the Project.

O1A-8 cont'd

Thomasson acknowledges that the 16 well logs in Green Valley had very "uneven distribution." For example 6 of the 16 logs were for wells in one 40-acre tract." Thomasson, 367. If these 6 wells were outside the Plan area, it may skew the data for

wells limited to the Plan area.

Thomasson acknowledges that "it has not been practicable to develop any quantitative estimates of usable storage capacity. Thus, even though the DEIR touts that 46,000 af storage capacity has been identified in Green Valley, such information is clearly not substantial evidence that it is available to the Project.

Additionally, Table 46 shows that the horsepower in Township 5/3W, covering the Green Valley area, ranged from not recorded & less than 5 to 20 horsepower for 16 wells. But, Thomasson's analyzes 2,100 wells total. Thomasson, 359. The meager data for Green Valley, missing at least 2 wells is not sufficient to provide analysis of estimated water pumpage, as used in the WSA.

O1A-8 cont'd

<u>County Must Disclose The Drawdown Expected By The Proposed Pumping Quantity And The Potentially Significant Impacts Thereof</u>

CEQA Appendix G, IX(b) requires the County's disclosure and analysis as to whether the Project will, "Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?" County must analyze the recharge and determine if the Project will lower the local groundwater table. County has failed to do so. Rather it improperly defers analysis as to impacts on other wells, recharge rate, and the lowering of the groundwater table. For each of these the County must take into account long-term Project pumping + existing pumping, limitations on well locations and the unique spatial qualities of this aquifer, *inter alia*.

O1A-9

Drillers' Logs Fail to Provide Substantial Evidence that there is Adequate Groundwater

The Re-circulated DEIR relies on well completion reports, but such reports do not provide substantial evidence that yields identified in well completion reports can be sustained over several years. The Department of Water Resources identified this groundwater basin as a Type C. AR 14557. "Type C indicates that there are not enough data to provide either an estimate of the basin's groundwater budget or groundwater extraction from the basin." *Id.*[11] Moreover, the DWR Bulletin provides a caution about the well-yield figures from well completion reports:

> Well Yields. Maximum and average well yields in gallons per minute (gpm) are reported for municipal supply and agricultural wells where available. Most of the values reported are from initial tests reported during construction of the well, ***which may not be an accurate indication of the long-term production capacity of the wells***. Emphasis added. AR 15526.

O1A-10

Yet, the WSA only provides specific capacity extrapolations from well completion reports even though, according to the DWR "may not be an *accurate* indication of the long-term production capacity of the wells." Emphasis added. Moreover such wells do not provide long-term production capacity and complete information required to accurately and meaningfully evaluate the potentially significant impacts. According to the DWR, well completion reports are not an accurate measure of long-term pumping and how the groundwater will respond for a long period of time.

County fails to identify the dates that pertain to each of the Drillers' logs. The County

[11] Type A is a basin in which the there exists the best knowledge of the basin's groundwater and type C is the worst. (AR 14557.)

also fails to analyze when and where are such wells drilled? *The County* can use this information is relevant to analyze the conditions to which the well completion reports pertain. Were they rainy years? Dry years? How is the information accurate? What type of pumping tests were used (8 hour, 24 hour pumping tests)? Information, such as date of such tests are readily available to the County per the County's well permitting process.

O1A-10 cont'd

The hydrographs in Figures 4-3 and 4-4 have limited use because the amount of water pumped is not disclosed. Therefore, the fact that these wells rebound is not necessarily relevant to a determinations required by Appendix G, IX(b). Also many of these wells pictured in Figure 4-2 appear to be close to Green Valley Creek. As such they may be benefitting from recharge of the Creek and skew results not applicable to the proposed municipal wells.

<u>County Failed to Accurately Analyze the Sufficiency of the Groundwater Supplies and the Cumulative Impacts</u>

The WSA purports to analyze water supply for this project for a period of 20 years. However, it is difficult to follow the analytical route as to how the County determines that it may pump in a similar quantity to the maximum year on record (1949) for a period of 20 years. Thomasson did not conclude that the maximum pump in Green Valley in 1949 could be sustained for a period of 20 years. The County failed to analyze the cumulative impacts of using groundwater for a municipal supply. The WSA indicates that the 3 + wells will pump at least 100 gpm. This means that each well *may* pump 6,000 gph (6000x24x365 = 52560000gal./year = 1,051,200,000 gallons over 20 years! County is required to disclose and analyze the cumulative impacts of long-term pumping, not just for the first few years. County has failed to discharge this duty under CEQA.

