

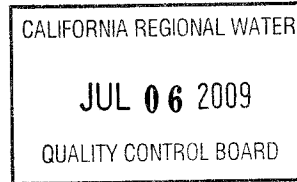


California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

July 1, 2009

Jolanta Uchman, P.G.
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612



Jolanta:

I would like to thank you and the Water Board staff for the work you have been doing in reviewing the proposed Suisun City Wal-Mart Supercenter project on Walters Road at Highway 12. Our Network became engaged with community activists opposing the Wal-Mart project in 2007 after it was announced that the original Gentry site located west of the downtown on Highway 12, away from residential development, had been abandoned and the current Walters Road site had been purchased as a preferred location by Wal-Mart's developers and the City. The original site seemed to have overwhelming citizen support because of its location. The controversy of a bait and switch in selling the community on a big box development in one location and the purchase and development of a site over 3-miles away located adjacent to major residential developments brought an outcry from neighborhood residents and environmental activists opposing this type of high density retail development at the current location.

City officials and Wal-Mart representatives have made public statements about a small opposition group to this project that is not accurate. Over 400 east Suisun residents participated in public meetings, anti-Wal-Mart events and public forums that preceded the City's final Walters Road Wal-Mart project approval. At the City Council meeting where action to override the Airport Land Use Commission's opposition to the project and approve the final Wal-Mart EIR, there were approximately 260 attendees. Of that number, there were 43 speakers against the project that were being cheered by the vast majority attending. There were 14 speakers for the project, which included City workers and contractors. In July 2008, following the Council's approval of the project, citizens opposing the Council's action submitted more than 7,500 total signatures on petitions to recall three City Councilpersons. The overall signatures collected from citizens of Suisun City were over 3,000 for each of the three being recalled. The Save Our Suisun Recall Committee voided around 600 citizens' names from each of the Council Recall petitions prior to submitting the petitions to the City for validation due to voter invalid registration discrepancies. Even though the County registrar of voters failed to validate sufficient signatures to qualify a recall election, the mere fact that residents and voters of Suisun City contested the decision of the City Council's approval of the controversial Wal-Mart project site on Walters Road shows significant public opposition to the Council's decision to approve the project.

Page Two

The mere fact that the Water Board and CalTrans both opposed the approval of this project's final EIR due to significant deficiencies in that document substantiate the concerns of these local activists who have publicly stood up and spoke out against this over-sized retail development adjacent to Travis Air Force Base, on environmentally-sensitive wetlands. These facts certainly contradict those who try and discredit the efforts of these Suisun citizens, homeowners and taxpayers dismissing them as a small dissident group of NIMBYs.

The City now claims that they need this Wal-Mart Supercenter as soon as possible to save it from extreme financial distress or bankruptcy. The truth is that the City's long-term emphasis on redevelopment that incorporates more than 90 percent of the City in its redevelopment zone has created its own tax crisis in General Fund revenues to support local government operations. The claim that a Wal-Mart Supercenter will provide \$900,000 in annual sales tax revenue for the General Fund flies in the face of information we have submitted showing sales tax generation of both Dixon and American Canyon super center operations. Both of these local area stores have under-performed Wal-Mart's publicly stated sales tax revenue projections. Add to this the development of another new Wal-Mart Supercenter on North Texas Street in Fairfield just 3.5 miles away, further undermines this claim of extraordinary sales tax generation from a new Suisun store. Sadly, the City's financial woes will take more than just a super store to provide the operational capital it needs to pull itself out of the financial hole they have created.

We believe that the City's current efforts to acquire the Hoffman Property located west of the Walters Road Wal-Mart site would be more appropriate for big box development and would generate far less public opposition and potential environmental damage.

Our Network stands behind the citizens' groups that have oppose the current Wal-Mart big box development at Walters Road and will continue to work with them in their efforts to mitigate the negative impacts of this development on their neighborhoods. We believe that the staff of the Water Board has been accurate in the assessments of the shortcomings and deficiencies in the proposed Wal-Mart project plans. We support your efforts to ensure that any project at this site meets the requirements of federal and state law and not pose adverse impacts on the wetlands and public safety.

Thank you once again for working with the citizens of Suisun who share a concern for the quality of life and environmentally sustainable development in their community.

Sincerely,



Phil Tucker
Project Director

SAVE OUR SUISUN
Anthony Moscarelli
1205 Pheasant Drive
Suisun City, CA 94585

March 20, 2009

Jolanta Uchman, P.G.
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

Jolanta:

I have the March 9, 2009 response letter to the January 2009 Alternative Analysis with Tables and Figures for the Walter's Road Project. We have some issues with the figures and have a few comments.

Please note on the issue of parking, of under 4 spaces @ 1,000 square foot of commercial floor space being unacceptable by the City Code. The section of Code I am showing seems to show 2 areas that were not mentioned that would/could increase the parking space numbers. The parking space numbers can be adjusted and compact car spaces are smaller. The Suisun City Code also states:

C. Special Requirements. The following parking requirements are applicable to all commercial, industrial and office land uses. These special stalls shall be closest to the facility for which they are designated in order to encourage their use. The following standards, with the exception of the requirement for handicapped spaces, may be modified by the planning commission if the proponent demonstrates that a different standard would result in an equal or better site plan or design:

- 1. Motorcycles. Facilities with twenty-five or more parking spaces should provide at least one designated parking area for use by motorcycles. Areas delineated for use by motorcycles shall meet standards set forth in Section 18.52.030(C)(1).**
- 2. Compact Cars. Parking facilities may provide up to thirty-five percent of its parking for use by compact cars. Spaces delineated for compact car use shall meet standards set forth in Section 18.52.030(A)(2).**

Wal-Mart states that part of the regional market area that this project will serve is Rio Vista. The citizens of Rio Vista have a Wal-Mart that they go to in Lodi that is only 3 miles further than Suisun City and also have a Wal-Mart in Antioch that is 1 mile further than Suisun City. That outweighs the risk of them driving and shopping here because of this dangerous stretch of highway between both Rio Vista and Suisun City is well known as 'Blood Alley'.

We find that Wal-Mart is continuously using an erroneous statement: *To determine the density of the Project, the Travis Air Force Base Land Use Commission looks at the number of parking spaces provided and assumes a vehicle occupancy rate of 1.7 people per vehicle.* These numbers were used in their statements of reasons why the Airport Land Use Plan would not allow

their Alternatives. The Airport Land Use Commission used the parking studies that Wal-Mart provided them. The ALUC used the average of those studies and others of 1.5 persons per vehicle and Wal-Mart argued for 1.2 persons per vehicle. I have attached a Power Point presentation approved by the ALUC and presented to the City of Suisun City and Wal-Mart prior to overriding the ALUC's decision to deny the project. This Power Point presentation shows that the ALUC mentioned the high end 1.7 and the average 1.5 numbers. In that presentation it also shows the Airport Land Use Plan and in that the ALUC does not have a number set of persons per vehicle. It shows only the different methods of determining persons per acre. The last pages of this presentation were dedicated to questions that might come up. I hope this additional information is useful to you.

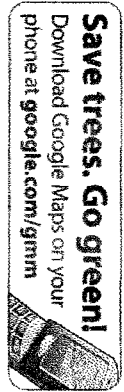
The overall size and scope of large-scale retail development on the Walters Road Wal-Mart site has always been our main objection to the project. It is too big and intrusive to be sited adjacent to our bedroom community. We have brought this to the attention of City staff and City Council in numerous public meetings and have requested a much smaller retail or commercial development in this location. We have requested that the city consider a Trader Joes, Ross, or a strip mall of small-scale retail stores that will service our neighborhood shopping needs. Many of us purchased our homes here knowing that the AirPort Land Use Plan would keep a giant box store out. We also knew the Project's lot was zoned General Commercial which excludes the development of Department Stores (see attached). It seems ironic that the city permitted Wal-Mart, the largest developer of big box department stores in the USA, to be located at the Walters Road site.

We have looked carefully at the January 2009 Alternative Analysis with Tables and Figures for the Walter's Road Project. The majority of our Save Our Suisun group have agreed that the store size shown in Figure 11 of 115,200 SQ/FT would be an acceptable size for our community since it is closer to the 100,000 SQ/FT building size limit that we originally requested of the City for this site. If that size is used without the Gas Station and Restaurant we are willing to accept this downsized project, providing that the developer properly mitigates the current Water Board's environmental concerns, and the drainage and pipeline safety concerns we have stated in public hearings and communicated to you in our correspondence.

Please contact me if you have any questions.

Sincerely,

Anthony Moscarelli
Spokesperson
Save Our Suisun
707-427-8509



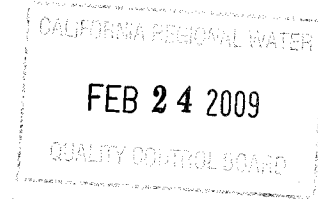


California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

February 20, 2009

Jolanta Uchman, P.G.
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612



02-48-00394

Jolanta:

Thank you for forwarding us the January 2009 Alternative Analysis Tables and Figures for the Walter's Road Project. Please note Site C on Figure 7 of the Alternative Off-Site Locations from the Walters Road Project Figures. It is the adjoining property to the Proposed project site. On the Alternative Analysis Tables Walters Road Project we find that Wal-Mart states that Site C is unacceptable.

They state that it is unacceptable because it is 25-50% Wetlands and Vernal Pool Habitat. That Vernal Pool Habitat category is used in an unsigned draft Habitat Proposal from the Solano Water Authority, which as you know, is not binding. Please note that Site C does not have a channel going through the center of it. Wal-Mart fails to mention that it does not have to buy the entire 57 acres. The City could annex the 17 acres or a little more that Wal-Mart stated that it needed.

The far Eastern section of Site C has the Wetlands channels, which they would not own. The City or Wal-Mart would get a real deal for the Site C property because it is listed as agricultural. We find that ironic because they bought the property adjoining it, which is listed in the same category from the Solano Water Authority with a Vernal Pool Habitat with a Wetlands channel. With that negative acknowledgment on their Tables, it demonstrates that Wal-Mart was aware of the obvious building handicaps and restrictions on their proposed Walters Road building site. This site is immediately adjacent and has the same characteristics as the Site C property with the Wetlands and Vernal Pool Habitat rating. We are hoping that your staff will see the similarity that it would not be acceptable for their proposed Walters Road supercenter project.

We appreciate your timely response to our inquiries and the cooperation of the Water Board staff in investigating all the issues that involve the health and safety of the residents of Suisun that will be impacted by the proposed Wal-Mart development. Thank you once again.

Sincerely,

Phil Tucker
Project Director

California Healthy Communities Network is a Project of Tides Center,
A non-profit public charity exempt from federal income tax under
Section 501(c)(3) of the Internal Revenue Code



02-48 - C0394

California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

October 8, 2008

John Muller, Chair
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

**SUBJECT: Proposed Wal-Mart Supercenter at Walters Road, Suisun City,
Solano County, CA: State Clearinghouse Number 2006072026**

Dear Chairman Muller:

On March 12, 2008, California Healthy Communities Network, a project of non-profit Tides Center, submitted seven (7) pages of comments and questions to the Board regarding our concerns related to the proposed Wal-Mart Supercenter Project located at Walters Road and Highway 12 in Suisun City, California. Cal HCN addressed these concerns before the Board during the Public Forum, along with other citizens of Suisun City that are members of the Suisun Citizens League, a group of Suisun City residents and activists opposing the proposed Wal-Mart at the proposed project site (please refer to the attached transcript of the March 12, 2008, Item 7, Public Forum comments Exhibit "A").

During the public forum comment, we requested that the RWQCB provide our organization with any information including project documents received from the project's proponents related to this project's on-going application process before the Board so that we could evaluate and respond to issues raised by our organization and citizens of Suisun City. We also requested a public hearing on this application before the Board. Following our presentation, you and Mr. Wolfe of the Water Board's staff agreed that this project is a serious community issue of high public interest and would consider a public hearing on this application before the Board.

Unfortunately, we discovered in an inquiry to Jolanta Uchman of your staff, that Wal-Mart had submitted an *Alternative Analysis*, dated June 11, 2008, and an *Addendum to the Alternative Analysis*, dated September 5, 2008. Cal HCN nor any of the other project opponents were notified or provided copies of these documents prior to our inquiry of September 10, 2008, regarding the status of the Wal-Mart application. We quickly reviewed these documents provided to us by Ms. Uchman (please refer to our Memo of September 10, 2008, Exhibit "B").

As you can see from our response, we still have continuing concerns related to the footprint of this big box store at the Walters Road project site. The applicant's rejection of a smaller footprint store lacks sufficient economic justification or studies to show how their bottom line profit and the community of Suisun City that it will serve are meaningfully disadvantaged by a smaller footprint store. The fact that Wal-Mart's greatest threat to the economic viability of this store is the approved Wal-Mart Supercenter on North Texas Street, located less than four (4) miles from the proposed Walters Road store. The Texas Street Wal-Mart will cannibalize this store's sales generated from the same Metro Market Area (refer to Exhibit "B" economic and business geographic studies).

We would once again, request that the RWQCB include our organization and the concerned citizens of Suisun City in your interested parties notification list and provide us with information and studies provided by the project's proponents for our review as previously promised (Exhibit "A", page 11).

We would also like to bring to your attention our concern that the City of Suisun City and the Wal-Mart project developer have proceeded with improper excavation on the Walters Road project property without proper permits. The destruction of the natural swale (creek) that traverses the property was carried out by City work crews on September 10, 2008. I have included an email received from a neighborhood resident, Anthony Moscarelli, addressed to Ms. Uchman of your staff. This email includes photos of a backhoe eradicating the natural drainage channel (refer to Exhibit "C".) In addition to Mr. Moscarelli's email and photos, I have included emails between Suisun City Community Development Director Heather McCollister and Elizabeth Anderson, legal counsel, for the project developer, related to this subject and an email with a reprint of a news story published on December 20, 2007, related to this controversial natural drainage area on the Wal-Mart property. These documents clearly show that Suisun City improperly removed the natural attributes of this natural drainage area without proper permits as part of a so-called "Ditch Deal", as characterized by Ms. McCollister's email. This type of activity by the Suisun City certainly undermines the administrative process now in progress and required by State law. We are hopeful that this issue will be addressed by the Board as we move forward.

Finally, we have included a letter from Ella Foley-Gannon of Sheppard, Mullin, Richter & Hampton, LLP, legal counsel for the developer, and Ms. Jane M. Hicks, Chief, San Francisco Regulatory Division, Department of the Army, San Francisco District, US Army Corps of Engineers. I believe this letter provides further information that may be useful to Board staff in evaluating problems with the current proposed Wal-Mart Walters Road project site (please refer to Exhibit "D").

There are still significant water quality concerns with this project as well as other environmental quality issues that have yet to be adequately addressed with this proposed Wal-Mart project. We certainly appreciate the Board's important role in this application process and are respectful of that process. We still believe that a smaller footprint big box would be more appropriate for this project site considering the wetlands

and drainage issues. We certainly do not support the current 4.5 acre big box store located only 35-feet from major natural gas and jet fuel lines that supply Suisun City and Travis Air Force base. These lines are less than three meters deep and are in soil that is susceptible to liquefaction and the uncertainties of a high water table during much of the year.

Thank you for your consideration of our requests.

Sincerely,



Phil Tucker

Project Director

California Healthy Communities Network,
a project of non-profit Tides Center

cc: Suisun Alliance
Suisun Citizens League

Exhibit "A"

California Regional Water Quality Control Board
San Francisco Bay Region

March 12, 2008

ITEM 7

PUBLIC FORUM

Elihu M. Harris Building
First Floor Auditorium
1515 Clay Street
Oakland, CA 94612

Reported by Tahsha Sanbrailo

1 **Item 7 PUBLIC FORUM**

2 Chair Muller - We have a number of cards and a number
3 of speakers. I do not know which order they would like to
4 go in, but we will just start the way I grab them. Unless
5 you have a group that wants to plan how you want to come
6 forward and speak, whoever you are -

7 Mr. Wolfe - We can read the names.

8 Chair Muller - So we have Yoshiko Tagami, Beth,
9 Phil, and Dwight. So how do you all want to present? Go
10 ahead and line up the way you would like and I will give you
11 that privilege. Since there is a number of you speaking, I
12 would like to give you three or four minutes and we will go
13 from there. So welcome. Good morning. Come forward.

14 Ms. Tagami - Good morning, Mr. Chair and Board
15 members. My name is Yoshiko Tagami. I am a Suisun resident
16 - Suisun City resident. And I am a member of Suisun
17 Citizens League. I am not much of a public speaker, so
18 excuse me if I stumble. I am here because I am very
19 concerned about storm drainage we have in Suisun City. It
20 is a very small city. The Super Wal-Mart is planning to
21 build a big - of course; it is a Super Wal-Mart - right
22 where we live. And the EIR that they produced does not even
23 consider the problem with storm drainage we have. We have
24 flooding in our neighborhood a couple of times before in a
25 couple years because of that drainage system is really

1 archaic and not updated. We do not have money. It is a
2 small city. When this super center comes in, we will be in
3 a big problem because the water will - they have a 12-pump
4 gas station and car wash place. We just would like you to
5 take a very close look at this project before you give them
6 permit. That is all I have to say. Thank you very much for
7 your time.

8 Chair Muller - You are welcome. Next, please.

9 Ms. Garber - Good morning, Board. My name is Beth
10 Garber and I live in Vallejo, Solano County. I work for
11 California Health Communities Network and we have been
12 working with a group of residents in Suisun to try to stop
13 this project from being built - the Super Center, that is,
14 the Wal-Mart Super Center which will cover 20 acres. It is
15 a development with a gas station, a 200,000 square foot
16 super center, and a sit-down fast food restaurant. We have
17 a lot of issues with this development and we understand that
18 the Water Board does, as well. We have read their letters to
19 Suisun City and the Army Corps of Engineers. We understand
20 that Wal-Mart has not made an alternatives analysis for the
21 project. They have not provided alternative designs that
22 would create a smaller footprint on the site. They propose
23 to fill in about three acres of wetlands, including a water
24 channel that runs through the site. And that site is part of
25 a watershed, a 72-acre water shed with two water channels.

1 So they would be filling in one of those water channels. The
2 water shed area is mostly already developed with suburbs.
3 As you may know, Suisun City is very close to sea level, it
4 is marshy, semi-marshy land that was built upon. And in any
5 case, one of the points we want to make today is that it is
6 quite doable for Wal-Mart to come up with a smaller design,
7 a much smaller footprint that would not require filling in
8 the wetlands or the water channel. They have a lot of
9 different formats, a lot of different sizes and formats that
10 they use. They have Super Centers that are as small as
11 100,000 square feet. They are a resourceful corporation,
12 they are quite capable of designing something much smaller,
13 and they have done so across the country.

14 Another point we want to make is the gas station
15 component of the super center, not only will it really add
16 to the pollution of the storm water runoff, but it is really
17 unnecessary. The whole reason behind this project is the
18 ostensible need for sales tax revenue on the part of the
19 city, and their desire to capture so-called sales leakage
20 from their own city. By their own admission, they already
21 have captured all the gasoline sales, so they do not need
22 another gas station; that is what I am driving at. There
23 is also a gas station right across from the proposed
24 development, so that part of the development is really not

1 necessary. Another point is that there is quite a risk of
2 flooding to the neighborhood that is immediately below this
3 proposed project. That neighborhood is called Lawler Ranch.
4 There is abundant evidence in the EIR that this is a
5 potential problem and unfortunately neither the city or the
6 applicant saw fit to do a thorough check of the storm drain
7 systems prior to approving this project, but we have a lot
8 of evidence in the EIR itself that the drainage in the
9 neighborhood is full of sediment that it may not be able to
10 handle the extra runoff from the additional 20 acres being
11 paved. So obviously the residents are very concerned.
12 Also, some people who could not be here today in our group
13 wanted me to point out that the flood maps that were used in
14 the EIR date from the 70's. This is prior to the current
15 build-out that exists in Suisun. Most of the suburbs that
16 now exist were not even there at that time. So we feel that
17 quite a few of their conclusions concerning the risk of
18 flooding are faulty because they are based on maps which are
19 outdated and pre-date the development of the area. Another
20 -

21 Chair Muller - I am going to need you to conclude
22 soon, please.

23 Ms. Garber - The City has a bad track record of
24 maintaining its drains. The Army Corps of Engineers

1 notified Suisun that they were no longer eligible for FEMA
2 funds because they have not maintained their drains. Well,
3 I guess we are just going to have to give you these comments
4 in writing because I do not have time to go through them
5 all. So thank you very much.

6 Chair Muller - And you have a couple more
7 speakers, too. They can make comments, please.

8 Ms. Garber - Yes.

9 Chair Muller - Next - is it Dwight? Yes, come
10 forward, please.

11 Mr. Acey - Thank you for the opportunity to bring
12 this matter before you this week. I am with the Suisun
13 Citizen's League also. We are a group of Suisun residents
14 that advocate for the safety and prosperity and protecting
15 the environment in Suisun. We are very concerned about this
16 Super Center project in terms of its impacts on drainage, in
17 particular, for the Lawler Ranch area. We would like to
18 know if there will be a hearing on this matter, whether it
19 will be formally placed as an agenda item so that we can
20 come back and fully address this issue. Is that something
21 you would answer?

22 Chair Muller - We will respond when everyone is
23 completed. Let me just state first, it is normally not our
24 practice to respond to public comments, but I will give you

1 the privilege. I am going to make a couple of comments and
2 we will ask that question, so you can finish your
3 presentation, then when everyone has completed, we will
4 respond.

5 Mr. Acey - We will appreciate your making that
6 exception, and basically that pretty much the points I
7 planned to make have already been made, and that was the
8 remaining one. Thank you.

9 Chair Muller - Can we have one more - Phil? Oh,
10 he is just getting here. Do not rush. Stay calm.

11 Mr. Wolfe - It would be useful to ask the speakers
12 to fully identify themselves.

13 Mr. Tucker - Thank you, Mr. Chairman. My name is
14 Phil Tucker. I am Project Director for California Healthy
15 Communities Network. I have a letter here I would like to
16 circulate to the Board. I have copies here for everyone.

17 Chair Muller - Yeah, leave it with staff.

18 Mr. Tucker - Specifically, California Healthy
19 Communities Network has been working in Suisun for the last
20 eight, nine months with residents and we have been looking
21 at the big box development on Maltese (phonetic) Road, also
22 known as "Wal-Mart Project." Specifically, we have also
23 testified and participated in hearings relative to that
24 project with the City of Suisun and other agencies. We

1 have some real concerns about the footprint of the store in
2 that location. We have some real concerns that some basic
3 things were not done in the draft EIR or in the final EIR,
4 specifically when it comes to the area of the Alternative
5 Analysis. That is normally presented during that period. I
6 tried to address these issues with the City and pretty much
7 have not received the kind of response that we felt was
8 absolutely necessary for us to take any other position but
9 to oppose this project. What I would like to say is there
10 are other alternatives as far as size and footprint for Wal-
11 Mart in this location if they want to pursue this
12 development. There are some serious other issues that we
13 list in our letter, ecological issues, issues that have to
14 do with items within the purview of the Water Board,
15 including drainage, sledding, and other kinds of issues.
16 But the Wal-Mart specifically has their store approved in
17 Fairfield, just three and a half miles away. These two
18 stores will constitute over 400,000 square feet of Wal-Mart
19 retail in the same metro market area, which means that Wal-
20 Mart is not disadvantaged by downsizing their stores since
21 they have stores ranging from 20,000 square feet to 250,000
22 square feet - we identified this type of development. In
23 other areas, they have in fact down-sized stores in order
24 to get approval, down to about 100,000 square feet for a

1 Super Center. So this can be done. Some of the features on
2 the property, including a creek, which they call a drainage
3 ditch - we call it a creek, which has been there a long time
4 - are things that should be looked at critically by the
5 Board, but also looked at critically by Wal-Mart in trying
6 to put a huge huge store on such a small footprint, as well
7 as the other things they have planned. I urge the Board to
8 take these concerns into consideration. I also would
9 request that we have notification of meetings where Wal-Mart
10 can be discussed before the Board. Additionally, we would
11 like to have some time to look at and review the components
12 documents that are submitted related to this project with
13 our experts. Thank you very much.

14 Chair Muller - Thank you. I have no further cards
15 and I first would, again, mention that we do not normally
16 respond to public comments, but I do appreciate the effort
17 citizens make to come before this Board and the sacrifices
18 you made this morning, so I take that very seriously, 1),
19 and 2) this Board is not in the land use planning of
20 communities, but I think I will let Staff respond to the
21 potential of water quality issues and also if there will be
22 a permit coming soon for the group that is here.

23 Mr. Wolfe - Right. Wal-Mart, through its
24 consultant, has applied to us for Clean Water Act Section

1 401 Water Quality Certification. Now, that is something
2 that is delegated to me, that I could issue or condition
3 that certification; however, it has been the Board's
4 practice that when we have projects that are controversial
5 like this one sounds, we do bring it for a public hearing.
6 Also, this is a significant project, that it may also
7 require waste discharge requirements, which are actually
8 something that the Board would need to issue. I understand
9 from staff that we have provided comments on both the draft
10 and final EIR, we have provided initial response to Wal-Mart
11 and its consultant indicating that its application is
12 incomplete, that it has not considered all of the
13 alternatives, much as the public members were saying, that
14 it appears there may be footprints that might have less
15 impact on water quality and water features. So we need to
16 get information from Wal-Mart on that. And once that is
17 determined, then, if there is still a need for impact of
18 those water bodies, we would need to work with them on
19 appropriate mitigation. I am hearing the concerns that the
20 public is expressing about drainage and storm drainage.
21 That is certainly something we need to look at. We clearly
22 are not a land use agency, but we do look at the water
23 quality aspects of projects when they need to apply to us.
24 So I will report back to the Board to a certain degree at

1 this point. We feel the ball is in Wal-Mart's court because
2 we have notified both Wal-Mart and the Army Corps of
3 Engineers that, if at this point there were no change to the
4 application, we would probably need to deny certification.
5 But we know that is usually the notice that gets them coming
6 forward with considerations for either changes in design or
7 being more responsive to our concern. So I will keep the
8 Board posted, but given the public interest, I think this is
9 likely to be one that we would have that public hearing in
10 front of you. And, as such, that would imply that all
11 interested parties would have an opportunity to review all
12 materials. In fact, they have the right to review all
13 materials we have at this point. But nonetheless, we will
14 add these parties to our interested party list to make sure
15 they get copied on any correspondence we have and we will
16 keep you posted as this moves forward.

17 Chair Muller - I think our Board probably strongly
18 feels that be sure to keep us posted on this and if it is
19 this serious of an issue with the community, that probably
20 should be a public issue here.

21 Mr. Wolfe - And I will note that, while I am not
22 aware precisely of the location of the proposed project,
23 this is very close to the north end of the Suisun Marsh
24 which is a very significant water body that we are trying

1 to protect. This is also relatively close to the Potrero
2 Hills Landfill which you have had some public comment on
3 over the past year, and so it is definitely an area of
4 public interest.

5 Chair Muller - Good. Thank you. We have one more
6 plaque here - I am sorry - one more public forum. Richard
7 McMurtry.

8 Mr. McMurtry - I ran to get here so I am a little
9 out of breath. I cannot run like I used to. Good morning
10 members of the Board. I am Richard McMurtry with the out of
11 breath Santa Clara County Creeks Coalition, and I am here
12 today to present a plaque to your new Board member, a plaque
13 of welcome. And I would like to read it. It says, "To Jim
14 McGrath: May the qualities of the young Jim McGrath, the
15 one who is closer to 30 than to 60, who is pragmatic,
16 creative, innovative and courageous, willing to do the right
17 thing even if he got into trouble with Dick Cottington
18 (phonetic), and the qualities of realism of the mature Jim
19 McGrath come together in a new way that help him contribute
20 many years of outstanding service to achieving the mission
21 of the Regional Board to protecting water quality and
22 attaining the benefits and uses of the waters of this great
23 San Francisco Bay Region. Conceived of before his first
24 meeting, and given to him on his third meeting, the 12th day

Exhibit "B"



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

September 10, 2008

Jolanta Uchman
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

SUBJECT: Review of Wal-Mart Supercenter at Walters Road, Suisun City, Solano County, CA; State Clearinghouse Number 20060720266; Review of Alternative Analysis (June 11, 2008) and Addendum to Alternative Analysis (September 5, 2008), Submitted by Wal-Mart Stores, Inc.

Dear Ms. Uchman:

Thank you for forwarding us a copy of the Alternative Analysis and Addendum to that Analysis for the Walters Road, Suisun City, Wal-Mart supercenter project provided to the Water Board by Wal-Mart Stores, Inc. and their consultants. Because of the lack of adequate response time to these documents, we have not had time to have these documents reviewed by our land use consultants; however, we have completed a cursory staff review. Based on our letter submitted to John Muller, Board Chair, at you March 12, 2008, Board meeting in Oakland, CA, we are still very concerned about the inadequate detail provided to the Water Board concerning issues we raised in that correspondence and our brief presentation to the Water Board. There is no need to review our concerns that are stated in that letter (see Attachment "A"); however, the economic justification of Wal-Mart to continue with the proposed 215,000 sq.ft. building plan does not address most of the issues presented in our original correspondence.

Though Wal-Mart addresses seismic concerns in its Alternative Analysis related to a reduced foot print, two-story structure, the adopted final EIR does not address the natural gas and jet fuel pipelines immediately adjacent to the development on Peterson Road. Based on the increased traffic on Peterson Road and the soil type and its potential for shrink/swell liquefaction and lateral spreading during seismic events, a more detailed seismic study should be performed. We are also concerned that no Safety Study was conducted on these pipe lines as recommended by the Pipeline Safety Trust, a National, non-profit pipeline safety watchdog organization. It also does not address the high water table issues that impact their development mitigation proposals for surface water

California Healthy Communities Network is a Project of Tides Center,
A non-profit public charity exempt from federal income tax under
Section 501(c)(3) of the Internal Revenue Code

run-off and storage and other hydrological issues still not adequately addressed and available for review and comment (see Attachment "B", a statement of concerns related to hydrology issues.)

The contention that a smaller foot print Wal-Mart supercenter will generate less economic benefit than the proposed 215,000 sq.ft. store is unsubstantiated. There is no reason to believe that the Addendum proposal's 100,000 sq.ft. store, will not meet the "fiscal needs" of the community since the Suisun Super Wal-Mart project is already undermined by Wal-Mart's decision to construct two supercenters in the same Fairfield-Suisun Metro Market Area just 3.5 miles apart. The economic analysis provided by Philip King, Ph.D, Associate Professor of Economics, San Francisco State University, January 23, 2008, points out the economic impacts of nearly 400,000 sq.ft. of Wal-Mart retail on the entire market area. Additionally, nationally known business geographer, Grant Thrall, Ph.D, Professor of Economics and Business Geography, University of Florida, surveyed the proposed Suisun Wal-Mart supercenter market area and prepared an analysis entitled, "Market Impact On Suisun's Proposed Super Wal-Mart Attributable to Fairfield's Super Wal-Mart." These two economic studies of the proposed Suisun Wal-Mart concur on the fact that the proximity of the two Super Wal-Mart's have greater economic impact on individual stores sales than the size of the stores. In fact, there is absolutely no evidence that a smaller footprint Wal-Mart in Suisun will have any additional detrimental impact on meeting the fiscal needs of Suisun City. As Dr. Thrall points out, ***"The addition of a Super Wal-Mart in Fairfield has the potential of reducing expected tax revenues arising from Super Wal-Mart sales in Suisun by more than 50 percent."*** (See Attachment "C" for these economic studies.)

It is important to note that in 2006, Wal-Mart proposed a 100,000 sq.ft. Super Wal-Mart in Hercules, CA, located just 3 miles from a new 250,000 sq.ft. Wal-Mart discount store at Richmond's Hilltop Mall. That proposed Wal-Mart was reduced from a previously proposed 186,000 sq.ft. store and even with the reduction in size was rejected by the City Council and its Redevelopment Board by a 5-0 vote because it did not meet the maximum zoned building size of 64,000 sq.ft. Hercules has a population of approximately 29,000 and has a metro market area three times larger than Fairfield-Suisun (that includes Crockett, Pinole, Pinole and Richmond.) It is unlikely that Wal-Mart would have proposed this size store in the same market area with a competing Wal-Mart store if it was not profitable.

There is an on-going dispute over the sales tax revenue that will be generated by the proposed Super Wal-Mart in Suisun, including some estimates provided by city officials and Wal-Mart consultants that the City can expect sales tax income of \$960,000 a year¹. This estimate far exceeds the annual sales tax revenue projection contained in the Suisun Wal-Mart DEIR that claims revenue of

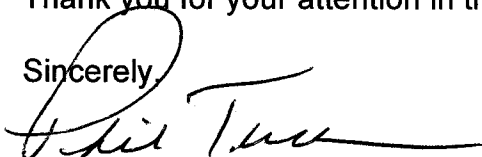
¹ Sales Tax Projection by Scott Corey, Suisun Public Information Officer [Source: "City of Suisun Planners to Hold Hearing On Wal-Mart," by Carol Bogart, *Fairfield Daily Republic*, 01/26/08]

\$367,500 based on total annual sales of \$73,500,000. Please refer to the attached Chart – “Suisun Wal-Mart First Year Annual Sales Tax Projections – Sales Requirements” for more detailed information on sales tax revenue estimates (see Attachment “D”).

✓ The Suisun Alliance, a group of residents living in the Peterson, Quail Glen and Lawler Ranch neighborhoods, filed a lawsuit against Wal-Mart and Suisun City in March and the litigation is moving forward in October 2008. Many of the CEQA concerns are embraced in this lawsuit as well as the City’s action in overriding the Solano County Airport Land Use Commission’s decision to reject the proposed Wal-Mart project on this Travis Airbase Encroachment Zone. This case is being heard in Solano County Superior Court (Case #FCS031099). We would hope the Water Board does not provide this project with the approvals to move forward without first insisting that Wal-Mart and their developers meet all their legal and regulatory requirements and give further consideration to downsizing the foot print of the supercenter building on this property.

Thank you for your attention in this matter of extreme community importance.

Sincerely,



Phil Tucker
Project Director
California Healthy Communities Network,
a project of non-profit Tides Center

cc: Suisun Alliance
Suisun Citizens League

Exhibit "A"



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

March 12, 2008

John Muller, Chair
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

**SUBJECT: Proposed Wal-Mart Supercenter at Walters Road, Suisun City,
Solano County, CA; State Clearinghouse Number 2006072026**

Dear Chairman Muller:

California Healthy Communities Network, a project of the non-profit Tides Center, has been working with the Suisun Citizens League, a group of Suisun City residents opposing the proposed Wal-Mart Supercenter located at Walters Road and Highway 12, for the past eight months. Our staff has participated in both the Draft and Final EIR process and has participated in public meetings related to this big box project.

We have continuing concerns about inadequacies in the adopted Final EIR, especially as they relate to Water Quality Certification under Section 401 of the Clean Water Act. We have attached to this cover letter our comments and questions related to the Walters Road Development Project referenced above.

We believe that the current proposed Wal-Mart Supercenter project does not comply with requirements of the Clean Water Act and that this project is far too large in scope for the 20-acre Walters Road site.

We would request to be notified in advance of any hearings related to the Wal-Mart Supercenter project and would further request that we be given at least thirty (30) days to have our staff and consulting experts review information provided by the project's proponents to the Board.

Thank you for considering our requests.

Sincerely,

A handwritten signature in black ink that reads "Phil Tucker".

Phil Tucker
Project Director
(707) 479-6000
ptucker@calhcn.org

Enc.

Comments and Questions for the California Regional Water Quality Control Board Hearing, Wednesday, March 12, 2008

**Regarding: Wal-Mart Supercenter at Walters Rd, Suisun City, Solano County
State Clearinghouse Number 2006072026**

Alternative Analysis Ommited:

We understand from reading the Water Board's letters to Suisun City and to the Army Corps of Engineers, that Wal-Mart has made no "alternatives analysis", or provided other project designs that would preserve on-site wetlands and a critical water channel.

We would like to emphasize that it has been Wal-Mart's practice to build smaller stores with smaller footprints especially in urban areas in order to get their projects approved.

Profitability of a smaller format :

1. Wal-Mart operates stores as small as 20,000 sq ft (called Neighborhood Markets) and as large as 250,000 sq ft (Wal-Mart supercenter in Mexico City).
2. "The store only has to be profitable at levels marginally acceptable to Wal-Mart, not as profitable as the average existing store." (Final EIR for Walters Rd West Supercenter Project, Master Response on Urban Decay, pg 2-18)
3. "Stuck with a parcel of land that was too small for a conventional supercenter and too large for a Neighborhood Market, Wal-Mart got creative and developed a hybrid concept that addresses the shortcoming of both formats".

"If the latest experiment from Wal-Mart is successful, it also could help the retailer crack the code of opponents who object to supercenters on the grounds that they create excessive traffic, crime and noise. A smaller store theoretically would be more palatable to communities that have such concerns about a Wal-Mart store.

That was the case several years ago in Plano, Texas where Wal-Mart opened a supercenter that could be considered the predecessor to its urban prototype in Tampa. The Plano location was about 114,000 square feet...

Wal-Mart operates a variant of the supercenter known as the 109 – reflective of its typical size of 109,000 sq ft. That concept was developed for use in small markets, such as Knoxville, Iowa, and Wachula, Fla. where the determining factor in a store's size is the lack of residents, rather than the availability of real estate."

(From "New 'small' supercenter could be format for the future – New Prototype – Wal-Mart", by Mike Troy, Drug Store News, Jan 19, 2004, <http://findarticles.com>)

4. "Aaron Rios, a California spokesman for Wal-Mart, said the store [a Modesto supercenter] will be 105,000 square feet, slightly smaller than a supercenter that Wal-Mart opened in Sanger last year in what was formerly a Kmart..."Rios said the supercenter will complement, not replace, an existing Wal-Mart store in Modesto on Plaza Parkway."

(From "Modesto Wal-Mart Supercenter to open next year", by Modesto Bee Staff, February 23, 2008, www.modbee.com)

5. Wal-Mart has been approved to build a supercenter in Fairfield, approximately 3.5 miles from the Walters Rd supercenter site in Suisun City. This decision follows the new urban Wal-Mart rollout pattern first observed in Oklahoma City, Oklahoma, observed by DSR Marketing Systems, Inc. in their report to retail grocers "Wal-Mart's Impacts on the American Supermarket Industry", Feb. 10, 2004. Wal-Mart's marketing strategy included all existing store formats (Neighborhood Markets, Discount Stores, Sam's Club Wholesale Stores and Supercenters). Wal-Mart opened 17 new stores between July 1998 and December 2003 forcing the closure of thirty-one (31) supermarkets, including ten (10) chain supermarkets and twenty-one (21) independents. By reducing competition through saturation marketing that includes the cannibalization of its own store sales in the same Metro Market Area, Wal-Mart was able to increase its grocery sales market share from 13 percent to 42 percent over the five (5) year period. Wal-Mart currently enjoys more than a 50 percent share of the grocery sales in Oklahoma City.

The conclusion drawn from observation of the mixed format store use and saturation marketing concept now employed by Wal-Mart in California, indicates that Wal-Mart could certainly reduce its store size and footprint and still have successful cumulative store sales in the Fairfield-Suisun Metro Market area where the proposed Walters Road Wal-Mart Supercenter is located.

Questions: *What are Wal-Mart's projected sales for the Suisun and Fairfield Supercenters in the first and fifth years of operation? What would be the projected sales of a single Wal-Mart supercenter located in the Fairfield-Suisun Metro Market Area in the first and fifth years of operation?*

The Gas Station component of the Supercenter Project is unnecessary

The ostensible reason for the Walters Rd Supercenter Project is to capture Suisun City's sales leakage and raise its sales tax revenues. But the Draft EIR economic analysis admits that Suisun has no leakage in gasoline sales. (Draft EIR, Urban Decay, pg 4.12-33) The city has an adequate number of gas stations. There is also a gas station located directly across the road from the supercenter site. The Supercenter project does not need to include a gas station.

The gas station component adds unnecessarily to the footprint of the project and to its pollution potential.

Much of the objection to the Walters Rd Supercenter project stems from its overwhelming size and 24 hour planned operations that will undermine the quiet, safety and aesthetics of the surrounding neighborhoods of Quail Glen, Lawler Ranch and Peterson Ranch. The project is completely out of scale with the surrounding neighborhoods and will generate an estimated additional 77,000 new car trips per week on dangerous State Route 12.

Question: *Has Wal-Mart and Robert Karn Associates made any effort to redesign the project? If not, will they be redesigning the project?*

Destruction of Watershed Integrity and Risk of Flooding to the Downstream Neighborhood of Lawler Ranch

"The 20.8 acre Project site represents over a fourth of the +- 72 acre drainage area and, with the exception of the Hill Slough shoreline and adjacent Caltrans property, is the only undeveloped lot. In addition, the Project site contains one of the two linear drainage channels within the Project drainage area." (Draft EIR, Hydrologic Study, p 10) (underline added)

"The project area drains directly into Hill Slough, which drains to the south and west into Suisun Slough." (Draft EIR, p 4.7-1)

The project site is the last unpaved, undeveloped area of the watershed. It covers a fourth of the watershed area. To minimize pollution delivery into Suisun Bay wetlands, and protect the Lawler Ranch neighborhood from increased risk of flooding, it should be developed with as small a commercial footprint as possible. It should not be paved over nor should the water channel be filled in.