O1A-11

County Improperly Defers Mitigation

County states that locating wells in deeper material will minimize interference with existing wells. This statement is not supported by substantial evidence and it defers improperly mitigation. County must disclose more information as to the likely location for 3 municipal wells that won't potentially interfere with the creeks, wetlands or other wells. O1A-12

County's consultant states that the first step for well design is to identify land-uses compatible with water supply facilities and with the most favorable hydrogeolgic setting. See Exhibit 3 attached hereto showing the email from Vicki Kretsinger to Sarah Henningsen, dated August 7, 2103, referenced in the DEIR, 16-36 FN 33. The well siting referenced in that email must be considered at this stage.

County Failed to Identify and Analyze Potentially Significant Impacts

County provides Mitigation 16-2b "…in response to public concerns expressed to the County regarding potential interference with private water supply wells…" 2013 DEIR 16-36. Such mitigations do not mitigate to less than significant levels for the period of time before water is restored to private wells or otherwise delivered to residents whose wells have run dry. There is a significant impact when a residence's well runs dry or slow, even for a week, a month or several months. The FEIR fails to identify who will bear the costs or be responsible for the required mitigation. How will it be determined if the decline in the private well is the result of public pumping from the Project or from another source? What will the well-ower use for life-giving water in the meanwhile, i.e. for fire protection and other critical domestic needs? O1A-13

There was cone of depression that was created in Suisun Valley, resulting in the Federal Lake Berryessa project. This cone was 2-3 miles across. Thomasson. Green Valley is

only 5 miles long is a very narrow valley. A cone of depression created by any one of the proposed municipal wells would necessarily affect other well users. This is a potentially significant impact, which cannot be mitigated by the proposed mitigations listed in Mitigation 16-2b. _DEIR 16-31.

O1A-13 cont'd

County Improperly Defers Disclosures Required by CEQA to Evaluate the Pros and Cons of this Project

The DEIR states that test well and test hole drilling program may be properly deferred to subdivision stage. The DEIR relies on incomplete data and must provide relevant empirical data. For example, County acknowledges that constant rate long-term pumping tests are preferred, but well completion reports can be used to determine groundwater availability. _Current well data *is available* to the County through the landowners in the Plan area who have great incentive from increasing their land values to provide such data. County improperly assumes that future test wells will show that there is sufficient water. County must also disclose and analyze the expected drawdown from the proposed wells and areas where such wells may be located so that adverse environmental impacts can be avoided or mitigated.

O1A-14

Neither Thomasson nor subsequent investigators have reported storage coefficients for an explicitly confined alluvial system within the Plan area, but this is recommended. County must disclose the storage coefficients or disclose the functionally equivalent information, especially since Thomasson acknowledges that such information was beyond the scope of his analysis. However, this information is critical to a WSA.

County has failed to provide sufficient relevant information to evaluate the pros and cons of the Project, including, but not limited to drawdown from deep water wells at 186 afy +

existing uses; potentially significant effects and cumulative effects from long term pumping, disclosing storage coefficients, disclosing information pertaining to the drillers' logs and hydrographs in Figures 4-3 and 4-4.

O1A-14 cont'd

County Failed to Show Sufficient Water for the Foreseeable Future

The DEIR concludes that the Project will not overdraft the groundwater basin. The definition of overdraft is the subbasin's pumping exceeds the recharge *over a period of years*. This is exactly what the County has failed to show. At most, County can use Thomasson to show that there were no adverse effects with a net pump in 1949 for 1,000 afy in the 2,400 acres that he studied. Thomasson, however, does not show that pumping groundwater with 3 municipal wells in the 900+/- acre Plan Area for the indefinite future will not create an overdraft.

The Supreme Court requires long-term water meaningful analysis, which the County has failed to provide.

O1A-15

> "First, CEQA's informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to the problem of supplying water to a proposed land use project. Decision makers must, under the law, be presented with sufficient facts to 'evaluate the pros and cons of supplying the amount of water that the [project] will need.' [Citation.]"
>
> "Second, an adequate environmental impact analysis for a large project, to be built and occupied over a number of years, cannot be limited to the water supply for the first stage or the first few years. While proper tiering of environmental review allows an agency to defer analysis of certain details of later phases of long-term

linked or complex projects until those phases are up for approval, CEQA's demand for meaningful information 'is not satisfied by simply stating information will be provided in the future.' [Citation.]"