"Local creeks within the project area include Ledgewood Creek, Laurel Creek, and McCoy Creek. Laurel and McCoy creeks are most significant to the City because of their proximity to urban areas and history of flooding, which has been aggravated by upstream urban runoff." (Draft EIR, Hydrology and Water Quality Chapter, p 4.7-5)

Outdated Flood Maps Were Used in the Environmental Impact Report

The Environmental Impact Report uses a U.S. Geological Survey Map which predates the development of most of the neighborhoods surrounding the supercenter project site. The EIR uses FEMA Flood Insurance Rate Map which dates from 1974, revised in 1976. These were years predating most of the current suburban build out. (Draft EIR, Hydrology and Water Quality, pg 4.7-5)

The 10-year, 24-hour estimated maximum precipitation amount is calculated to be 3.0 inches. The 100-year, 24-hour maximum precipitation amount is calculated at 4.5 inches for the project area. The source for the data was the Western Regional Climate Center, year 1973. (Draft EIR, Hydrologic Study, pg 8)

Questions: *Weren't the 1970's a drought decade for Northern California? Wouldn't it have been more accurate to use current 10 and 100 year, 24-hour estimates for the study?*

Furthermore, the same website, the Western Regional Climate Center, has extensive links to more recent records of serious storms and flooding in the Bay Area, including 1995 and 1997.

Western Regional Climate Center

Historical Climate Information

<http://www.wrcc.dri.edu/CLIMATEDATA.html>

<http://nimbo.wrh.noaa.gov/pgr/paststorms/california10.php#1995%20Winter%20Storms>
1995 Winter Storms

Significant and extended heavy rain and wind. Flooding in coastal regions was particularly notable. The Salinas River exceeded its previous measured record crest by more than four feet...which was within a foot or two of the reputed crest of the legendary 1862 flood. The Monterey Peninsula was effectively cut off from the "mainland". The Napa River set a new peak record and the Russian and Pajaro Rivers approached their record peaks. Extensive flooding from small streams particularly in Placer County suburbs.

- Calculated Damages: 28 dead, \$1.841 billion economic losses.

1997 New Year's Flood

Significant rainfall fell throughout central and northern California from December 26, 1996 through January 3, 1997, with the heaviest and warmest rains on New Year's Eve/Day. Snow levels were above 10,000 feet. Several towns were inundated. Three-hundred square miles were flooded, including the Yosemite Valley, which flooded for the first time since 1861-62. For weeks after the rains stopped rivers continued to flow out of their banks and major roads remained impassable due to flood damage and mudslides. Along I-80...rainfall recorded for the event totaled 3.71 inches at Sacramento...9.57 inches at Auburn...and 29.73 inches at Blue Canyon. Forty-eight counties were disaster-declared, including all 46 counties in northern California.

Long-term Strategic Impact: Led to improved methods for large-scale evacuations.

- Calculated damages: 8 dead, \$1.8 billion economic losses including 23,000 homes and 2,000 businesses damaged or destroyed.

Another link showing heavy rainfall in winter:

<http://www.wrcc.dri.edu/enso/uspmaps.html>

Poor Quality of Drainage and Drainage System in Lawler Ranch (project outfall)

The Project's storm water runoff will drain into Lawler Ranch's drainage system.

"A reconnaissance of the storm drain outfall revealed that the structure is deteriorating ... The existing outfall was observed to be cracking, and a sinkhole is forming above a portion of the trunk line... In addition, storm drain clogging from sediment, trash, and other organic debris was observed within numerous drainage facilities upstream of the project site; therefore, it is reasonable to infer that similar conditions may be present in downstream conveyance facilities. As a result, the capacity and overall performance of the downstream stormwater conveyance system are uncertain." (Draft EIR, Hydrology and Water Quality, pg 4.7-2)

"Hill Slough is under tidal influence.... Because of the tidal influence, the 52-inch outfall is generally submerged and only exposed during low tide. This tidal influence creates a backwater effect within the local drainage system and decreases the hydraulic head in up-gradient areas." (Draft EIR, Hydrologic Study, pg 14)

"Normal tidal action has likely resulted in saltwater and bay sediments partially filling the trunk line upstream an undetermined distance.... As a result, outfall capacity and overall performance of the storm drain system in the area may be substantially reduced from its original design, potentially creating conditions that could lead to localized flooding during normal (e.g. 2-year interval storm events)." (Draft EIR, Hydrologic Study, pg 14)

"The Federal "Emergency Management Agency (FEMA) Flood Insurance Rate Map for the City of Suisun California, Solano County (FEMA 2007) indicates that the outfall location is within a special shoreline flood hazard area and is the only area mapped as being inundated by the 100-year flood." (Draft EIR, Hydrologic Study, pg 14)

Poorly maintained, clogged drains

"Storm drain clogging from sediment, trash, and other organic debris was observed within numerous drainage facilities including the rectangular culvert that bisects Peterson Road and discharges onto the Project site." (Draft EIR, Hydrologic Study, pg 14)

"The Army Corps of Engineers notified Suisun City it was no longer eligible for Federal Emergency Management Agency funds in the event of severe flooding. Some of the city's storm canals were so clogged with trees and brambles, storm runoff could back up when water flows were high, the city learned." ("Suisun City Creeks, Canals Cleared to Reduce Risk of Winter Flooding", by Carol Bogart, Fairfield Daily Republic, December 29, 2007)

Incremental increases in long-term sea level will result in a further reduction of drainage capacity and an increased likelihood of flooding. (Draft EIR, Hydrologic Study, pg 25)

Questions: *By how much has sea level risen in the last 20 years? By how much is it likely to rise in the next 30 years?*

No inspection of Lawler Ranch's drainage system was made either for the EIR, or prior to the project's unanimous approval by Suisun City Council. Does the lack of drainage in spection constitute a violation of CEQA or environmental law?

Storm Water Management Plans

Wal-Mart and Suisun City are proposing to mitigate the impact of the storm water runoff from the project by constructing an underground storage vault or "linear facility" to hold and filter storm water runoff so that it will not overwhelm Lawler Ranch's drainage system, or add pollutants to Suisun Bay waters. (Final EIR, Mitigation Monitoring and Reporting Program, pg 17)

Questions: *Is this acceptable practice under State or Bay Area law? What happens to the water after it has gathered in the vault or open channel?*

What happens if the vault or channel is overwhelmed with rainwater?

How does the filtration system work, and how successful is it in removing toxins and debris from the storm water runoff?

If an underground vault is built, what happens to pollutants that build up within the vault, encased in layers of sludge like material?

What happens to storm water runoff systems that need maintenance if Wal-Mart closes its store? Who pays to maintain the system?

Is it expensive to maintain?

If a smaller project were built, say half the size of the currently proposed project, would the undeveloped area of the site be able to absorb the storm water run off from the developed half of the project?

What is the best management practice for handling storm water runoff from a project?

Water Quality

"No water quality data was acquired as part of this Study, and therefore, no site-specific data is available to characterize surface water quality for the Project area." (Draft EIR, Hydrologic Study, pg 28)

Why wasn't a water quality study performed as part of the EIR?

The EIR makes completely contradictory statements concerning the effectiveness of the Storm Water Pollution Prevention Plans for the project.

For instance, Suisun City acknowledges that the Wal-Mart Supercenter Project, when combined with other projects, is likely to lead to an increased impairment of water quality in Suisun Bay –

"From a cumulative perspective, however, the City acknowledges that, because of uncertainties inevitably associated with stormwater runoff, there is a danger that runoff from the project in conjunction with other existing and proposed development projects within the cumulative project area may contribute to existing impairments within the Hill Slough and Suisun Bay....For this reason, the City concludes that the project could have a cumulatively considerable effect on the water quality of Hill Slough and Suisun Bay." (Draft EIR, Other CEQA Considerations, pg 6-12)

Yet in the preceding paragraph it states that "compliance with these requirements [storm water pollution prevention plans or SWPPs] will ensure that potentially significant hydrology and water quality impacts are sufficiently mitigated at the project level. With implementation of these mitigation measures, impacts to water quality and hydrology would not be cumulatively considerable." (Draft EIR, Other CEQA Considerations, pg 6-12) (underline added)

"Target pollutants for this Project included pathogens, heavy metals, nutrients, pesticides, organic compounds, suspended solids and sediment, trash and debris, oxygen demanding substances, and oil and grease." (Draft EIR, Hydrologic Study, pg 32)

Questions: *Will the project significantly contribute to the contaminants that currently listed as exceeding safe levels in Suisun Bay, Wetlands and Slough?*

What percentage of contaminants is it likely to add toward the Total Maximum Daily Load allowed for Hill and Suisun Slough? (Draft EIR Hydrology and Water Quality, pg 4.7-9)

Hill Slough is about to be listed for the contaminant mercury. (Draft EIR, Hydrology and Water Quality, pg 4.7-8) Would the project contribute significant amounts of mercury to Hill Slough?

If the project includes a drycleaners, how will that affect the quality of the project's water emissions?

The project also includes a gas station and car wash. Would it be significantly less polluting without these components?

Garden Center is potential source of storm water contamination

No mention was made in the EIR of the affect of the Garden Center on water quality and storm water runoff. Wal-Mart typically stores garden supplies such as soils that are treated with herbicides and pesticides out of doors.

It is a common practice for Wal-Mart to create outside storage areas for sale of bulk garden supplies in areas originally designated for parking. Examples of this practice can be observed at the Dixon, CA, supercenter and the new American Canyon supercenter in American Canyon, CA. There is no roof provided on the cyclone fenced enclosure provided to secure these items at the American Canyon store and no enclosure on the pallets of gardening materials at the Dixon store.

Questions: What provision has been made to prevent gardening products stored outdoors at the Garden Center from contaminating storm water runoff? Will garden products be stored uncovered out of doors?

Reports of Wal-Mart water contamination lawsuit settlements

- In 2005, Wal-Mart reached a \$1.15 million settlement with the State of Connecticut for allowing improperly stored pesticides and other pollutants to pollute streams. This was the largest such settlement in state history. [Hartford Courant, 8/16/05]
- In May 2004, Wal-Mart agreed to pay the largest settlement for stormwater violations in EPA history. The United States sued Wal-mart for violating the Clean Water Act in 9 states, calling for penalties of over \$3.1 million and changes to Wal-Mart's building practices. [U.S. Environmental Protection Agency, May 12, 2004, U.S. v. Wal-Mart Stores Inc., 2004 WL 2370700]
- In 2004, Wal-Mart was fined \$765,000 for violating Florida's petroleum storage tank laws at its automobile service centers. Wal-Mart failed to register its fuel tanks, failed to install devices that prevent overflow, did not perform monthly monitoring, lacked current technologies, and blocked state inspectors. [Associated Press, 11/18/04]
- In Georgia, Wal-Mart was fined about \$150,000 in 2004 for water contamination. [Atlanta Journal-Constitution, 2/10/05]

Exhibit "B"

Market Impact On Suisun's Proposed Super Wal-Mart Attributable To Fairfield's Super Wal-Mart

Short Commentary

March 6, 2008

by

Grant Ian Thrall Ph.D.

with

Robert S Cohen
1515 NW 7th Pl
Gainesville, FL 32603-1208
(352) 514-5251
bobcohen@ivs.edu

Please address all questions to Mr. Robert S. Cohen regarding this document.

Bullet Point Summary

- Suisun primary trade area from hosting a Super Wal-Mart is projected to have contained 73,274 people in 2006
- The addition of a Super Wal-Mart in Fairfield will cannibalize the population and sales of Super Wal-Mart in Suisun. The loss will be 39,742 people (2006 projections), leaving 33,532 people. This represents an impact on nearly 55% of the total population within the Suisun trade area.
 - Impact On Tax Revenues
 - The addition of a Super Wal-Mart in Fairfield has the potential of reducing expected tax revenues arising from Super Wal-Mart in Suisun by more than 50%

Executive Summary

Development of the Fairfield Super Wal-Mart will cannibalize the trade area for the Suisun Super Wal-Mart by over 50%. Expected tax revenues from Suisun Super Wal-Mart are expected to decrease by over 50%.

Geospatial Impact of Fairfield Super Wal-Mart On Suisun

Background

A standard method to estimate trade area begins with identifying areas that can be accessed by standard time intervals. In our previous calculations of Super Wal-Mart trade areas, we have determined that Wal-Mart views its primary trade area as that which can be reached by car in 13 minutes. Areas beyond 13 minutes are considered within the secondary trade area if they are not closer to another Super Wal-Mart.

So, step 1 is to calculate the 13 minute trade areas for the Suisun and the Fairfield locations for proposed Super Wal-Marts. This is shown in Exhibit 1. The blue line demarcates the Suisun trade area, and the orange line demarcates the Fairfield trade area. The region of overlap represents the area where cannibalization will occur. Multi-branch retailers view cannibalization as acceptable if there is sufficient net new revenue arising from the multiple yet cannibalizing branches.

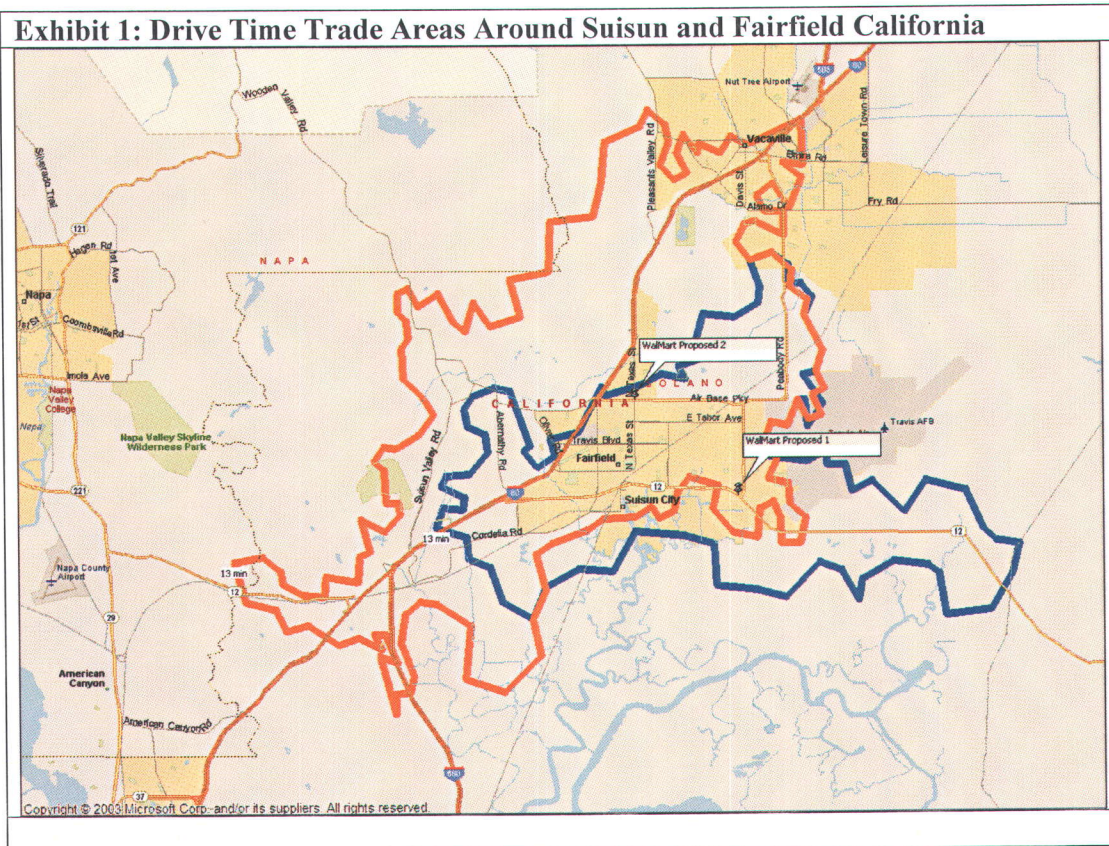


Exhibit 2 shows the area of geographic dominance of Wal-Marts surrounding Suisun California. The map is drawn showing the two scenarios of with both Fairfield and Suisun Super Wal-Marts, and with only Suisun.

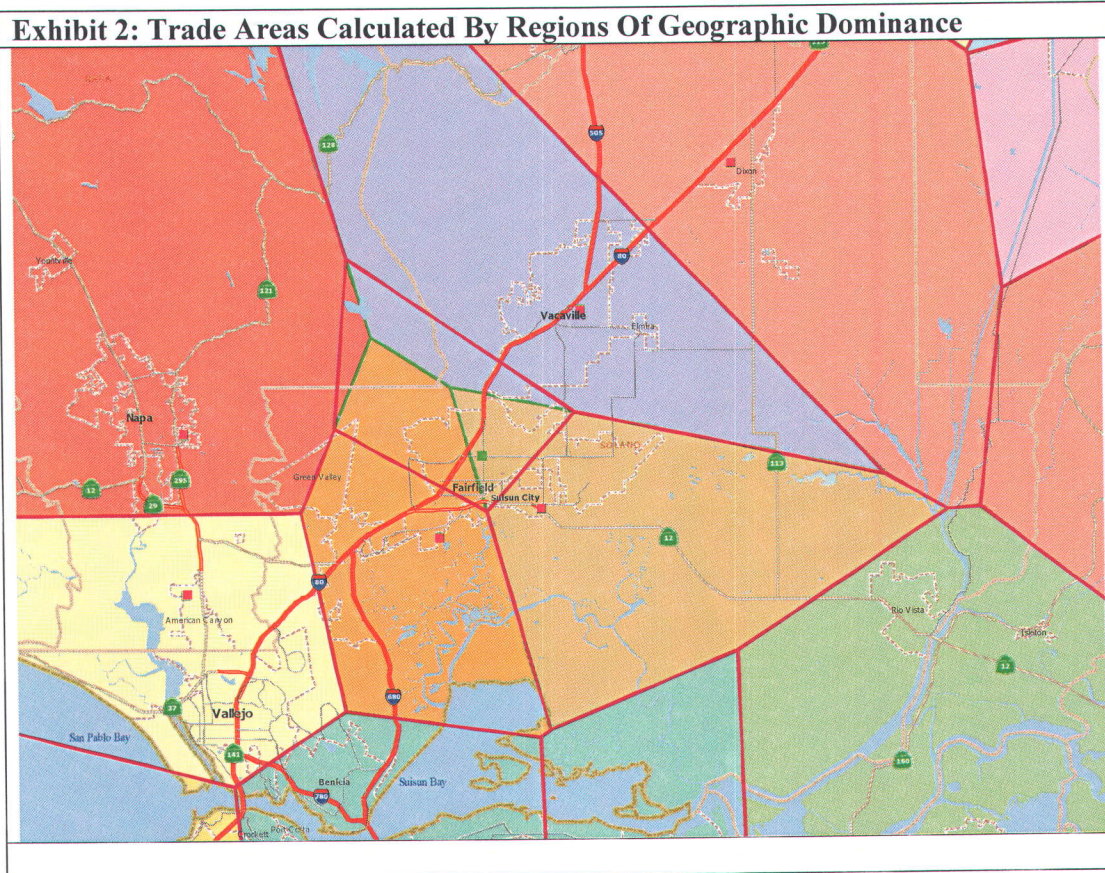


Exhibit 3: Cannibalized Trade Area

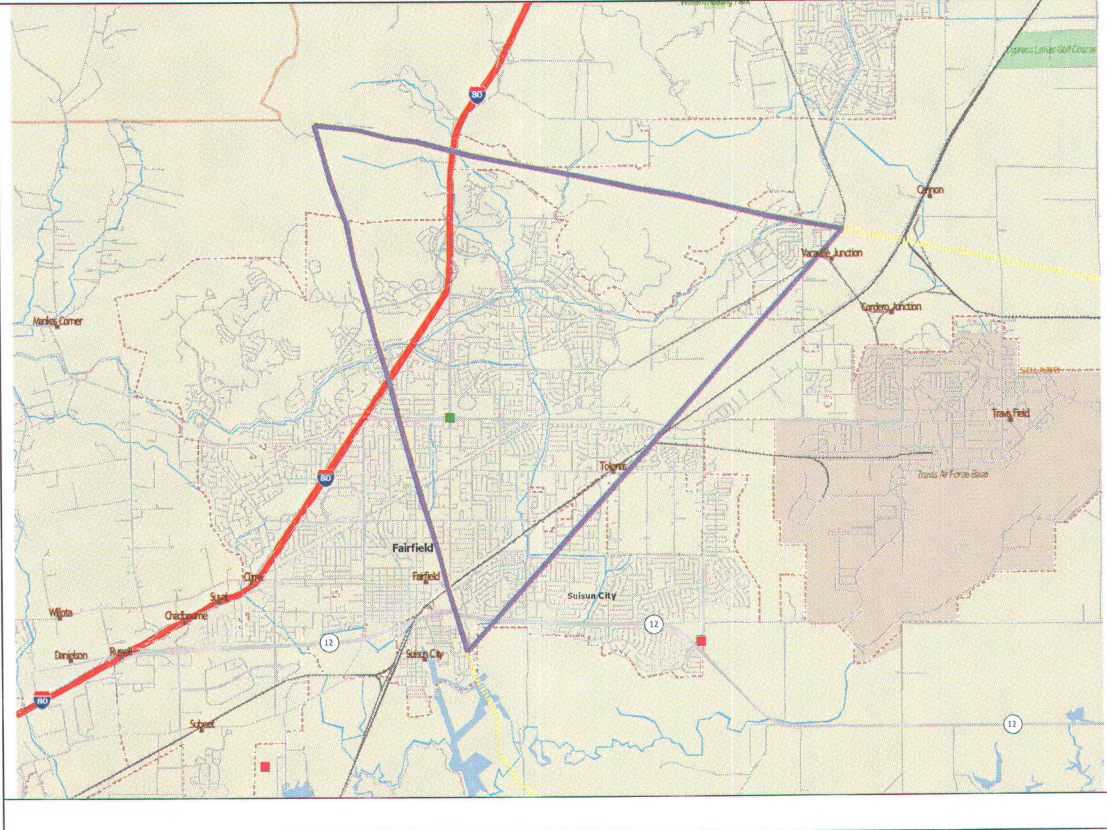


Exhibit 3 shows Suisun's trade area in purple that will be cannibalized by the development of a Super Wal-Mart in Fairfield.

Exhibit 4: Suisun Trade Area Before And After Fairfield Development

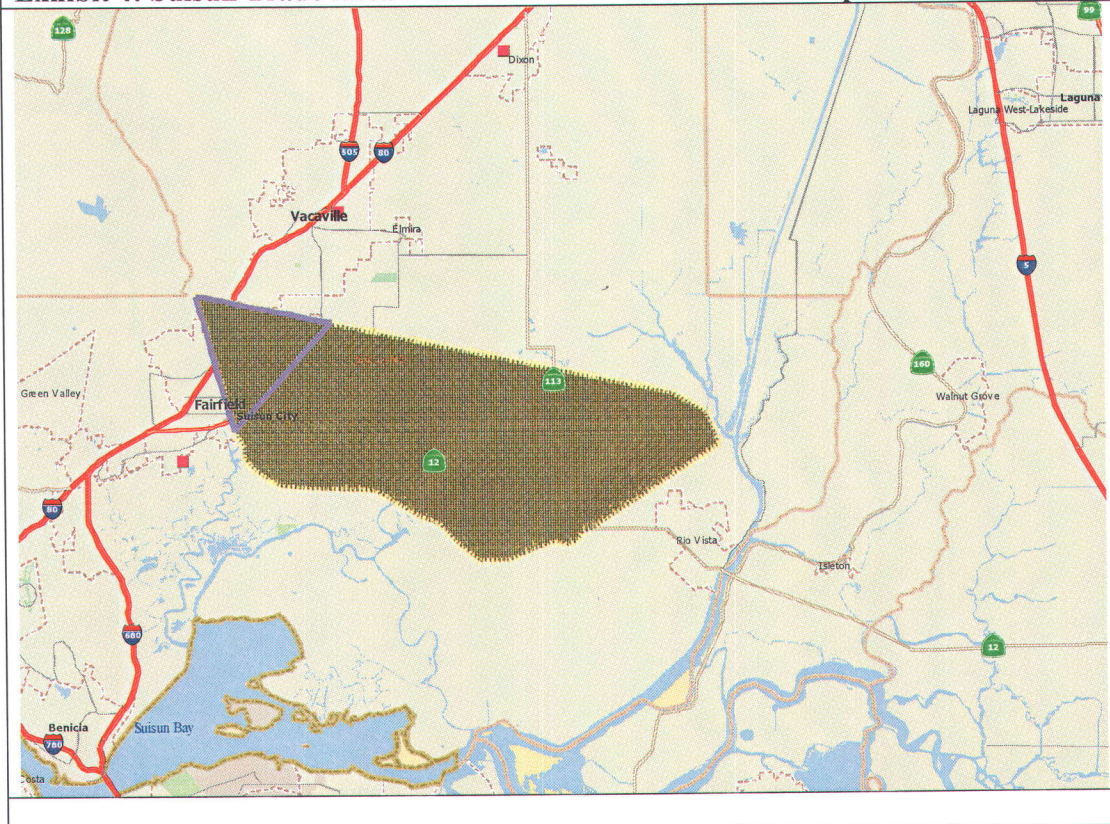


Exhibit 4 shows Suisun’s cannibalized trade area in purple, and its remaining trade area based both upon drive-time and geographic proximity of Exhibits 1 and 2. The yellow cross hatched area is Suisun’s trade area without the Fairfield development. The purple outlined area is the loss of trade area attributable to Fairfield’s development.

73,274 people reside in the green area of Exhibit 4. 39,742 reside in the area demarcated by the purple line. Therefore, the yellow cross hatched area outside the purple lined area is the residual that will remain for Suisun, namely 33,532 people.

The conclusion is that the Fairfield Super Wal-Mart development will significantly cannibalize the Suisun Super Wal-Mart retail sales.



Validity unknown

North Hall

2008.03.07
09:55:47
-05'00'
I am the author of this document

About Grant I Thrall



Dr. Thrall has led the development of the contemporary university school of business geography thought. His 2002 book published by Oxford University Press, *Business Geography and New Real Estate Market Analysis*, is a synthesis of his pioneering contributions for over a quarter century. The American Real Estate Society's *Journal of Real Estate Literature* called his book "a paradigm shift" for real estate market analysis. The Wharton School of Business writes that Thrall's book is "compelling" as it builds the bridge between urban economic and geographic sciences advancing real estate market analysis. George Mason University writes that Thrall's book is one that every person in business needs to read. He has been invited to give presentations on his 2002 book to University of Pennsylvania's Wharton School of Business and Cal Berkeley's Haas School of Business, and others. In 2004 he was recognized as a "thought leader" having been invited to present the annual "Golledge Lecture" at University of California at Santa Barbara on his business geography topic.

Dr. Thrall has written or edited over a dozen books, and over 150 professional articles. His ten volume *Scientific Geography Series* is the standard reference for academic and practitioner applications of business location modeling and applications of geographic information systems to the urban built environment. Bridging the gap between academia and the private sector, for over a decade Thrall has been a consultant with Global Real Estate Research Practice, Financial Advisory Services, of PriceWaterhouseCoopers LLP, and he has twenty years experience consulting with businessgeography.com. A sample of his consultancies includes the creation of the market analysis for 1,000,000 square foot University Corners mall, the largest development ever within the city of Gainesville, site selection services for O2Bkids, market analysis for St. Joe Company, Gables Apartments, State University System Board of Governors, Gainesville Greens, Butler Enterprises and Great Southern Land.

Dr. Thrall has been invited to make many public speaking engagements, and to publish articles for organizations including Centers for Disease Control and Prevention, FannieMae and the Appraisal Institute. Professor Thrall is the only geographer to have been on the academic board of editors of the Appraisal Institute's *Appraisal Journal*. He is one of four geographers that have been invited to be fellows of the Weimer School For Advanced Studies In Real Estate and Land Economics, one of the highest accolades in academic and high-level practitioner real estate. He gave the keynote address to the FACU 2005 annual meeting.

Dr. Thrall has been a Professor at University of Florida since 1983, where he is regularly nominated and has been a recipient of teaching awards. He created the Business Geography curriculum solely housed within his home Department of Geography in the College of Liberal Arts and Sciences. He presently advises ten students at the MA and Ph.D. levels, and numerous undergraduates. He is a Weimer Fellow of the Homer Hoyt Institute, a member of the academic board of the Appraisal Institute's *Appraisal Journal*, former co-editor of the *Journal of Real Estate Literature*, reelected twice to the Board of Directors of the American Real Estate Society; and he is business geography, software and data editor for the leading GIS professional magazine *GeoSpatial Solutions*. He is on the Board of Directors of the International Geographical Union representing Applied Business Geography. He is a member of the editorial board of *Journal of Real Estate Research*. Dr. Thrall has a Ph.D. in Geography and Economics, and an MA in Economics from The Ohio State University, and a BA in Business & Economics from California State University at Los Angeles. Professor Grant Thrall has been on the faculty of McMaster University in Canada, and SUNY at Buffalo. In 1989, he was Resident Scholar of the Homer Hoyt Institute in Washington DC. In 1990, he was Visiting Distinguished Professor at San Diego State University. In 2005 he gave \$500,000 in valued stock to support the Homer Hoyt Institute.

As a volunteer, Grant Thrall lent his expertise to his resident town of Gainesville, Florida. In appreciation, the Mayor and Gainesville City Commission declared two days as "Grant Thrall Days" for his advice and management of redevelopment of Gainesville's the historic downtown.

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Grant Ian Thrall, Ph.D.

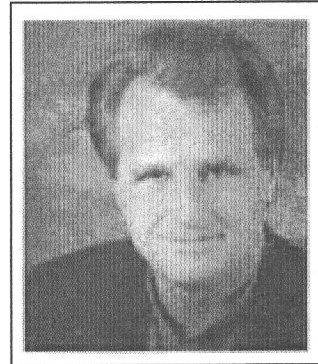
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signature.

1. PERSONAL INFORMATION

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2. BRIEF DESCRIPTION OF JOB DUTIES

- a. **Teaching:** two undergraduate lecture courses and two graduate courses per year - two courses each semester; recipient of a University of Florida student council "Teacher of the Year" award.
- b. **Research:** Published over 150 articles. Published as an editor of a book series ten books and authored or co-authored five monographs/books. Oxford University Press published my fifth book, *Business Geography And New Real Estate Market Analysis*, spring 2002. My 1998 book *Economic Geography* has been translated into Chinese and Arabic.
- c. **Service to the Community** - Appointed by the City Commission of the City of Gainesville as a former member and chair, Downtown Redevelopment Agency (Downtown Redevelopment Advisory Board). In recognition of this service the Mayor and City Commission of the City of Gainesville declared official "Grant Thrall Days" December 31, 1996 and January 1, 1997.
- d. **Service to the University** - Twice elected as member of University Senate (currently serving on Senate). Departmental: advisor to many graduate students (see list below); mentor to many undergraduate geography majors in business geography including using my contacts to get many of them excellent employment; served on faculty recruitment and salary committees. Designed and received university approval for the following courses: Foundations of GIS, Urban and Business Geography, Business Geography Integrating Theory, GIS For Economic Geography and Business Decisions, Seminar In Business Geography. Created the Business Geography Certificate program at University of Florida, housed in the Department of Geography; "Marketing and Business Geography" is accepted by the College of Business Administration as a specialty for a degree in business.
- e. **Service to the Discipline** - Three times elected Member *Board Of Directors*, American Real Estate Society; 1994-2006 co-editor of *Journal of Real Estate Literature*, member of the board of editors of *Journal of Real Estate Research*; 1991-2006 column editor *GeoSpatial Solutions (formerly Geo Info Systems)* for software and data reviews, and business geography, and member of the editorial board of *GeoSpatial Solutions*. Former member of various editorial boards and co-editor/editor of various journals and

publications. Member of the Board of Directors of the International Geographical Union, Commission on Applied Geography.

3. AREAS OF SPECIALIZATION

- **Substantive:** Spatial reasoning and technology for strategic business management. Business Geography and Geospatial Business Information Technology, Geographic Information Systems, theory and applied geodemographic and location analysis for business decisions related to location and land use. General theory and application procedures for market analysis of residential and commercial land use. Land economics. Commentary and trends of geographic/GIS technology industry.
- **Methods:** Geographic Information Systems (GIS), mathematical models, quantitative methods, computer simulation and algorithms, applied spatial statistics
- **Software:** Working knowledge of most major GIS software and data products including GIS OCX, fluent in Visual Basic including code and database management and spatial data manipulation and visualization, GIS application programming.

4. ASSIGNED ACTIVITY FOR PAST FIVE YEARS AND CURRENT YEAR

	Assigned Activities						
	2006-07	2005-06	2004-05	2003-04	2002-03	2001-02	2000-01
Teaching	98%	94%	92%	92%	94%	84%	60%
Research	025%	6%	8%	8%	6%	14%	35%
Service	0%	0%	2%	0%	0%	2%	5%
Extension	0%	0%	0%	0%	0%	0%	0%
	+	+	+	+	+	+	+
	100%	100%	100%	100%	100%	100%	100%

5. EDUCATIONAL BACKGROUND

- 1975 (December)- Ph.D. Geography and Economics
Specialties: Urban Economic Geography, Land Economics,
Quantitative Methods, Information Systems,
Department of Geography, The Ohio State University, Columbus, Ohio.
- 1972 (June) - M.A. Economics
Theory, Econometrics, Urban Economics, Public Finance.
Department of Economics, The Ohio State University.
- 1970 (June) - B.A. Business and Economics
College of Business
California State University Los Angeles, California.

Economic Analysis of a
Proposed Walters Road West Project
in
Suisun City, California

Prepared by:

Philip G. King, Ph.D.
Associate Professor of Economics, San Francisco State University

January 23, 2008

I have been asked by Jason Flanders, attorney at law, to examine the Final Environmental Impact Report for the proposed Walters Road West Project in Suisun City and the accompanying economic analysis prepared by Bay Area Economics (Appendix K). This report will hereafter be referred to as "the BAE report." In addition, I made a site visit to Suisun City and Fairfield in January 2008 and took photographs.

The analysis in the EIR/BAE report contains a number of serious omissions and errors. When these omissions and errors are corrected, I must concur with the FEIR prepared for the N. Texas Supercenter in Fairfield (Appendix E, p. 4), that:

"If the Fairfield Supercenter is built and the Suisun City retail Center is built, the market is likely to be oversupplied with retail space for the next ten years leading to conditions conducive to urban decay" (emphasis added).

Although the Suisun retail center originally contained substantial additional retail, besides a Supercenter, it is clear that Suisun City still has plans for this substantial additional retail at other sites, in particular, the Gentry development/Suisun marketplace (See BAE report, p. 32) and the cumulative impact here would be at least as great as that identified in the EIR prepared for the Supercenter in Fairfield. Why were the conclusions of a previous EIR completely ignored? If CEQA is to be meaningful, surely EIRs for adjacent projects should be consistent. The fact that these Supercenters, which are only a few miles away, are in different municipalities should be irrelevant for CEQA. Environmental Impacts do not stop at municipal boundaries.

The discussion below focuses on the most serious omissions and errors.

Material Omission #1: The FEIR provides no analysis of potential urban decay in Fairfield even though its analysis implies substantial sales losses in Fairfield.

The EIR defines the trade area to include only Suisun City despite the fact that (according to their own analysis) a significant portion of sales for the project will come from outside the trade area, in particular (as the FEIR points out) the City of Fairfield. Despite the conclusion of another EIR prepared for a Supercenter in an adjacent City (Fairfield), this EIR has failed to even consider the possibility of urban decay in Fairfield.

The EIR concludes that sales from the proposed (Suisun City Supercenter) project will fill existing leakage for Suisun City. However, it is important to realize that the leakage in retail for Suisun City represents sales elsewhere—what is happening is sales displacement as people in Suisun City stop shopping in Fairfield and other nearby cities and switch to retail projects in Suisun City. In brief, this leakage represents sales from other stores in other cities. It is reasonable to conclude, as the EIR does, that most of this leakage will come from the City of Fairfield. To quote from the EIR:

“...Fairfield is capturing sales from beyond its borders, with much of that capture likely from Suisun City.” (BAE report, pp. ii and iii.)

As a result, Fairfield will lose substantial sales from Suisun City residents as they shift from Fairfield retail to the new retail in Suisun City. Further, as this EIR points out, there are other retail projects planned for Suisun City and CEQA requires that cumulative impacts be evaluated. The EIR only examines the cumulative impacts for Suisun City and ignores Fairfield.

The EIR, in particular the analysis by BAE, does attempt to quantify the leakage that will be filled by the proposed Walters Road project. But it treats this leakage as a black hole that can be ignored, rather than as lost sales to adjacent cities. I concur that “much of the capture” will likely come from the City of Fairfield, as stated in the quote from the EIR above. Suisun City is bounded on the northwest by Fairfield and on the east by Travis AFB. Fairfield has substantially more retail opportunities than Suisun City, as addressed in the EIR. The only other logical destination for residents of Suisun City would be Vacaville, which is another ten miles away. Vacaville has some of the same retail offerings as Fairfield; however Fairfield has Solano Mall with a Macy’s and many other major chain specialty retail stores and a Trader Joe’s, none of which are in Vacaville. Vacaville does have a WinCo and a large outlet mall which would attract some people from Suisun City.

Given these facts, I have assumed that 80% of the leakage from Suisun City goes to Fairfield. Using a somewhat lower percentage, like 66%, would not substantially alter my conclusions, but I believe that the 80% estimate is more accurate given the close proximity of Fairfield to Suisun City.

Table 1 below presents a simple analysis using data from the EIR. This data comes directly from Table 10 of the BAE report, which is part of the EIR (Appendix K, p. 22). I use the EIR’s sales projections, though I think they are low. The only assumption that I have added is that 80% of the “leakage” from Suisun City represents sales lost to the City of Fairfield.

In addition, the EIR assumes that some sales will actually be captured from outside Suisun City (Table 1, column 4), but it assumes this capture will be small. Though I disagree on this point, I have used the EIR’s estimates.

Table 1 presents the analysis. Applying this data, I estimate that just over \$53 million in sales will be lost by the City of Fairfield leading to a loss of 156,832 supportable square feet in Fairfield. Please keep in mind that this is just the impact due to the Walters road project. Table 2 will present cumulative impacts.

Table 1: Lost Sales/Square Footage in City of Fairfield due to Proposed Project

Retail Category	Estimated Sales in Proposed Project	\$ Captured from from Leakage	Capture from Outside Trade Area	Total Loss Outside Market Area	Loss in Sales to Fairfield (@ 80%)	Potential Square Footage Loss
Apparel	\$ 1,659,049	\$ 1,659,049		\$ 1,659,049	\$ 1,327,239	3,707
General Merchandise	\$ 43,887,747	\$ 35,583,881	\$ 6,583,162	\$ 42,167,043	\$ 33,733,634	112,445
Food	\$ 22,685,000	\$ 15,145,706		\$ 15,145,706	\$ 12,116,565	24,233
Eating and Drinking	\$ 3,600,000	\$ 3,182,177	\$ 360,000	\$ 3,542,177	\$ 2,833,742	5,867
Building Material	\$ 973,591	\$ 755,783		\$ 755,783	\$ 604,626	1,209
Service Stations	\$ 410,000	\$ -		\$ -	\$ -	-
Other Retail	\$ 3,588,530	\$ 3,588,530		\$ 3,588,530	\$ 2,870,824	9,569
Total	\$ 76,803,917	\$ 59,915,126	\$ 6,943,162	\$ 66,858,288	\$ 53,486,630	156,832

In addition to the proposed project, the EIR discusses other projects proposed for Suisun City, most notably the Suisun Marketplace. The EIR (BAE report Table 14, p. 34) estimates that the Suisun Marketplace will be 490,000 square feet and generate just over \$81 million in sales, a huge amount for a small City like Suisun City. Similarly, the EIR estimates that the "other projects" will be 96,423 square feet and generate \$24.5 million in sales, also substantial. Just as in its analysis of the Walter's Road project, the EIR ignores all sales outside Suisun City. This is particularly ironic, since the EIR declares that the Suisun Marketplace will be a "regional" center and thus draw from outside Suisun City.

Table 2: Lost Sales/Square Footage in City of Fairfield due to Cumulative Projects in Suisun City

Project	Estimated Sales in Proposed Project	\$ Captured from from Leakage	Capture from Outside Trade Area	Total Loss outside Market Area	Loss in Sales to Fairfield (@ 80%)	Potential Square Footage Loss
Walters Road	\$ 76,803,917	\$ 59,915,126		\$ 59,915,126	\$ 47,932,101	139,418
Suisun Marketplace	\$ 175,371,000	\$ 59,667,000	\$ 113,991,000	\$ 173,658,000	\$ 138,926,400	388,063
Other Projects	\$ 34,510,000	\$ 9,547,000	\$ 20,706,000	\$ 30,253,000	\$ 24,202,400	67,604
Total	\$ 286,684,917	\$129,129,126	\$ 134,697,000	\$ 263,826,126	\$ 211,060,901	595,085

Table 2 presents the same data as Table 1, but for the Suisun Marketplace and "other projects. AS in table 1, all of the data comes from the EIR (BAE report, Table 14, p. 34). I have only added the assumption that 80% of sales will come from Fairfield.