"Third, the future water supplies identified and analyzed must bear a likelihood of actually proving available; speculative sources and unrealistic allocations ('paper water') are insufficient bases for decision-making under CEQA. [Citation.] An EIR for a land use project must address the impacts of *likely* future water sources, and the EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water's availability. [Citation.]" *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 430-431.)

O1A-15 cont'd

See also Water Code § 10910(f)(2)(b).

County Failed To Show Its Analytical Route

On several other occasions County discusses the features of shallow wells and then extrapolates such data in a conclusory fashion as to how deep water wells for the project will perform, even though the deep water wells may be partly in the Sonoma Volcanics. By way of another example, the WSA states that groundwater levels for 14 wells records spanning from 1918 to 2012 (varying for each well) in the vicinity of Plan and Thomasson areas and that 8 of these 14 wells are in plan area. Figure 4-4 in Expanded Appendix B shows hydrographs and locations of some of these wells (all but 1 are shown out of the plan area). One cannot follow the analytical route to evaluate the pros and cons of the project because the County fails to explain how it extrapolates data from shallow wells to useful information for the proposed deep water wells of the Project.

O1A-16

How deep will the wells for the Project be?

O1A-16 cont'd

Mitigations Proposed In The Re-circulated 2013 DEIR Are Not Sufficient To Bring Significant Impacts And Potentially Significant Impacts To Less Than Significant Levels

County identifies Impact 16-1 (Water Supply Adequacy to Meet Project Domestic Demands--Option B as potentially significant. County offers two mitigations and concludes without substantial evidence that such impact will be less than significant. For example, Mitigation 16-1 defers necessary analysis that is required at least with some discussion as to the likely well locations, storage and its location, and impacts associated with filtration and disinfection. The County is relying on incomplete information to make its determination that there are no significant impacts pertaining to the foregoing.

County identifies Impact 16-2 Project Domestic Water Facilities Impacts on Existing Wells and Stream Habitats--Option B as potentially significant. County offers two mitigations and concludes without substantial evidence that such impact will be less than significant. For example, Mitigation 16-2a states, "wells shall be designed to avoid any potential interference between new Plan wells and (1) other Plan wells, (2) existing nearby private wells, and (3) surface streams." This Mitigation directly contradicts the characteristics of this shallow aquifer that is extensively documented by Thomasson and current well owners. Mitigation 16-2b indicates several mitigations such as lowering pump equipment or deepening existing wells or providing replacement wells. These mitigations will exacerbate water shortage issues, not mitigate them.

O1A-17

County identifies No Impact SID System Adequacy to Meet Project Agricultural Irrigation Demands--Options A (Municipal Connection) and B (Onsite Groundwater) as less than significant. Such conclusion is not based on substantial evidence and a WSA for usage of SID water is required for both Options A and B.

County identifies Cumulative Water Supply Impacts--Options A (Municipal Connection) and B (Onsite Groundwater) as less than significant. Such conclusion is not based on substantial evidence. For example, as discussed elsewhere County has failed to disclose and analyze the escalating water crisis in upper Green Valley as a foreseeable cumulative impact

O1A-17 cont'd

County Failed to Analyze other Potentially Significant Impacts Associated with Options A and B

Alternatives Analysis: The Financial Model prepared for the County by Economic Planning Systems Inc. dated May 14, 2009 ("EPS Study") discusses water and wastewater costs in terms of maintenance and infrastructure (per lineal foot). The 2009 DEIR provided that the Specific Plan would require 3 groundwater wells. However the 2013 re-circulated DEIR provides that the Project will need *at least* 3 groundwater wells.[12] County must provide analysis as to how its new proposal for option B affects the alternatives analysis.

O1A-18

For example, the 2009 DEIR concluded that the Reduced Development Capacity 200/200 alternative "would be substantially less effective than the proposed project in attaining the economic balance between compatible development and sustained farming and ranching, open space preservation, and natural resource management through viable development rights transfer and conservancy mechanisms, and therefore may not constitute a feasible project." AR 1607. However, the economic analysis will surely be affected by costs associated with the new Option B proposal. (i.e. costs of well pumps, storage, maintenance, treatment facilities to comply with CCR Title 22 Waterworks

[12] Based upon calculations elsewhere, it is highly likely that the Project will require more than 3 groundwater wells.