The critical data is the last (bold) row in table 2. The impacts on the City of Fairfield are significant. The cumulative impact of all three of these projects will represents a loss of just over \$211 million in sales to the City of Fairfield, representing almost 600,000 square feet of retail displacement. When one considers that Fairfield will also have a large (over 200,000 square foot) Supercenter, one must conclude that **this is a significant impact which was completely ignored by this EIR, despite warnings from a previously prepared EIR.**

Specific Impacts in Fairfield

Fairfield has two Food Maxx stores, one on N. Texas, very close to the proposed Supercenter in Fairfield, and one on W. Texas. The EIR contains a letter from the City of Fairfield asserting that the two Food Maxx stores will not close as a result of two Supercenter openings. The EIR relies on this memo as evidence. The EIR also asserts (with no substantiation) that since the Fairfield Supercenter EIR concluded that the two Food Maxx stores would stay open, a store farther away in Suisun City would not lead to a Food Maxx store closing.¹ This assertion is also inconsistent with the Fairfield EIR's conclusion that building two Supercenters would indeed create a significant potential for urban decay (see quote at beginning of this memo).

I have attached a letter from Steve Gaines, an executive at Food Maxx which provides specific data and states, with specific evidence, that one Food Maxx will close as a result of the two Supercenter openings.

One critical point here is that the Food Maxx data, which is based on checks written in the stores, reveals that both Fairfield Food Maxx stores get 20% of their customers from Suisun City. Mr. Gaines assumes, conservatively, that half of these Suisun City customers (10% out of 20%) would go to the new Suisun City Supercenter, which would be closer for Suisun City residents. The Food Maxx stores compete directly in terms of products and pricing with a Supercenter, so location is critical, since most people will shop at the closest supermarket which offers products and amenities they choose.

The Food Maxx letter indicates that the W. Texas store will close after accounting for a loss due to the cumulative impact of both Supercenters. (Mr. Gaines assumes 20% at the N. Texas store close to the proposed Fairfield Supercenter and 10% at the other store).

I believe it is important to note that this letter contains specific data (and thus evidence) of the Food Maxx stores' sales and customer base, none of which is contained in the EIR or including the memo from the City of Fairfield. Mr. Gaines is also distressed that the City of Fairfield made an assertion about the two Food Maxx stores without consulting Food Maxx itself and without the benefit of any data that could support its assertion.

With no evidence to support their conclusion, the statement that no Food Maxx store will close as a result of the Suisun City opening is simple an unsubstantiated claim. Mr. Gaines statement indicates that in fact the cumulative impact of both Supercenters will lead to one Food Maxx closing. His job entitles knowing which stores are profitable and which are not, something that staff from the City of Fairfield are not expert in.

The Fairfield K-Mart competes directly with Wal-Mart and it is clear that the cumulative impacts of the two Supercenter would put the Kmart discount store, and eventually the entire shopping center, out of business. Although I do not have specific data on K-Mart sales, it is also reasonable to assume that a substantial portion of their sales comes from Suisun City residents—this assumption is also consistent with the data presented in the Suisun City EIR. The Kmart center has 180,595 sq. ft. of retail space and the planned closing of the existing Wal-Mart discount store will lead to another vacancy of 125,000 sq. ft. The K-Mart center is in very poor shape and appears to be experiencing very poor

¹ For the record, I should note that I do not agree with the Fairfield EIR's conclusion that the Fairfield Supercenter would not close down the Food Maxx on N. Texas, but that is not at issue here.

sales. Adding in a large supermarket would increase the total to just over 350,000 square feet, as shown in Table 3. Please note that we are examining cumulative impacts. We believe this is relevant not only because this type of analysis is mandated by CEQA, but because some stores might be able to survive one superstore opening, but not two.

Table 3: Cumulative Impacts of Two Superstores on Fairfield

Center/Store	Square Feet
K-Mart Center	180,595
Existing Wal-Mart (Chadborne)	125,000
Food Maxx (W. Texas)	50,000
Total	355,595

My analysis indicates that other stores will be at risk, since the stores above only total 355,595 square feet. It is likely that other stores will suffer, though it is hard to predict precise impacts. The Sears Roebuck near the Solana shopping center is also a strong candidate for closing, as well as another Food Maxx store on N. Texas and several other smaller stores catering to general merchandise, such as one of the Long's stores in Fairfield.

In addition, the City of Fairfield also has a large number of "For Lease" signs in the area near the existing Wal-Mart (on Chadbourne Road), which is largely devoted to commercial office/retail space. Some of these signs also indicate that a substantial amount of commercial space will be available soon. The existing Discount Store is an older property with few windows and not designed for anything besides a big box store. It will be extremely difficult to retenant this store given the surplus of retail space in Fairfield as a result of this project and other cumulative impacts.

In sum, the proposed project would significantly exacerbate potential urban decay in Fairfield, which has not been considered in this EIR. Several thousand square feet of stores would close and it would be difficult to retenant these spaces give all the new retail being built in both Fairfield and Suisun City. The EIR for this project has completely omitted any serious discussion of this possibility. Even if the proposed Supercenter would draw primarily from residents of Suisun City, as the Bakersfield decision pointed out, one must consider the impact on stores which currently draw customers in Suisun City. This EIR points out that the proposed project would fill in a substantial amount of "leakage" in Suisun City—that is, sales that now occur outside the City, but they do not consider the impact of the subsequent loss in sales to retailers outside of the trade area.

Material Omission #2: The EIR omits the fact that the proposed Supercenter will seriously impede efforts to retenant the former Albertson's store in the Sunset shopping center, which is struggling.

The analysis of grocery and food stores in the EIR mentions that the Albertson's in the Sunset shopping center closed in June 2006, but their analysis of the grocery market

completely ignores that fact that the opening of the proposed project will make it difficult, if not impossible, to retenant this space. The former Albertson's, at 29, 072 square feet (according to the EIR) is quite large and served as a co-anchor to the Sunset shopping center along with the Rite Aid. The Albertson's store has now been closed for 18 months.

While the EIR's discusses the Albertson's closure, the analysis of urban decay provided essentially ignores the closure and even uses it to argue that increased sales at the Raley's resulting from the closure of the Supercenter work to Suisun City's advantage. However, the proposed Walters road project will make it far more difficult to retenant the former Albertson's. A Supercenter in Suisun City would preempt any possibility of another supermarket coming in where the Albertson's was and thus prevent the originally planned and most desirable anchor store for the Sunset center—a grocery store. Further, since a Supercenter would also compete in the general merchandise category, it would be far more difficult for a (second best) general merchandise store such as a dollar store to retenant such a space.

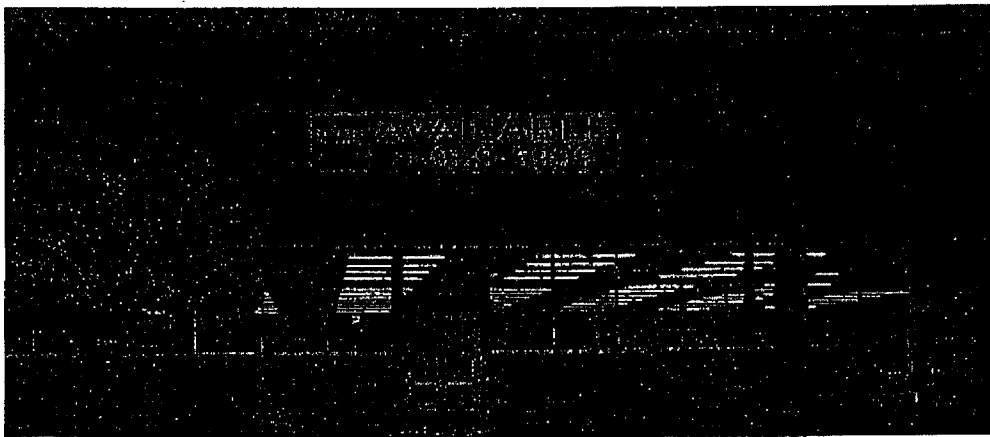


Figure 6: The sunset shopping center contains a closed Albertson's grocery store and a number of other marginal stores including co-anchor Rite Aid.

The Rite Aid Store in the Sunset Center

According to the EIR:

“Estimated taxable sales for general merchandise stores (effectively the only store is the Rite-Aid in the Sunset center) are \$1.2 million (BAE report, p.15).”

The EIR estimate works out to \$67 per square foot in taxable (non-drug/non-food) sales (\$1.2 million in sales divided by 18,000 square feet). The EIR claims that since much of the Rite Aid stores sales are non-taxable (drug and food sales are generally not subject to sales tax) one cannot determine sales at Rite Aid. However, one can easily use data from the EIR to determine the health of the store in terms of taxable sales and use this as a benchmark. Indeed the EIR uses precisely this method for grocery sales, yet ignores it for drug store sales. Why?

Instead, the EIR assumes that the Rite Aid is healthy and selling at the national average, despite strong evidence to the contrary. However, following the EIR's methodology for grocery sales, one can use taxable sales as an indication of non-taxable sales. For comparison, one needs national average sales per square feet for taxable sales at drug stores like Rite Aid. In 2007, according to the HDL companies, a nationally recognized consulting firm specializing in sales tax issues, the average sales per square foot for non-drug items at a Rite Aid or similar store was between \$125 and \$215 \$/square foot.² I have used the average \$170 per square foot.

Table 4: Suisun Rite Aid Non-Drug Sales as Percentage of National Average.

Item	Non-Drug Sales/sq. ft.
Suisun Rite Aid	\$ 67
Avg. Taxable Sales in U.S. (2006)	\$ 170
Suisun Non-Drug Sales as % of National Avg.	39%
BAE Estimated loss in Rite Aid non-drug sales	16%
Suisun Rite Aid after Proposed Project	\$ 56
Non-Drug Sales as % of National Avg. after Proposed Project	33%

As indicated above, taxable sales at the Suisun City Rite Aid are (using the EIR's data) \$67 per square foot, compared to approximately \$170 per square feet nationally. Obviously, the Rite Aid is doing poorly.

The calculations are presented in Table 4 above-- the Rite Aid store in Suisun City generates only 39% of the national average sales per square feet for taxable sales at drug stores like Rite Aid. This is a very low percentage and it is important to note since the EIR assumes that the Rite Aid overall is performing at the national average when their own data clearly indicates that the Rite Aid is doing very poorly. Further, the EIR assumes that a brand new Wal-Mart Supercenter in this proposed project would perform below the national average, yet it assumes that an older Rite Aid in an older shopping center with a closed anchor store (Albertson's) is performing at the national average, despite data to the contrary. This is inconsistent and makes no sense.

² See <http://www.hdlcompanies.com/download/index.cfm?fuseaction=download&cid=605> comparison for Long's, Rite Aid, Walgreen's and CVS.

Even if Rite Aid's drug sales are healthy, and there is no evidence provided for this conclusion and substantial evidence to the contrary, Rite Aid's overall sales are clearly poor. Further, the EIR's estimates are from 2005, before the Albertson's closed. It is likely that sales deteriorated further after the Albertson's closed since grocery stores generate traffic for the rest of the shopping centers they anchor. The EIR speculates that since sales at the Albertson's were poor anyway, the impact on the Rite Aid is insignificant. However, there must have been some negative impact from an anchor grocery store closing—the EIR ignores this simple fact.

The EIR estimates that the proposed project would reduce sales at the Rite Aid by 16%. In my opinion, this estimate is far too low, given that the new store will be far more modern and much larger and given that the Rite Aid is the only competition in Suisun City. Nevertheless, I have used the EIR's estimate of a 16% drop in sales post-Supercenter. This reduction implies non-drug sales of \$56 per square foot, 33% of the national average for non-taxable sales.

As a result, it is clear that the Rite Aid will almost certainly close as a result of the proposed project. Even projecting out to 2015, as the EIR does, the EIR estimates that the Rite Aid's sales will still be 9% below current sales. The combination of both anchor stores closing would be devastating to the Sunset shopping center and urban decay would set in.

Material Error/Omission #3: The EIR incorrectly accounts for the impact of the Travis Commissary and completely omits the impact of the Base Exchanges, which represent much larger sales in the general merchandise and other categories.

The EIR claims that urban decay is not an issue since the impact of a Supercenter would not close down a commissary. However, this is not the issue. The existence of Travis Commissary, various Base Exchanges, NCO and Officers clubs and automotive service stations all provide retail/restaurant services to active duty, reserve and retired military and their families.

According to the EIR, 18.2% of residents of Suisun City are retired military with base privileges. In other words, nearly one out of five residents of Suisun City has commissary privileges. The EIR provides no estimates of active duty or reserve military families in Suisun City, but given its close proximity to Travis AFB—Suisun City is the closest community to Travis and thus a desirable place for officers and NCO's who fail to get housing on base—it is likely that this 18.2% figure seriously underestimates the percentage of residents in Suisun City with base privileges. According to the US Department of Defense, nationally, 56% of active duty military live off base.³

Table 5: Potential Loss in Sales due to Commissary and Base Exchanges

³ See <http://www.defenselink.mil/news/newsarticle.aspx?id=45181>.

Suisun City Potential Food Sales (BAE report Table 7, p.17)	\$	54,642,595
% Retired Military in Suisun City (from EIR)		18.20%
Potential Commissary Sales	\$	9,944,952
Estimate assuming 50% of Potential is On Base	\$	4,972,476
Estimated Potential Impact on non-Food Sales	\$	17,900,914
Total Potential Food and Non-Food sales	\$	27,845,866
Estimate assuming 50% of Potential is On Base	\$	13,922,933
Potential Loss in retail Square Feet assuming 50% of potential sales		56,355

Table 5 applies this 18.2% figure to the EIR's estimate of total potential food sales. The EIR estimates that in 2005, residents in Suisun City demanded \$54.6 million in food sales. Since 18.2% of these people could shop at Travis commissary, the potential reduction in demand is just under \$10 million.

I have also assumed that only 50% of these potential food sales will be at the commissary—in other words, only half of all potential sales will take place at the commissary. No specific data was available, however this assumption is consistent with my experience as a military dependent who spent 18 years living on and off Air Force bases and who has parents who are retired Air Force. Indeed I believe 50% is a conservative estimate since most retired military do their primary grocery shopping at a commissary if one is nearby, and Travis is clearly near Suisun City. The Congressional Budget Office estimates that Commissary prices are 20% below comparable goods prices off base.⁴ Commissary and Base Exchange sales are also not subject to sales tax (as non-food items are in California). Indeed, many military people retire near a base precisely to take advantage of these and other services.

Assuming that 50% of potential sales will go to the Travis commissary implies a loss in potential food sales generated by Suisun City residents of just under \$5 million. Another way of looking at this estimate-- 10% of Travis commissary sales are due to retired military in Suisun City, which seems very reasonable since nationally about half of all commissary sales are due to retired military.

Travis and other bases also provide general merchandise, automotive, apparel and other items through their base exchanges. Nationally, these exchanges sell \$9 billion, versus \$5 billion for all commissaries, so the impact on other retail will be substantially greater. I have assumed that Travis commissary and base exchange sales follow the national average—so that Travis' Base Exchanges sell 9/5 (1.8 times) the commissary. Applying this ratio, I estimate that just under \$14 million in other retail sales are generated by the Travis Commissary and Base Exchange sales.

As Table 5 indicates, the loss in sales implies, using the EIR's methodology, a reduction in demand for square feet of retails of 56,000 square feet, which is significant in a small city like Suisun City, especially when it is compounded with other omissions in the EIR.

⁴ See <http://www.cbo.gov/ftpdoc.cfm?index=355&type=0>.

In sum, the EIR's failure to properly account for Travis commissary and base exchanges leads to an overoptimistic forecast. The EIR relies on growth in Suisun City and Fairfield to resolve some of the problems, but properly accounting for the commissary and base exchanges effectively negates almost ten years of growth.

Urban Decay

All of these omissions significantly increase the probability of urban decay. This pattern has been observed in many other cities. Kenneth E. Stone⁵ studied superstore development in a large sample of Iowa cities and found that the location of a superstore can have delayed impacts on the viability of commerce in the surrounding area (a loss of 7,326 businesses in small Iowa towns between 1983 and 1993).

David Rogers conducted a similar study in Oklahoma City in 2004⁶ and documented over a dozen store closings in Oklahoma City after several Wal-Mart Supercenters were built. Like Clovis/Fresno, Oklahoma is a medium sized city with a multi-ethnic population and a wide range of income groups. His analysis corroborates the studies conducted by Dr. Stone and Dr. Shils.

Numerous other studies of the impacts of retail superstore development have been conducted. The Shils Report (Edward B. Shils, *Measuring the Economic and Sociological Impact of the Mega-Retail Discount Chains on Small Enterprise in Urban, Suburban and Rural Communities*, The Wharton School, University of Pennsylvania, 1997) cites predatory pricing and overall economic decline among the possible impacts. Kenneth E. Stone studied superstore development in a large sample of Iowa cities and found that the location of a superstore can have delayed impacts on the viability of commerce in the surrounding area (a loss of 7,326 businesses in small Iowa towns between 1983 and 1993).

Urban decay in urban areas can include several possible adverse impacts on the quality of life in the local community. This includes visible symptoms of physical deterioration, capital stock and buildings in impaired condition, and involves aspects of "broken window" theory—that run-down, abandoned buildings signal lack of public policy concern and invite vandalism, loitering, graffiti, high crime rates, and arson for profit. They signal hopelessness for nearby residents who may lose faith in local government. Such sites also pose significant policing problems and fire protection issues. They could become sites for dangerous rodent infestation and avoidable public health issues. The outward manifestations and visual evidence of urban environmental urban decay and physical deterioration, but are not limited to, such markers as:

- Plywood boarded doors and windows;
- Parked trucks and long term unauthorized use of property and parking lot;
- Extensive gang graffiti and offensive words painted on the buildings;

⁵ See Kenneth Stone, "The Effect of Wal-Mart stores on business and host towns and surrounding towns in Iowa," Iowa State University, 1988, available at: <http://www.econ.iastate.edu/faculty/stone/>.

⁶ See Wal-Mart's Impacts on the American Supermarket Industry, Dr. David Rogers, February 10, 2004.

- Dumping of refuse on site;
- Overturned dumpsters;
- Broken parking barriers;
- Broken glass, litter of liquor or beer bottles;
- Dead trees and shrubbery together with weeds;
- Unsightly and permanent "For Lease" signs;
- Homeless encampments on the property or doorways; and
- Lack of building maintenance, paint peeling, or property encased in an unsightly chain-link fence.
- Closed Stores.

Other Issues

- The EIR claims that the proposed Supercenter will have sales below the national average. They provide absolutely no evidence for this assertion, other than the fact that they have artificially reduced the trade area. This assertion is crucial for their conclusions. If sales are expected to be lower, why not build a smaller Supercenter? Supercenters vary in size from 98,000 to 261,000 square feet.⁷ If sales are expected to be lower, economic theory would suggest that Wal-Mart build a smaller Supercenter—but that is not what is planned here. The first Supercenter built in Northern California, in Stockton, earns much higher revenues than the average. There is simply no evidence to support the EIR's contention that this store will earn lower profits. It is also ironic, as pointed out earlier, that the same consultants assume that the Rite Aid store will have (national) average sales, when the Rite Aid store is older and in a run down shopping center, yet they claim below average sales for a new Supercenter. ✓
- Bay Area Economics (BAE), who prepared the economic analysis for this EIR assume that the grocery portion of the Supercenter will be approximately 45,000 square feet, yet BAE assume that the grocery section in a similarly sized Supercenter in Tracy will be 55,000 square feet. Although the Tracy Supercenter is approximately 5% larger, BAE assume that the Tracy grocery section will be 20% larger—these Supercenters tend to be quite similar in layout—what is the reason for this discrepancy?
- The housing market in the Fairfield/Suisun area has slowed substantially in the past year. The inventory of housing nationwide is at all time highs. California has been hit harder than many parts of the nation and the central valley has been particularly hard hit. Stockton had the highest foreclosure rate in the country earlier this year. Did the EIR take the housing slowdown into account? These population projections are critical in their analysis. Did they

⁷ See <http://en.wikipedia.org/wiki/Wal-Mart>.

account for the slowdown in the market, which many forecast will last for years?

Conclusion

The EIR's urban decay analysis contains a number of serious omissions and errors. Each of these significantly reduces its estimates of store closings and subsequent urban decay. Indeed, the analysis goes out of its way to make a case that the proposed project will have no impacts, when the data presented in the EIR tells another story.

First, the EIR limits its analysis of urban decay to Suisun City, despite the fact that it is abundantly clear from the data presented in the EIR that Suisun City residents shop outside of Suisun City—indeed that is the central thrust of the EIR's leakage analysis. This is especially true in the key category of general merchandise, where Wal-Mart competes. Further, since the EIR's data was collected before the Albertson's closed, it is also likely that grocery sales in Suisun City are less robust than estimated.

It is very clear from the EIR's own analysis that sales displaced by the proposed project as well as other planned retail in Suisun City will not just come from stores in Suisun City, but from stores outside the trade area, in particular, Fairfield. While it may make sense for Suisun City to provide retail for its residents, CEQA requires an accurate analysis of environmental impacts so that people can plan properly and mitigate where possible. The decision by those who prepared this EIR to completely ignore urban decay in Fairfield is inconsistent with the Bakersfield decision and renders this EIR incomplete and inaccurate. I have presented substantial evidence that urban decay will indeed be a significant problem in Fairfield as a result of the cumulative effects of two Supercenters opening within very close proximity as well as additional planned retail in Suisun City totally over 580,000 square feet, according to the EIR.

The Texas Street corridor in Fairfield is already depressed and adding two Supercenters plus 580,000 in additional retail nearby will clearly have a negative impact. Indeed, the EIR for the Texas Street Supercenter concluded that:

“If the Fairfield Supercenter is built and the Suisun City retail Center is built, the market is likely to be oversupplied with retail space for the next ten years leading to conditions conducive to urban decay” (emphasis added) (Appendix E, p. 4).⁸”

How could this EIR completely ignore this possibility when a previously released EIR for the N. Texas St. Supercenter concluded there would be a serious issue?

Correcting for these omissions and errors it is clear that the cumulative impact on Fairfield will cause substantial urban decay including likely closure of a number of stores on north and West Texas St, such as the K-Mart center and the Food Maxx. In addition, the existing Wal-Mart in Fairfield is slated for closure. It will be difficult to retenant any

⁸ The original Supercenter project in Suisun City contained more retail than the current proposed Walter's road project, but much of that retail has been moved to the Suisun marketplace project—the combined impact is similar.

of these stores, with so much additional retail space planned. Rents will fall, leading to a deterioration in upkeep, further store closures and eventual urban decay.

Also please see the attached letter from Steve Gaines of Food Maxx stating that one Food Maxx store in Fairfield will close as a result of the cumulative impact of two Supercenters.

The EIR also significantly underestimates the impact of the proposed project on Suisun City. The EIR goes out of its way to present the best possible case for new retail, but a number of assumptions in the EIR contradict or overlook the data presented. This is particularly apparent at the Sunset shopping center where an Albertson's has already closed and has now been closed for 18 months. The EIR presents data from 2005, before the Albertson's was closed, and then assumes that the Albertson's closing had no impact on the rest of the center. Further, their own data on taxable sales at the co-anchor Rite Aid (the only data that exists) indicates that the Rite Aid is selling far below national averages for non-taxable sales at drug stores. Thus, the EIR ignores its own data and instead assumes that the Rite Aid store in a marginal shopping center with a closed Albertson's anchor store will sell at the national average while simultaneously assuming that a brand new Wal-Mart will sell below the national average. This conclusion defies common sense as well as any reasonable economic theory.

When one corrects for these errors and omissions, it is clear that the Sunset shopping center is in extreme danger of urban decay. Indeed, I forecast that the Rite Aid will close if the proposed project is built, leading to a decline in the Sunset center, increasing vacancies and eventual urban decay.

The analysis in the EIR also fails to properly assess the impact of the commissary at Travis and completely omits any discussion of the base exchanges there, which typically have almost twice as many retail sales as the commissary. The EIR concludes that urban decay is not an issue since the commissary will not close and if it does the military will correct the issue. This is irrelevant. What is relevant is that the commissary and base exchanges draw retail spending *away* from Suisun City and thus reduce potential demand for existing and proposed retail—this should have been accounted for in the EIR.

Since, according to the EIR, 18.2% of Suisun City's residents are retired military and a further undisclosed percentage are active duty or reserve military, the impact of the commissary and base exchanges will be very significant. I have used the EIR's 18.2% estimate though it leaves out active duty and reserve military and assumed that 50% of grocery spending by retired military will be at the commissary, although my own experience growing up in the military with retired military parents indicates that this 50% figure is low.

Properly accounting for the impact of the commissary and base exchanges leads to a further diminution of demand for retail space of 56,000 feet, a substantial amount in a small city like Suisun City. Thus, the EIR's failure to properly account for the commissary and base exchanges also leads to inaccurate conclusions about the possibility of urban decay.

When these omissions and errors are corrected, it is my professional opinion that the EIR prepared for the N. Texas St. Supercenter was correct—that there is indeed a significant probability of urban decay due to the cumulative impacts of these two Supercenters. Correcting these errors leads to a conclusion that several hundred thousand square feet of retail in Fairfield and in Suisun City are at extreme risk due to over-retailing.

Add to that the soon to be closed (125,000 square foot) Wal-Mart on Chadbourne lane in Fairfield, where a number of other vacancies also exist, and one has a recipe for urban decay in both Suisun City and Fairfield that has not been properly analyzed in the EIR, but rather has simple been swept under the rug.

Experts can and do disagree, but CEQA requires a complete and adequate analysis based on substantial evidence and sound economic principles. I have not attempted to provide another analysis, but have focused on errors, omissions, and inconsistencies in the report, which result in a flawed conclusion that does not meet the requirements of CEQA. There are a number of other problems with this EIR, in my opinion, but I have focused on the most serious omissions and errors.



SAVE MART SUPERMARKETS
 P.O. Box 4278, Modesto, Ca 95352-4278
 Steve Gaines, Sr. Director of Retail Efficiencies
 209-574-6244



January 23, 2008

Dr. Philip King
 2513 Caravaggio Drive
 Davis, CA 95616

Dear Professor King,

Thank you for contacting our office concerning the probable impact on our two Fairfield Food Maxx stores following the opening of Wal-Mart Supercenters in Fairfield and Suisun. You indicated that the City of Fairfield sent the City of Suisun a letter claiming that the two Food Maxx stores in Fairfield would not close as a result of the two Supercenters opening. I strongly disagree, and believe Food Maxx should have been contacted since they are much more familiar with customer shopping patterns and probable store level impacts.

For example, our customer spotting surveys show that both Food Maxx Fairfield stores pull about 20% of their customers from Suisun with most of the remaining customers living in Fairfield. Using this data in conjunction with the proximity of the Supercenters to the two Food Maxx stores, we can predict with considerable precision the probable sales impacts these Supercenters will have on our Food Maxx stores. This information is shown in the table below. Also included in the table are the existing sales per square foot for each of the Food Maxx stores and the estimated sales per square foot following the opening of these Supercenters.

IMPACT ANALYSIS

	Food Maxx #415 N. Texas/Acacia	Food Maxx #467 W. Texas/Beck
Existing Sales Per sq.ft.	\$575	\$452
IMPACTS		
Fairfield Supercenter	20%	10%
Adjusted Sales per sq.ft.	\$460	\$406
Suisun Supercenter	10%	10%
Adjusted Sales per sq.ft.	\$414	\$364

Sales per square foot is an excellent indicator of a store's profitability. With 45 operating Food Max stores, we have determined that a Food Maxx store, with gross profit margins that are much lower than conventional stores such as Safeway and Raley's, needs to operate at sales of at least \$400 per square foot. As indicated above, the opening of the Suisun Supercenter will pull sales at Store #467 (W. Texas and Beck) down to \$365 per square foot. This will result in the need to close this store.

Please let me know if you have further questions.

Sincerely,

Save Mart Supermarkets

Steve Gaines
 Sr. Director Retail Efficiencies

Attachment "D"

Suisun Wal-Mart First Year Annual Sales Tax Projections – Sales Requirements

Tot. Sales Tax	Tot. Annual Sales	Tot. Taxable Sales	Tot. Shoppers	Shoppers/Day	Tot. Veh. Trips/Day	Tot. Purchases Per Household
\$367,500	\$73,500,000*	\$49,000,000	1,225,000	3,356	6,712	\$ 7,737
\$800,000	\$160,000,000**	\$106,667,000	2,666,667	7,306	14,612	\$16,842
\$960,000	\$192,000,000**	\$128,000,000	3,200,000	8,767	17,534	\$20,210

Notes:

- Local sales tax based on .75 percent of Taxable Retail Store Sales
- Avg. Wal-Mart Supercenter Shopper Purchase Per Trip \$60 [A.C. Nielsen, "Channel Blurring and Consumer Trends, AC Nielsen Homescan & Spectra, 4/06]
- Avg. Taxable Supercenter purchases are 66 percent of Total purchases (33% are non-taxable)
- Total Shoppers based on total store sales estimate (\$60/Shopper)
- Total Daily Shoppers based on 365-day sales operation
- Total Vehicle Trips Per Day based on arrival and departure of Total Daily Shoppers
- Total Purchases Per Household In Suisun to achieve projected Total Annual Sales Tax (Est. 9,500 Suisun Households)
- Estimated Population of Suisun 28,690 (Avg. Household size 3.02 persons)
- According to the Suisun Wal-Mart Environmental Impact Report, the majority of shoppers will come from Suisun and Rio Vista with little expectation of shoppers from adjacent City of Fairfield or Travis AFB

* Total annual sales estimated provided in Suisun Wal-Mart Draft Environmental Impact Report 10/2007

** Sales Tax Projection [...the proposed project is expected to generate approximately \$800,000 in sales tax the first full year of operations which increases to \$1.6 million after 20 years.... Overall, the net fiscal impact to the General Fund from this project is a positive of roughly \$965,000 per year. This after costs to serve the project are deducted from gross revenues generated." Source: City of Suisun Planning Commission Agenda, Page 5, - 1/29/08]

*** Sales Tax Projection by Scott Corey, Suisun Public Information Officer [Source: "City of Suisun Planners to Hold Hearing On Wal-Mart," By Carol Bogart, Fairfield Daily Republic, 01/26/08]

Exhibit "C"

Subj: **Fwd: Wal-Mart Property Creek excavated**
Date: 10/7/2008 8:19:01 P.M. Pacific Daylight Time
From: archerone@comcast.net
To: pgtucker@aol.com

Begin forwarded message:

From: Anthony Moscarelli <archerone@comcast.net>
Date: September 10, 2008 5:43:18 PM PDT
To: juchman@waterboards.ca.gov
Subject: Wal-Mart Property Creek excavated

Dear Ms. Uchman,

I am Anthony Moscarelli of the Save Our Suisun Citizens group. I am sending you pictures taken today of the Wal-Mart property in Suisun City . The Creek through it was being cleared of all vegetation. I thought they did not have a permit to alter the creek until after the permit process.

Anthony Moscarelli





Lintvedt, Inga

From: Elizabeth Anderson [EAnderson@sheppardmullin.com]
Sent: Friday, May 16, 2008 2:09 PM
To: Heather McCollister
Subject: RE: MOW please!!!!

Thanks!

Elizabeth S. Anderson
Associate
Sheppard Mullin Richter & Hampton, LLP
Four Embarcadero Center
17th Floor
San Francisco, CA 94111
Main Phone: 415-434-9100
Direct Phone: 415-774-2948
Direct Fax: 415-403-6088

Elizabeth S. Anderson
Attorney
Four Embarcadero Center
17th Floor
San Francisco, CA 94111-4109
EAnderson@sheppardmullin.com
Direct: 415.774.2948
Fax: 415.403.6088

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Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

From: Heather McCollister [<mailto:hmcollister@suisun.com>]
Sent: Friday, May 16, 2008 2:06 PM
To: Elizabeth Anderson
Subject: RE: MOW please!!!!

I do know it's the Wal-Mart site but not sure if it is the 3 acre site.
I'll check Monday when I'm back at the office.

Thanks for mowing.

Heather McCollister
Community Development Director
Suisun City
(707) 421-7396 Office
(707) 287-5999 Mobile

8/27/2008

-----Original Message-----

From: "Elizabeth Anderson" <EAnderson@sheppardmullin.com>
Subj: RE: MOW please!!!!
Date: Fri May 16, 2008 1:52 pm
Size: 2K
To: "Heather McCollister" <hmccollister@suisun.com>

Hi Heather,

Just wondering if you figured out whether the notice from the Fire Chief is for the WM property or the the 3-acre remainder? We have decided to mow the entire site, other than the ditch, so that should get started soon. Thanks!

Liz

Elizabeth S. Anderson
Associate
Sheppard Mullin Richter & Hampton, LLP
Four Embarcadero Center
17th Floor
San Francisco, CA 94111
Main Phone: 415-434-9100
Direct Phone: 415-774-2948
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8/27/2008

RE: MOW please!!!!

Page 3 of 3

From: Elizabeth Anderson
Sent: Tuesday, May 13, 2008 12:28 PM
To: 'Heather McCollister'
Subject: RE: MOW please!!!!

We will, very soon.

Also, Katy Schardt received a Notice and Order to Abate the weeds. It references the property at Walters Road and SR 12. Is that the WM property, the 3-acre site owned by McNellis, or both?

Thanks!

Elizabeth S. Anderson
Associate
Sheppard Mullin Richter & Hampton, LLP
Four Embarcadero Center
17th Floor
San Francisco, CA 94111
Main Phone: 415-434-9100
Direct Phone: 415-774-2948
Direct Fax: 415-403-6088

8/27/2008

Lintvedt, Inga


From: Elizabeth Anderson [EAnderson@sheppardmullin.com]
Sent: Friday, May 16, 2008 1:53 PM
To: Heather McCollister
Subject: RE: MOW please!!!!
Attachments: Notice to Abate Weeds Suisun.pdf

Hi Heather,

Just wondering if you figured out whether the notice from the Fire Chief is for the WM property or the the 3-acre remainder? We have decided to mow the entire site, other than the ditch, so that should get started soon. Thanks!

Liz

Elizabeth S. Anderson
Associate
Sheppard Mullin Richter & Hampton, LLP
Four Embarcadero Center
17th Floor
San Francisco, CA 94111
Main Phone: 415-434-9100
Direct Phone: 415-774-2948
Direct Fax: 415-403-6088

 <p>SHEPPARD MULLIN ATTORNEYS AT LAW</p>	<p>Four Embarcadero Center 17th Floor San Francisco, CA 94111-4109 415.434.9100 office 415.434.3947 fax www.sheppardmullin.com</p>
<p>Elizabeth S. Anderson Attorney 415.774.2948 direct 415.403.6088 direct fax EAnderson@sheppardmullin.com <i>Bio</i></p>	

Circular 230 Notice: In accordance with Treasury Regulations we notify you that any tax advice given herein (or in any attachments) is not intended or written to be used, and cannot be used by any taxpayer, for the purpose of (i) avoiding tax penalties or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein (or in any attachments).

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8/27/2008

attachments:

From: Elizabeth Anderson
Sent: Tuesday, May 13, 2008 12:28 PM
To: 'Heather McCollister'
Subject: RE: MOW please!!!!

We will, very soon.

Also, Katy Schardt received a Notice and Order to Abate the weeds. It references the property at Walters Road and SR 12. Is that the WM property, the 3-acre site owned by McNellis, or both?

Thanks!

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Four Embarcadero Center
17th Floor
San Francisco, CA 94111
Main Phone: 415-434-9100
Direct Phone: 415-774-2948
Direct Fax: 415-403-6088

From: Heather McCollister [mailto:hmccollister@suisun.com]
Sent: Tuesday, May 13, 2008 12:25 PM
To: Elizabeth Anderson
Subject: MOW please!!!!

Thanks for your voicemail.
I'm really getting flack...

Hold tight for the ditch deal.

Thanks

Heather McCollister
Community Development Director, Suisun City
707-421-7396 (Telephone)
707-429-3758 (fax)

City website: www.suisun.com

8/27/2008



Suisun City Fire Department

621 Pintail Drive
Suisun City, CA 94585

NOTICE AND ORDER TO ABATE

Notice is hereby given that the following public nuisance, as defined in Suisun City Ordinance 8:12 exists on your property located at: 1101 1/2 W. Suisun Hwy (Watkins Rd) In the City of Suisun City, County of Solano, State of California

YOU ARE HEREBY NOTIFIED TO ABATE FROM YOUR PROPERTY THE FOLLOWING PUBLIC NUISANCE, WHICH CONSTITUTES A FIRE HAZARD.

WEEDS AND TALL GRASS

Location: Front Yard Front Side Yard(s) Back Yard Vacant Lot(s)

*****IMPORTANT*****IMPORTANT*****IMPORTANT*****

IF ABOVE NUISANCE IS NOT ABATED BY 5/24/18 A DESIGNATED OFFICER MAY ORDER THE NUISANCE ABATED. IF THIS AGENCY HAS THE ABOVE NUISANCE ABATED THE ACTUAL COST PLUS AN ADMINISTRATIVE CHARGE SHALL BE LEVIED AND ASSESSED AGAINST THE PROPERTY AS A SPECIAL ASSESSMENT LIEN

If you are no longer the owner of this property or are in the process of selling it, you must inform the new owner of this notice and advise this office in writing, of the date the title change occurred and the name and the address of the new owner. If you fail to do so and the abatement work is completed, you may be responsible for the bill.

Any questions regarding this notice may be brought forth to the agency officer whose name appears below

Greg Bounds
Fire Captain

Date Mailed: 5/17/18

First Inspection Date: 5/6/18

Office Hours: 9:00 AM TO 5:00 PM MON-FRI

Chief Mike O'Brien

707-421-7205 FAX 707-421-7398

*Call Heather
Let her know
we can't do anything
until June*

Subj: **Article**
Date: 9/17/2008 7:56:50 P.M. Pacific Daylight Time
From: archerone@comcast.net
To: pgtucker@aol.com

Thursday, December 20, 2007

Media: Suisun City creeks, canals cleared to reduce risk of winter flooding

For more information on City preparations and homeowner tips, visit Suisun City's Storm Information section.

From Daily Republic (Subscription required)
By Carol Bogart | Daily Republic

SUISUN CITY - Only a handful of houses in Suisun City sustained flood damage during heavy the rains last winter, but city officials learned in April they had a bigger problem.

The Army Corps of Engineers notified Suisun City it was no longer eligible for Federal Emergency Management Agency funds in the event of severe flooding. Some of the city's storm canals were so clogged with trees and brambles, storm runoff could back up when water flows were high, the city learned.

Suisun City is at increased risk for flooding because it has the lowest elevation in the county relative to the high tide line.

The few houses that had water damage during last winter's storms are located just east of Sunset Avenue on the north side of Canvasback Drive, and most at risk are homes located at the bend where Lauren Creek connects with McCoy Creek, according to the city.

To clear vegetation from the McCoy Creek canal and others, the city first had to have a permit from the California Department of Fish and Game. Federal officials and the California Department of Water Resources wanted better flood control. Fish and Game wanted to make sure species native to the area weren't compromised by the clearing.

To satisfy all parties, the city hired Anselmo Services, a subcontractor who specializes in satisfying the various agencies' requirements, said Lee Evans, associate city engineer and project manager. For instance, workers kept silt to a minimum as the vegetation was removed so fish eggs wouldn't suffocate.

Meantime, public works employees certified in proper application of herbicide treated tree stumps to kill the roots, Evans said.

'Our ditches are clear,' Suisun City Mayor Pete Sanchez said.

The employees have also been preparing the city for winter storms by keeping street storm drains clear of leaves, along with other measures, he added.

'We're really proud of the proactive role that public works has done,' Sanchez said.

Satisfying both the state Fish and Game Department, with its emphasis on protecting indigenous species, and the California Department of Water Resources, with its emphasis on flood control, was 'tricky.'

'The city walked a narrow line,' he added.

Evans remembers a time years ago when there were fewer regulations. Cities could simply clear-cut trees, brambles and other overgrowth, he said. He doesn't take issue with today's regulations, however.

'As a population, we must be more environmentally conscious because the planet does take a burden from us,' he said.

Both state agencies have now approved the work, Evans said.

'We no longer have to worry about losing our FEMA funds if there's a FEMA event, and God willing, there won't be.'

The city is cleared to be back on FEMA's list as soon as the Army Corps of Engineers submits the paperwork.

Reach Carol Bogart at 427-6955 or at cbogart@dailyrepublic.net.