Standards and associated California Department of Public Health regulatory oversight, etc.). Repeatedly, Thomasson emphasizes the "heavy pumping costs concomitant with the necessarily deep pumping levels." Thomasson, 370 and 364. Information in the Re-circulated DEIR reveals the presence of iron and manganese, *inter alia*. Additionally, the Plan proposes ramping up agriculture, which under traditional farming methods requires application of nitrogen fertilizer applied over the groundwater. This too is a potentially significant impact that the County has failed to disclose and analyze.

Based on the EPS Study County concluded that the reduced number of permitted primary residential units to 200 would destabilize the Specific Plan proposed economic plan for the implementation of the General Plan's goal policies and implementation programs for Middle Green Valley. AR 86. However, County failed to disclose and analyze how the cost changes associated with groundwater and the necessary political or legal campaign associated with Option A will alter such conclusion. Costs associated with deep water pumping have a relationship to total number of residences. This is meaningful information to evaluate the pros and cons of the alternatives as compared against Option B.

O1A-18 cont'd

Additionally, the City and County's insistence that Measure L provides no impediment to a future sale of water services to the Project (or, if you prefer, to a CSA) is misplaced. Remarkably, the City has provided further assurance that it may provide water--a Resolution (#2012-271) on 12-18-2012 certifying (a new) SB 610 WSA and SB 221 Verification dated 12-4-2012. The City and County's total failure to acknowledge the will of the voters will most certainly draw further litigation should the County pursue such an arrangement with the City. In addition to litigation costs, there will also be the enormous costs associated with the campaign and procedural requirements to obtain a vote from the People and these costs must also be analyzed in the Alternatives analysis.

This is because, with these increase in costs, alternatives will likely show to be the other option.

Accordingly, the County is required to recirculate the Alternative Analysis in the DEIR. O1A-18 cont'd

Aesthetics: Both Option A and B call for storage of 500,000 gallons (for hydrants and sprinklers). Does the 500,000 gallons include storage for potable water? If not, what type of storage will be used for potable water? Where will such storage be located and how large will it be? The County has failed to analyze potentially significant impacts related to storage of potable water. The DEIR identified that locating water tanks is a significant impact on oak woodlands. AR 1121. Therefore, if there are more tanks and infrastructure (i.e. storage and filtration systems for each well) associated with Option B that are not analyzed in the DEIR, then the County is required to recirculate the Aethetics Analysis in the DEIR. O1A-19

Wastewater Services. The Re-circulated DEIR modifies the Project's proposal for wastewater. The Re-circulated DEIR provides only 2 options (the prior EIR provided 3 options) re-circulated DEIR p. 1-5, AR 1523-25 for 2009 DEIR. In the Re-circulated DEIR the Project proposes Options A --that the City of Fairfield treat wastewater. On its face Measure L prohibits restricts the City from providing such municipal services. (See Court Rulings in FCS036446, *Upper Green Valley Homeowners v. County of Solano, et al.* October 2011 and March 2012). Therefore, the primary manner in which the Project will treat wastewater is more likely via Option B. O1A-20

Option B proposes collection in a Membrane Bioreactor package wastewater treatment plant. Where would the 250,000 gallon wastewater retention surge tank be located?

Alternatives analysis needs to address how water treatment, pumping, maintenance etc.

affects the economic Alternatives Analysis, Aesthetic Analysis, Public services and utilities, and thus the County must recirculate at least these sections with respect to wastewater treatment.

O1A-20 cont'd

Biological Resources. Thomasson notes that there is discharge of groundwater into the Marsh and "effluent seepage into steam channels and other depressions in parts of the area." Thomasson, 361. Additionally, Thomasson indicates significant discharge into Suisun Marsh. *Id.* at 353. Thomasson makes other connections confirming the relationship of groundwater and flow in the creek. For example, "The sharp recovery indicated in November 1950 resulted in part from rainfall and in part from flow in Green Valley Creek, which passes near all the wells except 4/3W-13G1. The recovery in that well was not nearly so abrupt." *Id.* at 357. The County has failed to adequately analyze the impacts on waterways, wetlands, depressions and the like on water dependent species, such as steelhead and the western pond turtle.

O1A-21

What is the current water level in the Plan area? Thomasson acknowledges that his report is limited in that "the changes in water level each year was not estimated for this report." *Id.* at 364. Thomasson also notes that "Ground-water replenishment … [includes] infiltration from streams in parts of the area where the water table is lower than the stream channels." *Id. at* 363. If the water level falls below the level of the streams it will transfer water from the stream to the groundwater. County must disclose and analyze this information as it pertains to protected species that depend on the creek and its riparian habitat.