Exhibit "D"



17th Floor | Four Embarcadero Center | San Francisco, CA 94111-4106
415-434-9100 office | 415-434-3947 fax | www.sheppardmullin.com

Writer's Direct Line: 415-774-2977
efoley@sheppardmullin.com

Our File Number: 15CM-130472

April 25, 2008

VIA EMAIL AND FEDEX

Ms. Jane M. Hicks
Chief, San Francisco Regulatory Division
Department of the Army
San Francisco District, US Army Corps of
Engineers
1455 Market Street
San Francisco, CA 94102-1398

Re: Wal-Mart Supercenter/Walters Road Development (PN #2006-303520N);
Response To Comments On Permit Application

Dear Ms. Hicks:

We write on behalf of our client, Wal-Mart Stores, Inc., to provide a response to the comments received on the Wal-Mart Supercenter/Walters Road Development ("Project") (PN #2006-303520N) United States Army Corps of Engineers ("Corps") Section 404 permit application. Our client received the comments on March 27, 2008 and as requested in your letter of March 25, 2008, we are providing responses to the comment letters within 30 days of receipt of the letters. We appreciate the opportunity to respond to the concerns raised in these letters.

In response to the Public Notice issued on January 31, 2008 describing the proposed Project, the Corps received ten letters or emails. A large number of the issues raised in these letters relate to land use planning determinations that primarily fall within the purview of local authorities¹ and have been resolved by the jurisdiction vested with primary authority over such issues. To assist the Corps in evaluating and considering these comments, we begin our response with a brief discussion of the local planning and decision-making process and provide

¹ The Corps regulations provide: "The primary responsibility for determining zoning and land use matters rests with state, local and tribal governments. The district engineer will normally accept decisions by such governments on those matters unless there are significant issues of overriding national importance. Such issues would include but are not necessarily limited to national security, navigation, national economic development, water quality preservation of special aquatic areas, including wetlands, with significant interstate importance, and national energy needs. Whether a factor has overriding importance will depend on the degree of impact in an individual case." 33 C.F.R. § 320.4(j)(2).

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master responses to the issues that have been thoroughly considered and resolved at the local level. We then provide responses to each of the individual comments received.

1. **Local Planning Process**

The City of Suisun City ("City") is the agency with primary land use authority over the Project site and has long identified the site as being appropriate for regional commercial development. In response to development pressures, the City developed a comprehensive area-wide development strategy to address the needs of the City and enhance the quality of life and character of the community. As part of this process, the City in 1992 approved an updated General Plan, which covered an area that includes the Project site. The site is zoned as a general commercial district to allow for provision of community-wide retail, office, institutional, and service uses, which are dependent upon location at a major arterial street intersection. The City encourages infill development to avoid "leapfrogging" into undeveloped lands and minimizing impacts to the environment.

To help meet the currently underserved need for general retail shopping, restaurant, and gas stations in the City, Wal-Mart submitted an application to the City in July 2006, to construct a Supercenter on the Project site, a site which is surrounded by development on three sides and is adjacent to SR-12. As required by the California Environmental Quality Act, the City prepared an Environmental Impact Report ("EIR") to consider and evaluate the potentially significant impacts associated with the proposed Project. The EIR evaluated potentially significant impacts in the following areas: aesthetics, light and glare; air quality; biological resources; cultural resources; geology, soils and seismicity; hazards and hazardous material; hydrology and water quality; land use; noise; public services and utilities; transportation; and urban decay. Based on this analysis, the City imposed 59 mitigation measures to minimize potentially significant impacts to a level of less than significant.

In considering the proposed Project, the City allowed the public ample opportunity to participate in the planning process and thoroughly considered and responded to all issues raised. This process included issuance of a Notice of Preparation announcing the City's intent to prepare an EIR for the Project and asking for comments on the appropriate scope of such document. The public was given 30 days to provide comments on the NOP and the City also held a public scoping meeting on August 7, 2006. During the 45-day public review period on the Draft EIR, the City received many written comments. The City responded to these comments in the Final EIR, which the City released for public review on January 10, 2008. On January 29, 2008, the Planning Commission held a public hearing and unanimously recommended that the City Council certify the EIR and the approve the Project entitlements. On February 12, 2008, the City Council held a public hearing and unanimously certified the Project EIR, and approved the Project entitlements.

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During the local planning process, the applicant also sought necessary authorizations from the state and federal resource agencies with jurisdiction over the Project site. In November 2007, the applicant submitted the following applications, in addition to the application for a Section 404 Individual Permit from the Corps: (1) an application for a Streambed Alteration Agreement with the California Department of Fish and Game ("CDFG"); and (2) an application to the San Francisco Bay Regional Water Quality Control Board ("RWQCB") for a Section 401 water quality certification.

2. **Responses To Comments Regarding Local Land Use Decisions**

Several comments raise land use planning issues, which the City addressed during the Project EIR and entitlement process. The following comments are within the purview of City's decision-making capacity and the City addressed these issues during the Project EIR process.

a. **Traffic**

Several comment letters claim that the Project will result in traffic problems. As required by state law, the City thoroughly evaluated this issue in the Project EIR and imposed conditions necessary to mitigate the Project impacts. Michael Brandman Associates, the City's EIR consultant, subcontracted with Kimley-Horn & Associates to prepare the traffic analysis for the Project EIR. The traffic analysis identified the existing level of service on nearby streets and intersections, estimated the number of additional vehicle trips the Project would generate, identified the impacts of these additional trips, and recommended mitigation to reduce the impacts. The City adopted the recommended mitigation measures as conditions of approval at the public hearing on February 12, 2008. We have attached the traffic section of the Draft EIR as well as certain Master Responses in the Final EIR that relate to traffic issues under Attachment 1.

b. **Consistency With The Travis Air Force Base Land Use Compatibility Plan**

Several comments assert that the Project is inconsistent with the Travis Air Force Base Land Use Compatibility Plan ("Land Use Compatibility Plan"). However, consistent with state law, the City has thoroughly evaluated this issue and has determined that the Project is consistent with the Land Use Compatibility Plan. As required by state law, the Solano County Board of Supervisors adopted the Land Use Compatibility Plan and the Solano County Airport Land Use Compatibility Review Procedures ("Review Procedures") on June 13, 2002. The Review Procedures require that, under certain circumstances, the local government must refer a proposed development to the Solano County Airport Land Use Commission ("ALUC") to review the consistency of the project with the applicable airport land use compatibility plan. Given the criteria in the Review Procedures, the City was required to request that the ALUC review the

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Project for consistency with the Land Use Compatibility Plan. Thus, the City submitted an application to the ALUC for a consistency determination in September 2007.

The Project site is located approximately 0.75 miles southwest of Travis Air Force Base and, as such, falls within Compatibility Zone C of the Land Use Compatibility Plan. In determining consistency with Zone C, the ALUC must consider three factors: noise, airspace protection, and safety. The ALUC determined that the Project is consistent with the noise and airspace protection provisions of the Land Use Compatibility Plan, but not the safety provisions. With respect to the noise criteria, the ALUC determined that aircraft noise would not pose a threat to people on the Project site since the Project would include primarily indoor uses and would incorporate features to attenuate noise. With respect to airspace protection, the ALUC determined that the Project would not interfere with aircraft since no structure would be greater than 100 feet (in fact, the tallest structure would be less than 40 feet) and the Project would not include any features that would threaten the safe operation of aircraft, such as bright lights.

With respect to safety, the Land Use Compatibility Plan sets forth clustering requirements for Zone C as follows:

- no more than an average of 75 persons per acre is permitted for the entire site; and
- no more than 300 persons per acre are permitted for any individual acre.

The Review Procedures provides three possible methods for calculating the density of a project. In consultation with County staff, the Draft EIR and the City's application to the ALUC used the "similar uses" methodology. This methodology relies on the use of trip generation factors as a way of projecting the number of people on the site at peak periods of time. Using this methodology, County staff and the City determined that the Project would not exceed either population concentration limitation. Prior to the hearing on the matter, County staff determined that the ALUC should calculate the density of the Project using the "parking" methodology. This methodology takes the number of parking spaces and multiples it by an unspecified "person per vehicle" number. The City provided substantial evidence to the ALUC that the Project would not exceed the population concentration limitations using this methodology.

County staff recommended that the ALUC find that the Project is consistent with the Land Use Compatibility Plan. At the hearing, however, the ALUC rejected staff's recommendation and found that the Project is inconsistent with the Land Use Compatibility Plan's safety criteria. The ALUC provided no technical basis for its finding, rather, the ALUC stated only that perhaps the "person per vehicle" assumption that the City used was too low.

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The State Public Utilities Code provides that the City Council may, after a hearing and with a two-thirds vote, overrule an inconsistency determination of the ALUC. The City Council complied with the statute's notice requirements by advising the ALUC of its intent to consider such an override resolution. Following additional comments submitted by the ALUC and Caltrans², and after hearing responses to these comments, the City Council adopted a resolution containing specific findings that the Project is consistent with the Land Use Compatibility Plan, thus overriding the ALUC's determination.

As part of the evidence submitted into the record for the City Council hearing, the City's EIR consultant submitted additional evidence, in consultation with Mr. R. Austin Wiswell, an aeronautics expert who served as Chief of Caltrans, Division of Aeronautics between 1999 and 2005. This letter concludes that the Project is consistent with the Land Use Compatibility Plan. Furthermore, the Public Affairs Chief for Travis Air Force Base, Captain Lindsay Logsdon, confirmed that Travis Air Force Base has no public safety concerns regarding the Project.

c. The Necessity Of A Wal-Mart Supercenter At This Location

A few comments assert that the City does not need a Wal-Mart Supercenter at this location. The Project site has been zoned for commercial uses for approximately 20 years, so the City has envisioned and planned for commercial development of this scale at this site for quite some time. Furthermore, as is evident from the City's Statement of Overriding Considerations, the City determined that the Project would provide many benefits to the City in the form of sales tax revenue, employment opportunities, and provision of necessary goods and services. Therefore, the Planning Commission and City Council members made an informed, unanimous decision to approve the Project.

Similarly, Wal-Mart has determined that a Supercenter in this location would help it better serve its customers in Suisun City. Wal-Mart has an existing Division I store on Chadbourne Road in Fairfield, which it plans to close upon the opening of the recently-approved Supercenter on North Texas Street in Fairfield. The nearest existing Supercenters to Suisun City are in American Canyon, which is approximately 12 miles away, and in Dixon, which is approximately 20 miles away. Therefore, the Project would serve a market in which Wal-Mart does not currently have a presence. Furthermore, the urban decay analysis for the Project EIR found that there is a significant unmet demand for general merchandise goods in the City and that the Project would not cause urban decay.

² Caltrans submitted a letter on December 20, 2008 stating that it does not think the City's proposed findings adequately demonstrate that the Project would meet the purposes of the applicable Public Utilities Code section and that the Project would exceed the 300 people per acre density criteria.

3. **Responses To Specific Comments**

As previously noted, the Corps received ten comment letters with attachments in response to the Public Notice for the Project. In this section, we first excerpt the substantive comments received and then provide our response to the issues raised. The comments provided in *italics* are quotations from the letters. In certain circumstances, we have paraphrased the comments for clarity and such comments are presented in normal font.³

a. **Mrs. Marie Lee (letter dated January 31, 2008)**

- i. **Comment 1:** *As a citizen and homeowner residing in Lawler Ranch 1 block south of the proposed Wal-Mart (sic) SuperCenter/Walters Road Development Project I am writing to request that a public hearing be held to consider this application. All of the residents in this area deserve the right to know the factual affects of this project especially the negatives. They need to know that this project constructed in these wetlands will cause flooding in some areas thereby causing the decrease in value of their homes. They need to know the potential safety hazards of this project. I believe the only way this vital information will reach a majority of the residents is through a public hearing.*
- **Response 1:** A public hearing on the Section 404 permit application is not necessary. The City provided interested parties ample opportunities to voice their opinion on the Project: a public meeting to take comments on the Draft EIR, a Planning Commission hearing, and a City Council hearing. The ALUC also held more than one hearing on the Project. Finally, Wal-Mart sponsored two community meetings to answer interested parties' specific questions about the Project.
- The reasons cited in this comment for holding a public hearing, including the need to inform neighbors regarding potential flooding and safety issues, are not valid. First, these issues have been thoroughly discussed and considered in the local entitlement process. Second, as is discussed in more detail in Response 7, the Project will not result in flooding in nearby areas and there is no evidence that the Project will result in "potential safety hazards." Accordingly, we ask that the Corps deny the request for a public hearing.

³ Two communications from the California Healthy Communities Network, a letter of February 21, 2008 requesting notification of Corps action on the permit and an email of March 5, 2008 requesting additional time to comment on the Public Notice, involve only procedural issues and require no response from the applicant. Therefore, these communications are not addressed in this section.

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b. Mrs. Marie Lee (letter dated February 11, 2008)

- i. **Comment 2:** *I am a citizen, resident and homeowner residing in Lawler Ranch in Suisun City, just 1 block from the proposed Super Wall-Mart (sic) project to be constructed at Hwy 12 & Water's (sic) Road. I am requesting that you not grant the Corps permit to Wall-Mart (sic) because of the many negative consequences that will result from this project.*
 - **Response 2:** Under the Corps regulations, the Corps will generally issue a permit following receipt of a favorable local determination so long as the applicant has satisfied the other regulatory requirements of the Corps program and there are no overriding national factors of public interest. (33 CFR § 320.4(j)(4).) Because the proposed Project does not implicate any factors of national importance, the Corps should issue the permit once the applicant has satisfied all the requirements of the Corps regulatory program.
- ii. **Comment 3:** *There is the safety issue. We already have serious traffic congestion from the expansion of the dump, and the housing developments.*
 - **Response 3:** As is discussed above, the City has thoroughly evaluated the Project's potential impacts to traffic in the area and has included mitigation measures to address these potential issues. (See response regarding traffic under Section (2)(a).) As potential traffic congestion in the City does not constitute an issue of overwhelming national importance, the Corps should defer to the City's supported and well-reasoned resolution of these issues. (See 33 CFR § 320.4(j)(2).)
- iii. **Comment 4:** *The possibility of accidents from a Travis aircraft due to the lights coming from a 24-hour Super Wall-Mart (sic) is a huge concern of all of the many residents I have talked to!*
 - **Response 4:** As is discussed above, the ALUC determined that the Project is consistent with the Land Use Compatibility Plan's airspace protection criteria. Specifically, the ALUC found that the Project would not interfere or otherwise pose a safety concern to aircraft. The Project is well under the Land Use Compatibility Plan's height limitations and does not include any elements that would confuse or danger aircraft (such as reflective materials, features that attract birds, bright lights, etc.). (See response regarding consistency with the Land Use Compatibility Plan under Section (2)(b).) This does not constitute an issue of overwhelming

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national importance so the Corps should defer to the City's supported and well-reasoned resolution of these issues. (See 33 CFR § 320.4(j)(2).)

- iv. **Comment 5:** *The gas pipeline is another scary concern of ours.*
- **Response 5:** There is a high-pressure jet fuel pipeline that serves Travis Air Force Base located within the Peterson Road right of way north of the Project site. The City considered this issue and, in an abundance of caution, adopted a condition of Project approval that requires that, prior to the issuance of any permits for site work, road improvements, utility work or grading within the right of way along the south side of Petersen Road, the Applicant must provide written notice to Travis Air Force Base ten calendar days prior to initiating the work, and Travis Air Force Base may provide comments within two weeks of receipt of such notice. Further, any trenching and grading of the site must comply with all applicable health and safety regulations. Finally, Travis Air Force Base Commander Colonel Arquette submitted a letter to the City prior to the Planning Commission hearing stating that he reviewed the Draft EIR and Final EIR and that he has no concerns regarding the Project's impacts on the pipeline. As the integrity of the pipeline does not constitute an issue of overwhelming national importance, the Corps should defer to the City's supported and well-reasoned resolution of this issue. (See 33 CFR § 320.4(j)(2).)
- v. **Comment 6:** *The water quality standards are not good. We already have filters on all faucets in our home and drink only bottled water. Why does our water quality have to get worse then this!*
- **Response 6:** The Project has been designed to ensure that the Project does not result in any degradation of water quality in the area. To accomplish this, the Project's proposed Stormwater Control Plan incorporates bioswales, infiltration systems and other proprietary devices to treat stormwater prior to its discharge into the Suisun Bay. The City has required that the applicant do further testing of the site's capability to support infiltration measures and has required that the applicant prepare a revised Stormwater Control Plan which meets the requirements of the City's NDPES permit prior to construction. Compliance with these measures will ensure that the Project does not result in any degradation of water quality in the area.
- Also, the Project EIR analyzed the Project's impact on water supply. The EIR concludes that the Project will demand a relatively small amount of

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water, which the Suisun-Solano Water Authority anticipated in its Urban Water Management Plan. The Project will not require development of new or expanded potable water facilities or the acquisition of additional water entitlements. Therefore, the Project will not impact the quality of the drinking water supply in the area.

vi. **Comment 7:** *The flood hazards have us concerned because it will devalue our homes. We work (worked) hard for our properties and to have Wall-Mart (sic) come in and create serious probability of flooding of our homes by shutting off the storm water runoff is unthinkable and just plain cruel! This will result in flooding (south west) in Lawler Ranch. No one will (sic) to purchase homes in a flood area! The site should be left as is!*

➤ **Response 7:** The Project will not result in or contribute to flooding of Lawler Ranch, which is located downstream of the Project site. During the EIR process, Michael Brandman Associates prepared a hydrologic study for the Project, which assessed the stormwater discharges that would occur following Project construction. Based on this study, the City adopted conditions of approval that require the applicant to either demonstrate that the downstream conveyance facilities are or will be made adequate to accommodate the discharge from the Project site during a 25-year and 24-hour storm event, or in the alternative, to provide on site retention such that the post-development flows will not exceed the pre-development rates. The urban runoff which is currently conveyed through the Project site by the wetland drainage swale will be rerouted through an underground system; the Project will not impact the timing or volume of this runoff.

➤ To supplement the EIR's technical study, the applicant has hired Michael Brandman Associates to conduct an additional study of the downstream conveyance system. The additional study will do the following: assess the physical condition of the existing conveyance system in terms of structural integrity as well as internal buildup of sediment, how these conditions affect hydraulic performance of the conveyance; assess whether the existing conveyance system has adequate hydraulic capacity to channel the Project's 15-, 25-, and 100-year stormwater flows; and recommend how the applicant can modify the Project to generate less flows or modify the downstream conveyance system to accommodate the Project flows. The Project's final Stormwater Control Plan will include measures that result in no net flows from the Project site over the pre-construction level as well as measures that ensure that there is sufficient capacity in the

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downstream system to accommodate the 25-year and 24-hour storm event. Therefore, the Project will not create downstream flooding.

- vii. **Comment 8:** *What about the fish & wildlife values? They have no voice, so I am speaking for them too. No Super Wall-Mart (sic) should be allowed on this location! If they took the time they could, with the help of our local officials, find a more suitable location. I have let them know my views also. They are taking the easy route. Please do not give them the go-ahead to create so much chaos! What they are attempting to do directly (& indirectly) affects, not only humans, but also the many wildlife species hebetating in this area.*
- **Response 8:** As is discussed in the Project EIR and the *Biological Assessment for Critical Habitat for the Vernal Pool Tadpole Shrimp and the Vernal Pool Fairy Shrimp* (Olberding Environmental, October 2007), the Project site consists primarily of non-native grassland which is disced annually for weed abatement purposes. The annual discing, coupled with the presence of development in the area and the lack of trees, makes the site marginal habitat for most plant and terrestrial species and the site does not include any fish habitat. Surveys conducted on the site found no state or federally listed threatened or endangered species present. As a condition of approval, the City has required the applicant to complete additional pre-construction surveys to ensure no impact to the only special status plant species (pappoose tarplant, a CNNB 1B species) known to occur on the site and to provide mitigation if the species is present. Further, the applicant will conduct raptor studies prior to construction to ensure no impacts to any migratory birds occur.
- As is discussed in detail in the *Biological Assessment for Critical Habitat for the Vernal Pool Tadpole Shrimp and the Vernal Pool Fairy Shrimp* (Olberding Environmental, October 2007) submitted to the Corps with the 404 permit application, a small portion of the site is included in the designated critical habitat for the vernal pool tadpole shrimp and the vernal pool fairy shrimp. To ensure that the Project does not result in adverse modification to designated critical habitat, the Corps has initiated consultation with the USFWS. Compliance with any measures developed during such consultation will ensure that significant adverse impacts to these species do not occur.
- viii. **Comment 9:** *I have been attending the meetings concerning this project and Wall-Mart (sic) has not shown once that they are concerned about the residents/citizens and property owners. They totally disregard the needs*

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and welfare of the People! I sound passionate, because I am, especially about this issue! So, I am hoping that you will show concern for us as citizens of this Country by denying the Corps permit to Wal-Mart (sic).