Protected species (i.e. western pond turtle, steelhead) occur in the creek and other protected species depend on the creek, in part for habitat and food. The County failed to disclose, much less analyze how the proposed municipal groundwater pumping affects

water quality and quantity in the Creek and Marsh. Impact 6-8: Impacts on Special-Status Wildlife Species Observed or Known to Occur in the Plan Area is a significant impact, but determined to be less than significant with Mitigation 6-8. AR 1130. This mitigation, however, only applies to project-level applicants for project level developments. It should apply the CSA (or functional equivalent). Otherwise this impact due to groundwater pumping remains significant. Same is true for Impact 6-9: Impacts on Special-Status Wildlife Species With Potential Habitat in the Plan Area and Mitigation 6-9 (which limits application of the mitigation to discretionary approvals, of which a County well permit is not a discretionary approval and therefore this mitigation doesn't apply to the CSA and installation of wells and pumps and therefore remains significant, especially for stream dependent species, such as the American Badger). AR 1130. Same goes for Impact 6-11: Impact on Western Pond Turtle (significant), but Mitigation 6-11 is not expressly applicable to the CSA. Same is so for Impact 6-12: Impact on Steelhead (significant), but Mitigation 6-12 doesn't address dewatering of the creek due to groundwater pumping. Same is so for Impact 6-13: Impact on Wildlife Habitat Corridors and Linkages. Mitigation 6-13 discusses stream setbacks and references Mitigation 6-4, but does not apply this mitigation to well pumps. There should be a minimum setback established for well pumps. Mitigation 16-2a in 2103 DEIR does not address a minimum setback, but rather improperly defers analysis to the future.

O1A-21 cont'd

The 2009 DEIR identifies Impact 6-4: Impact on Riparian Communities as potentially significant or significant, but none of the prior 6-4 mitigation address dewatering of the riparian community and water ways due to groundwater pumping. Same is true for Impact 6-5: Impact on Wetlands, Streams and Ponds. AR 1124-25. Same is true for Impact 6-6: Impact on Special Status Plan Species Observed or Known to Occur In the Plan area. AR 1127. A mitigation should be required to ensure that municipal groundwater pumps will avoid or mitigate impacts to protected plants. Same is true for

Impact 6-7: Impact on Special Status Plan Species With Potential Habitat In the Plan area. AR 1129. A mitigation should be required to ensure that municipal groundwater pumps will avoid or mitigate impacts to potential habitat for protected plants.

Additionally, the 2009 DEIR identifies Impact 6-2: Potential Conflict with Solano County Multispecies Habitat Conservation Plan and identifies Mitigation 6-2 for "project-level applicants" to implement the parts of the HCP. AR 1121. More than just the project level applicants must comply with the HCP. Namely, the CSA must comply with the draft HCP. Otherwise, in accordance with Impact 6-2, this impact remains significant for the Project.

Moreover, Member Agencies were required do more mitigation than what is called for in the DEIR as part of renewing their water contracts with Solano County Water Agency. For example, see the mitigation and monitoring sections of the draft HCP. The draft HCP clearly identifies the importance of the Green Valley Creek *and calls for data collection*. See http://www.scwa2.com/Documents/hcp/Pre-public%20draft/7.0%20Monitoring_Adaptive%20Management.pdf. The Specific Plan should provide access and compliance with the monitoring and adaptive management section of the draft HCP (with the commitment to carry it through to the final HCP). This is especially true if the City of Fairfield were to provide water to the Project because the CSA and the Project would receive the benefits of a Member Agency, but not take on the burdens of such arrangement. The City of Fairfield is a Member Agency because it receives water from SCWA, as such it must comply with the terms and conditions of the Solano County HCP, per the Solano Project Water Service Contract Renewal Biological Opinion. See http://www.scwa2.com/Conservation_Habitat_Docs.aspx.

O1A-21 cont'd

If the Project receives water from the City of Fairfield, will it also be subject to the same

terms and conditions as the City of Fairfield is with respect to Member Agencies obligations with the draft HCP? The County must disclose an clarify this potentially significant impacts with respect to "Impact 6-2: Potential Conflict with Solano County Multispecies Habitat Conservation Plan."

The 2009 DEIR identifies Impact 6-14: Cumulative Impacts on Biological Resources and Mitigation 6-14 implements Mitigations 6-1—13. AR 1134-35. However, since many of these mitigations, as discussed herein do not address the CSA and groundwater pumping they do not mitigate the significant and potentially significant impacts from groundwater pumping to less than significant levels. O1A-21 cont'd

Accordingly, the County is required to recirculate the Biological Resources section in the DEIR.

Climate change. County failed to disclose and analyze how the project impacts climate change. How much energy will be required to pump, treat and distribute 166,000 gallons per day? How will the operation of Option B contribute to climate change? The 2009 DEIR identifies Impact 7-1: Specific Plan-Related and Cumulative Increase in Greenhouse Gas Emissions as significant & unavoidable, but the corresponding mitigation does not apply to construction of the wells. Rather Mitigation 7-1 is limited to future discretionary approvals. If the impact of operating the wells is found to be significant and unavoidable, then the county must adopt a new statement of overriding considerations with respective findings based on substantial evidence. O1A-22

How many lineal feet of pipeline is expected to distribute water in Option A and Option B? What impact will this and its associated actions have on climate change? Accordingly, the County is required to recirculate the Climate Change Analysis in the DEIR.

Noise. The acreage in the plan area is limited – a 415 acre development footprint and creek setbacks, open space/ag., etc. filling the remaining space. The pumps also are supposed to be situated in the valley. How will the well pumps be located so as to not interfere with the agriculture? How loud will the pumps be and what type of setback is required from the nearest residence? The County is required to recirculate the Noise section of the DEIR. O1A-23

Air Quality. The 2009 DEIR identifies impact 5-1: Construction-Reltaed Air Quality Impacts as a "potentially significant impact." The 2009 DEIR requires Mitigation 5-1 to bring such construction impacts to less than significant levels. AR 1113. The 2013 re-circulated DEIR identifies construction activities as "less than significant", but fails to disclose how such a finding is possible when the prior 2009 DEIR found that mitigation was required to bring construction related air quality impacts to less than significant levels. 2013 DEIR 16-39-40. O1A-24

Cultural, Historic and Paleontological Resources. Several of the impacts in this section of the 2009 DEIR are significant, but determined will be less than significant with implementation of mitigation measures. These mitigation measures, however, do not apply to the construction of wells and associated activities (i.e., test holes, monitoring wells), which are future nondiscretionary public improvement. This is because mitigations as drafted in the 2009 DEIR apply only to future discretionary activities (See Impacts and Mitigations: 8-1; 8-2; 8-3). The 2013 DEIR states that a Water Master Plan is required prior to subdivision approval. A Water Master Plan is a discretionary approval subject to CEQA. However, what will happen if the Specific Plan is piecemealed together – a minor subdivision of 4 units is built in 2017; a major subdivision of 100 units is built in 2022. If a shared well is built for the 4 units in 2017, will it be subject to a Water Master Plan requiring discretionary approval? I understand O1A-25

that a Water Master Plan will only require the level of detail appropriate to the approval (See County's response to comments in the FEIR p. 2-149). O1A-25 cont'd

Cumulative Impacts. Upper Green Valley is served by groundwater, SID and Vallejo Lakes and oftentimes some combination, such as a residence is on Vallejo water and groundwater. A serious water problem is on the horizon which, regardless of the solution, will likely increase rates for Vallejo Lakes customers, even up to a 300% increase. See Exhibit 4, showing a one-page document entitled, Green Valley Landowners Association Lakes Water System Information, dated October 8, 2013. Accordingly it is foreseeable that the wells in upper Green Valley receiving both Lakes water and groundwater are likely to increase their usage of groundwater. This foreseeable cumulative impact must be addressed in the Option B, WSA. O1A-26

OPTION A

The DEIR and the WSA and associated documents in Appendix A provide information with respect to a potential municipal water connection. Appendix A includes 1.) SB 610 WSA and SB 221 Verification, dated 9-18-2009; 2.) A Resolution by the City of Fairfield (#2012-271) on 12-18-2012 certifying (a new) SB 610 WSA and SB 221 Verification, dated 12-4-2012. O1A-27

Option A Requires Clarifications for Meaningful Analysis

The new WSA for Option A includes some analysis of the Project along with the new massive Train Station project.[17] (See Tables 2-4).[18] The Project + Train Station Project

[17] As noted earlier, the Train Station project covers almost 3000 acres and approved 6,800 dwelling units on 504 residential acres, industrial businesses on approximately 286 industrial

will purportedly leave the City only 350 afy of reserve on a multiple dry year ultimate build out, per Table 4 in the WSA. However, the "multiple dry year" analysis in Table 4 is inconsistent with the analysis for "normal" and a "single dry year" in Tables 2 & 3 in the WSA, stating that the reserve is 7,600 afy and 7,200 afy, respectively. The County must explain such a large discrepancy between "multiple dry year;" and "normal;"/"single dry year."

Also, with respect to these Tables 2-4, I understand that they are showing growth if water is not a constraint. How do they account for growth in Fairfield i.e. "maximum build out" or "realistic build out" or some other figure? What year do the Tables account for the 6,800 new residences of the Train Station Project? O1A-27 cont'd

Option A fails to account for existing water users in the plan area, so the total municipal requirement is not 186 as is stated in the WSA, but rather the total usage by people in the Plan area that are currently on groundwater. This is because it is foreseeable that existing groundwater users are likely to convert to municipal water for some uses.

Option A requires WSAs

Option A proposes significant increases in SID water. As such, a WSA is required to analyze this increase. Additionally, at most re-circulated Appendix A provides a memorandum purporting to serve as a WSA for Option A. However, it notes that the Project is outside the City limits and therefore has not been included in the City's WSA. O1A-28

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acres, stores and businesses on up to 47 commercial and mixed-use acres, an elementary school and a library on up to 12 acres, a park land totaling at least 156 acres, and 869 acres of conserved open space. The train station requires will use approx. 3,260 afy of City's water.

[18] There are two Tables 2 and 3 in the WSA for Option A. Please see the second set.

The City's WSA must be included as an Appendix for public review in this Project and re-circulated. In addition, the WSA memorandums included in Appendix A are incomplete and require additional analysis including clarifications and similar analysis to Option B in the professional WSA for Option B, provided by Luhdorff & Scalmanini, 2013, Water supply assessment – Middle Green Valley Project, Solano County, California. Prepared for Solano County, May, 2013.

O1A-28 cont'd

<u>City Water Has Become Increasingly Less Likely Due To The Intervening Train Station Project. People of the City are Less Like to Vote in Favor of Selling the Reduced Reserve to develop Farmland Outside of the City Limits.</u>

Option A has become less certain because the lion's share of the City's water has recently been dedicated to the train station project. As water becomes more scarce for infill in the City of Fairfield, voters are less likely to sell its little remaining water. Since Option A has become even more unlikely, Option B requires a more detailed analysis beyond "some discussion."

O1A-29

The people of the City of Fairfield expressed their intention to keep municipal services within the City limits. This was for the purpose of keeping the County rural. Thus, it is highly unlikely that the voters would approve of this Project – to sell water to the County to develop approximately 415 acres of prime farmland. Accordingly, Option A is plagued with legal and political issues. For example, a future lawsuit is foreseeable, if the City and County attempt to override the vote of the People. County has previously argued that Measure L is unconstitutional and therefore the County cannot enforce its limitation on water sales. County is incorrect and several cases outline the constitutional ability for government agencies to limit utility services.

"It is not against the law or public policy to use utilities as a tool to manage

growth. For example in *Dateline Builders, Inc. v. City of Santa Rosa* (1983) 146 Cal.App.3d 520, a developer filed suit for relief arising out of a city's refusal to extend its existing sewer line to a proposed "leap frog" development beyond city boundaries. *Id.* at 523. The reviewing court held that the city could use the sewer hookup as a "planning device" to manage growth. *Id.* at 528-531. "Neither common law nor constitutional law inhibits the broad grant of power to local government officials to refuse to extend utility service so long as they do not act for personal gain nor in a wholly arbitrary or discriminatory manner." *Id.* at 530. *County of Del Norte v. City of Crescent City*, 71 Cal.App.4th 965, 977.

Accordingly, the County is required to prove with greater certainty that Option B has a likelihood of actually being available. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 432. The County is not supported by substantial evidence in its treating groundwater merely as a second alternative source. The only evidence available to date shows that the voters would not extend water to the outside the City limits, for the very purpose of keeping the County rural. This Project proposes over 400 homes where current zoning would allow only 100 new houses in addition to the existing 55 homes. Moreover, because of the lack of infrastructure and the cost to implement infrastructure, it is much more likely that the land would remain undeveloped and only develop slowly over time. As such, the Project would keep the County less rural than existing zoning and the County should disclose that the more likely source of water for the Project is groundwater.[19]

O1A-29 cont'd

[19] These tables appears to account for growth in Fairfield as allowed under the General Plan, but whether it analyzes growth at a "maximum build out" or "realistic build out" or some other figure is unclear to me. The purpose of the Tables is to account for Fairfield's growth + the Project + Train Station Project (again it is unclear what type of build out scenario is used for the Train Station (ie in what year does it account for the 6,800 new residences of the Train Station Project?). The only useful column, therefore, appears to be the "ultimate build out column."

County concludes that the unnumbered Impact for the Project to meet water supply demand through option A is less than significant, but this conclusion is not supported by substantial evidence because

O1A-29 cont'd

In accordance with the foregoing analysis, several sections of the DEIR must be re-circulated. When and if the County determines it should re-circulate sections of the DEIR I have a suggestion that pertains to seeking a broader base of community involvement, especially from the County's residents who are most adversely affected by the dramatic increase in density in this rural location. I am informed that many residents, especially in upper and lower Green Valley become aware of the County's proposed Specific Plan, they have expressed their dislike of this type of density in a rural location, but they have missed the process or are not the type of people who can or have interest in the multi-meeting process. Yet, as residents of the City and County, their voice still counts. Even though the County has held numerous meetings and noticed various public hearings, many people remain *unaware* that the County is still considering this Project urbanizing 415 acres with the maximum number of new homes as mentioned in the 2008 General Plan. My suggestion is for the County to publicize the facts, making more of an effort to inform the people of this Project and seek community input. For example, a poster set in prominent locations, such as at the sign board at the corner of Green Valley and Rockville roads and elsewhere in lower Green Valley could do a great deal to publicize the County's proposal.

O1A-30

<u>Miscellaneous Questions</u>

Mr. Brendan Kelly is listed as a "County Representative" in the DEIR. I understand that Mr. Kelly works for Hart Howerton, the firm hired by the County to prepare the Specific

O1A-31

Plan. Does he now work for the County? If so, for how long has he worked for the County? O1A-31 cont'd

What is the total amount of money that the County has spent and/or fronted for the Specific Plan and associated activities (including all costs, legal counsel, consultants, reports, etc.) to date? O1A-32

Thank you for your consideration of these comments.

Sincerely,

Amber L. Kemble
Attorney for Upper Green Valley Homeowners

Exhibits attached:

1) Measure L
2) "History of Our First Twenty Five Years (1949 to 1974) Including both Green Valley Country Club and Green Valley Land Development Company" By: Ernest D. Wichels and Robert W. Boardman, dated October 5, 1974.
3) Email from Vicki Kretsinger to Sarah Henningsen, dated August 7, 2103
4) Green Valley Landowners Association Lakes Water System Information, dated October 8, 2013

cc: Supervisor Linda Seifert

LAW OFFICE OF AMBER KEMBLE

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November 13, 2013

VIA ELECTRONIC MAIL

Mr. Matt Walsh
Solano County Department of Resource Management Planning Services Division
675 Texas Street, Suite 5500
Fairfield, CA 94533

Sent via email: MWalsh@solanocounty.com

Dear Mr. Walsh:

I am writing to follow up on my previous comment letter, dated October 10, 2013, where I have noted an inadvertent omission or change.

Page 8 should read:

After all there were only 31 people living in the 5 miles known as Green Valley in 1949. Wichels, 9.

Page 13 should read:

Additionally the size of the units vary greatly and a compound will not use the same amount of water as a bungalow. Moreover, many of the water conservation measures are not mandatory and limited in their ability to reduce overall water usage. DEIR 16-23. The plan includes water using lawns, fields, agriculture, private property, all of which may use more water than the hopeful limits in Table 16.3. The DEIR fails to account how all lawns and green spaces are accounted for ***(OMIT in Table 16.1)?*** For example, the Specific Plan includes Neighborhood Greens and Gathering Spaces (Specific Plan page 3- 25, AR 225) indicates that there will be 465+ acres of active open lands? How much water is required for lawns, neighborhood Greens and Gathering Spaces? How is that accounted for. **(OMIT:*in Table 16.1 the DEIR*)**? AR1507. Are there any recent projects with comparable water usage reduction? Is the .34 afy for all of the units, regardless of size of the parcel? How are inevitable leaks accounted for in the estimated water usage for the Project?

Very truly yours,