- **Response 9:** As described above, Wal-Mart has conducted significant outreach to the community during the long planning process for this Project and together with the City, has responded to all substantive comments received.

c. William G. Rabska (letter dated February 28, 2008; includes November 5, 2007 letter from Caltrans to the City as attachment)

- i. **Comment 10:** *We have lived in the Quail Glen area of Suisun City, near the site of the proposed Wal-Mart Supercenter, for the past 30 years. We are vehemently opposed to Wal-Mart building another Supercenter on Walters Road, in Suisun City. Wal-Mart already has an established store, approximately 3 miles, from the proposed site. It is located on Chadbourne Road, in Fairfield. Wal-Mart is planning, and has already received approval, to build a Wal-Mart, on North Texas St., in Fairfield. Wal-Mart already has a store in Vacaville, on Helen Piwer Dr. We absolutely do not need, have no use for, and will not patronize, another Wal-Mart in Suisun City..*

- **Response 10:** As is described in Section (2)(c) above, the City, the agency with primary control over the Project site and its vicinity, has determined that there is a significant need for the proposed Project and has approved this Project. As this is an issue primarily of local control, importance, and significance, the Corps should not second guess this decision.

- ii. **Comment 11:** *In November 2007, the Solano County Airport Land Use Commission voted that the proposed Wal-Mart Supercenter project, planned for Walters Rd., Suisun City, was inconsistent with the Travis Airport Land Use Compatibility plan. The California Department of Transportations Division of Aeronautics has examined the plans for the proposed Wal-Mart on Walter's Rd, and has agreed with the Solano County Airport Land Use Commission. Caltrans has written a letter to the Solano County Airport Land Use commission, in total agreement with their position concerning the Wal-Mart site, on Walter (sic) Rd. in Suisun City. We are in complete agreement with the Solano County Airport Land Use Commission, concerning the proposed Wal-Mart Supercenter on*

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Walters Rd. in Suisun City. Constructing a Wal-Mart on the Walters Rd. site is in violation of the Travis Airport Land Use Compatibility Plan.

➤ **Response 11:** Please see response regarding consistency with the Land Use Compatibility Plan under Section (2)(b).

iii. **Comment 12:** *It has recently become clear, to us, Mayor Pete Sanchez, and the City Council of Suisun City, no longer represent the best interest of the people that reside in Suisun City . . . They have failed miserably.*

➤ **Response 12:** No response necessary.

d. Regional Water Quality Control Board (letter dated March 6, 2008; includes attachments)

i. **Comment 13:** *We believe the Corps does not have sufficient information about the proposed Project, its impacts and Project alternatives to adequately evaluate the Project, and therefore, that the PN has been issued prematurely. The PN should be withdrawn and held in abeyance until the deficiencies identified below have been adequately addressed.*

➤ **Response 13:** We agree with the RWQCB that the Corps does not have sufficient information at this time to complete the permitting process and the Project team is currently completing an analysis of potential on- and off-site project alternatives to assist the Corps in determining whether the proposed Project is the least environmentally damaging practicable alternative. Once the Corps has made this determination, we will, as required under the Corps regulations, further demonstrate that the Project's mitigation will ensure that the Project will not result in a net loss of wetlands in terms of both acreage and functions and values.

➤ We disagree, however, that additional information regarding project alternatives and proposed mitigation is necessary prior to issuing a valid Public Notice. Under the Corps regulations, the Corps is required to issue a Public Notice within 15 days of receiving a complete application. (33 CFR 325.2(d).) Because neither an analysis of alternatives nor a complete mitigation proposal is required for a complete application (33 CFR § 325.1), it was appropriate for the Corps to issue the Public Notice at this time.

ii. **Comment 14:** *At this time based on the Project information provided, the Water Board would be unable to certify that the Project would not violate*

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State water quality standards and consequently, water quality certification would be denied for the Project.

- **Response 14:** We understand that the RWQCB does not currently have all the information that it needs to evaluate the proposed Project and to certify that the Project will comply with all state water quality standards. We have submitted an application for water quality certification to the RWQCB and will work with the RWQCB to address all of their concerns.
- iii. **Comment 15:** *The proposed Project does not comply with Corps and RWQCB policy by: Not adequately demonstrating that the Project has avoided and minimized impacts to jurisdictional wetlands to the extent practicable consistent with Corps policy and the federal CWA Section 404(b)(1) Guidelines. As stated in the PN, an alternatives analysis demonstrating that impacts to wetlands and other waters have been avoided and minimized to the extent practicable has not been provided to the Corps as part of the Project application. This is an essential part of the Corps permit application and principal basis for Corps authorization to fill jurisdictional waters as part of a non-water dependent project. The PN identifies this Project as a non-water dependent project. Since federal authorization of the Project is dependent upon the applicant demonstrating avoidance and minimization to the extent practicable, the Corps issuance of the PN without having received an alternatives analysis for Corps and other agency staff and the public to evaluate seems highly inappropriate. Accordingly, the PN should be withdrawn and held in abeyance until Corps staff has determined that an adequate alternatives analysis in accordance with the CWA Section 404(b)(1) Guidelines has been submitted.*
- **Response 15:** We agree with the RWQCB that the applicant must evaluate alternative project locations and designs consistent with the Section 404(b)(1) Guidelines. However, as is discussed above, such an analysis is generally completed during the permitting process and is not a required component for a complete Section 404 permit application. Therefore, consistent with the Corps regulations, it was appropriate and in fact necessary for the Corps to issue the Public Notice prior to submittal of such a document. The applicant will work closely with Corps and RWQCB staff to demonstrate that impacts have been avoided and minimized to the extent practicable. We anticipate submitting an alternatives analysis for Corps review within the next few weeks.

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- iv. **Comment 16:** *The proposed Project does not comply with Corps and RWQCB policy by: Not proposing or evaluating opportunities for on-site mitigation and not adequately demonstrating that on-site mitigation is not practicable. U.S. Army Corps of Engineers Regulatory Guidance Letter No. 02-2, dated December 24, 2002, states that: "Mitigation should be required, when practicable, in areas adjacent or contiguous to the discharge site (on-site compensatory mitigation)." Site conditions appear suitable for the creation of on-site mitigation habitat and the applicant has not demonstrated that creation of on-site mitigation is not practicable. Contrary to Corps and Water Board policy, the Project as proposed would fill essentially all of the project site's existing 2.996 acres of jurisdictional features, including a water channel, and mitigate in full off-site and out of the watershed by purchasing mitigation credits at the North Suisun Mitigation Bank at a ratio 1:1 (mitigation acreage to impacted acreage).*
- **Response 16:** The applicant is in the process of preparing the alternatives analysis, which will demonstrate that there is no practicable alternative design which would avoid impacts to the on site jurisdictional features or that would allow sufficient and appropriate areas for on site mitigation. Further given the site's low functioning wetlands and the surrounding land uses, we do not believe that high functioning, sustainable on site mitigation could be created at this location. As you are aware, the Corps and the EPA recently issued a new mitigation rule, which alters the hierarchy for consideration of mitigation proposals. Under the new rule, mitigation banks are deemed generally preferable to on site mitigation as such features have been demonstrated to provide superior long term aquatic functions. Although this rule will not apply to the Project application as it does not come into effect until June of this year, we believe that it is appropriate for the Corps to consider the guidance and rationale provided in the rule when evaluating the Project's mitigation proposal.
- The proposed mitigation bank, the North Suisun Mitigation Bank, drains into Nurse Slough, which is part of the Suisun Bay watershed. Furthermore, the Project site is located within the service area for the North Suisun Mitigation Bank and therefore, the Corps has determined that impacts to the Project site can appropriately be mitigated at this approved bank. We will work with the RWQCB to ensure that the Project's mitigation is adequate under state law during the water quality certification process.

- v. **Comment 17:** The proposed Project does not comply with Corps and RWQCB policy by: *Proposing out-of-kind habitat mitigation for the loss of 1,025 linear feet (0.31 acres) of the water channel proposed to be filled. The applicant proposed mitigating for the loss of the water channel by buying seasonal wetland credits without demonstrating that it will provide more environmental or watershed benefit than in-kind compensation. Additionally, the mitigation banks that operate in Solano County are not permitted to provide mitigation for water channel and corresponding riparian habitat.*
- **Response 17:** As identified on the Corps verified delineation, the referenced channel is classified as a wetland drainage swale as it is dominated by hydrophytic vegetation including cattails (*Typha latifolia*), water plantain (*Alisma plantago-aquatica*), curly dock (*Rumex crispus*) and Mexican rush (*Juncus mexicanus*). This feature is devoid of riparian habitat apart from some newly germinated sapling cottonwood and arroyo willows, which will be removed as part of the annual weed abatement efforts. The ditch, likely excavated in uplands to facilitate agricultural activities, has been colonized by disturbance-tolerant forbs and emergent vegetation. Wetland vegetation dominates within the channel, but otherwise lacks any mid- or upper-story vegetation. The ditch provides some vegetative cover for wildlife within the channel, but not in the adjacent areas. The ditch lacks a defined bed and bank, but rather is a linearly excavated channel with a predominance of wetland vegetation.
- We believe that providing seasonal wetland mitigation for this feature will fully offset the Project's impacts. Apart from conveying stormwater runoff from adjacent development, this feature's primary functions are similar to those of seasonal wetlands. As proposed, the Project will continue to convey stormwater runoff from adjacent sites through an underground pipe and therefore this function will be maintained. Therefore, the provision of seasonal wetland credits to mitigate for impacts to this feature will ensure that there is no net loss of jurisdictional features in terms of both acreage and functions and values, which is consistent with the Corps regulations. We will work with the RWQCB staff as part of the Section 401 water quality certification process to obtain agreement that the Project will not violate any water quality standard.
- vi. **Comment 18:** *We concur with the determination stated in the PN that the Project, with a basic project purpose of constructing and operating a commercial development, is not water dependent. The federal CWA Section 404(b)(1) Guidelines specify that non-water dependent projects*

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must demonstrate through an analysis of project alternatives that impacts to wetlands have been avoided and minimized to the maximum extent feasible. The San Francisco Bay Basin Water Quality Control Plan (Basin Plan) specifies that the 404(b)(1) Guidelines should be utilized in determining the circumstances under which wetlands filling may be permitted. It is our understanding that the Corps also utilizes the 404(b)(1) Guidelines in determining the circumstances under which wetlands filling may be permitted for non-water dependent projects. We provided information about this requirement to the applicant in our letter dated December 18, 2007 (Attachment 1). The PN states that the applicant has not demonstrated that impacts to wetlands have been avoided and minimized to the maximum extent feasible and that the Project, as currently proposed constitutes the least environmentally damaging practicable alternative (LEDPA).

➤ **Response 18:** We agree that the proposed Project is not water dependent and that the requirements of the 404(b)(1) Guidelines must be satisfied. As described above, the applicant will be submitting an alternatives analysis that complies with the Guidelines.

vii. **Comment 19:** *The Basin Plan also states that mitigation for lost wetland acreages and values should only be considered after disturbance has been minimized. For unavoidable adverse impacts, which remain, after all appropriate and practicable minimization has been considered, compensatory mitigation is required. Where feasible and meaningful, compensatory mitigation should be undertaken in areas proximate to the discharge site. Accordingly, on-site creation and restoration of mitigation would be preferable to mitigating off-site. If it can be adequately demonstrated that off-site and/or out-of-kind mitigation are the only viable option for a project, a further increase in mitigation area would be appropriate. A further increase in mitigation area is also appropriate if the mitigation waters and wetland and riparian habitats are not successfully established prior to impacts.*

➤ **Response 19:** We will work with the RWQCB to ensure that the Project complies with all applicable portions of the Basin Plan. As noted above, the applicant will demonstrate that all impacts have been avoided and minimized to the extent practicable and that unavoidable impacts are fully mitigated. We are confident that the proposed credits at the approved mitigation bank will provide superior functions and values to that currently found on the Project site.

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- viii. **Comment 20:** The RWQCB referenced several state policies which demonstrate the importance the state assigns to maintaining and protecting wetlands.
 - **Response 20:** We agree that state policy is to preserve and enhance wetlands where feasible. The state policies, however, also recognize that impacts to wetlands may be authorized where they cannot be practicably avoided. The applicant will work with the RWQCB to ensure that all water quality standards are met.
- ix. **Comment 21:** The RWQCB attached the letters that it submitted to the City on November 9, 2007 and February 8, 2008.
 - **Response 21:** The City responded to the RWQCB's November 9, 2007 letter in the Final EIR and the applicant submitted a letter to the City Council in response to the RWQCB's February 8, 2008 letter. These responses are provided under Attachment 2.
- x. **Comment 22:** The RWQCB attached the letter that it sent to the applicant on December 18, 2007 listing comments on the applicant's Section 401 water quality certification application.
 - **Response 22:** The applicant is in the process of preparing responses to the RWQCB's comments on the Section 401 water quality certification application. The applicant will address the RWQCB's concerns regarding that application during the permit process.
- e. Citizens Committee to Complete the Refuge (letter dated March 7, 2008)
 - i. **Comment 23:** *The proposed project would permanently fill all 2.996 acres of Corps jurisdictional wetlands/water on-site including 2.686 acres of jurisdiction wetlands, and 0.310 acres of jurisdiction wetland drainage ditch. The PN mentions that "fill has previously been deposited over a large portion of the property west of the drainage ditch," but does not mention whether the fill was placed in uplands or wetlands. The PN does state the placement of the fill has created ponded areas. Has the Corps determined whether fill was placed in waters of the U.S.?*
 - **Response 23:** The fill area was noted on the delineation report. On October 5, 2007, the Corps verified the delineation for the Project site documenting the boundaries of the jurisdictional features on site, and

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verifying that the area where the fill has been placed does not constitute a jurisdictional feature.

- ii. **Comment 24:** *The proposed project is clearly not "water dependent," therefore, under the 404(b)(1) Guidelines (40 C.F.R. 230.10) the applicant must rebut the presumption that a practicable alternative exists that is less environmentally damaging. The preamble to the Guidelines stat that it is the applicant's responsibility to rebut this presumption. . . . As of the date of the PN the applicant had not submitted an alternatives analysis. The applicant must conclusively demonstrate that a LEDPA does not exist elsewhere. The proposed project will fill all the jurisdictional waters of the U.S. that occur on the site. There is no apparent effort to avoid or minimize any of the proposed impacts.*
 - **Response 24:** We agree that the project is not water dependent and that the applicant has the burden of demonstrating that the proposed Project is the least environmentally damaging practicable alternative. We are currently preparing an alternatives analysis that will fulfill these requirements. We note that the applicant has conducted an extensive planning process in both selecting the Project site and in designing the Project and that this process included early consideration of impacts to wetlands. One of the reasons that the site was determined appropriate for the proposed Project was that it had relatively few and low functioning aquatic resources. Further, the applicant made every effort to avoid impacts, but as will be documented in the alternatives analysis, determined that avoidance was not practicable.
- iii. **Comment 25:** *A Wal-Mart already exists no more than six miles away on Chadbourne Road. Is there a need for another store that is less than 10 minutes away from an existing store? If the desire is for a bigger and better store, can the store at the existing location be expanded?*
 - **Response 25:** Please see response regarding the need for a Wal-Mart at this location under Section (2)(c).
- iv. **Comment 26:** *According to the PN, the Corps has initiated a Section 7 consultation to "address project related impacts to the critical habitat for the endangered vernal pool tadpole shrimp (Lepidurus packardii) and the threatened vernal pool fairy shrimp (Branchinecta lynchi)." The PN also mentions that surveys were conducted for listed species that have the potential to occur on-site. Were the surveys conducted according to U.S.*

Fish and Wildlife Service protocols and were they conducted for more than on season? Are these species found to the east of Walters Road?

- **Response 26:** As is described in the *Biological Assessment for Critical Habitat for the Vernal Pool Tadpole Shrimp and the Vernal Pool Fairy Shrimp* (Olberding Environmental, October 2007), submitted with the Corps application, USFWS protocol level surveys were completed for the vernal pool tadpole shrimp and the vernal pool fairy shrimp in 2006-2007. These efforts included both a wet and a dry season survey. A summary of the recorded sighting of the species in the Project vicinity is also provided in the *Biological Assessment*.
- v. **Comment 27:** *The Corps will be setting an extremely bad precedent if it accepts the compensatory mitigation proposed because the applicant has not demonstrated compliance with the Guidelines and the compensatory mitigation proposed does not ensure no net loss of wetlands functions and values. The applicant appears to have bypassed the first two critical steps of the Guidelines and has gone straight to the compensatory mitigation, and the compensatory mitigation is merely to purchase mitigation credits at the North Suisun Mitigation Bank at a 1:1 mitigation ratio. Are these credits for creation of wetlands or merely preservation of existing wetlands? If it is for preservation of wetlands this does not replace lost functions and values and the compensatory mitigation requirements should be higher. If it is for creation, the Corps is still setting a bad precedent because approval of the project as proposed indicates wetlands can be filled by merely plopping money down on the table, regardless of whether the project could be located a more appropriate uplands location. The Corps must give serious consideration to the fact that an existing Wal-Mart facility is no more than six miles away from the proposed project site*
- We strongly disagree that the Corps would be setting bad precedent in approving the Project. First, as has been discussed in detail above, the applicant is not attempting to bypass the consideration of alternatives and will shortly submit a document which demonstrates that the proposed Project is the least environmentally damaging practicable alternative. The mitigation proposed will fully offset the proposed impacts by providing the following: (1) critical habitat wetlands preservation credits at a ratio of at least 3:1; (2) critical habitat wetlands creation credits at a ratio of at least 1:1; (3) critical habitat uplands preservation credits at a ratio of at least 1:1; and (4) jurisdictional wetlands non-critical habitat creation credits at a ratio of at least 1:1. Furthermore, as explained in greater detail above, the Corps recently adopted a new rule that encourages the use of

mitigation banking. Finally, we do not agree that the Corps should attempt to second guess the local agency's decisions regarding important land use determinations.

- f. Caltrans (letter dated March 7, 2008; includes November 5, 2007 letter from Caltrans to the City as attachment)
- i. **Comment 28:** *We did not receive the traffic data requested that would allow us to verify the accuracy of the DEIR's traffic analysis and the appropriateness of the recommended mitigation measures for the project. The Department needs to review the traffic volume counts and "Synchro" files for each of the following: [list provided].*
 - **Response 28:** We understand that Kimley Horn & Associates provided this information to the City on March 17, 2008, and the City forwarded the information to Caltrans. The delivery of this information to Caltrans does not impact the Section 404 permit application.
 - ii. **Comment 29:** *The mitigation measures included in the DEIR for the short term impacts refer to Caltrans as the implementing agency. These improvements need to be performed by the City or the project proponent via the Department's encroachment permit process.*
 - **Response 29:** The applicant notes the discrepancy and has confirmed that the City and applicant understand that they must implement the required mitigation.
 - iii. **Comment 30:** *A schedule for the mitigation measures needed in the short term was not provided. These improvements must be in place prior to the issuance of the Certificate of Occupancy.*
 - **Response 30:** The applicant will prepare a schedule for Caltrans and acknowledges that many of the improvements must be in place prior to issuance of a Certificate of Occupancy, as set forth in the EIR. The delivery of this information to Caltrans does not impact the Section 404 permit application.
 - iv. **Comment 31:** *A schedule for the mitigation measures needed in the long term was not included. The City needs to provide a schedule and an implementation plan for these improvements to address the cumulative impacts of the project.*

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- **Response 31:** The applicant will prepare a schedule for Caltrans. The delivery of this information to Caltrans does not impact the Section 404 permit application.
- v. **Comment 32:** *The proposed driveways on Walters Road shall not be located within the limits of storage lane including bay taper.*
- **Response 32:** All Project driveways will comply with Caltrans and City standards, including those standards that pertain to the location of driveways in relation to storage lanes. This does not impact the Section 404 permit application.
- vi. **Comment 33:** *Sufficient weaving length shall be provided for the weaving section before it turns into drop right-turn lane at SR-12/Lawler Center Drive. Please refer to Section 504.7 of the latest edition of the Highway Design Manual for details.*
- **Response 33:** All Project-related roadway improvements will comply with Caltrans Highway Design Manual standards, including those standards that pertain to the proposed drop right-turn lane at SR-12/Lawler Ranch Parkway. This does not impact the Section 404 permit application.
- g. Environmental Protection Agency (email from Michael Monroe sent March 11, 2008)
 - i. **Comment 34:** *I've taken a look at our PN for the proposed Walmart supercenter (sic) adjacent to Highway 12 in Solano County. Given the site's current condition, extent and type of existing jurisdictional features, and adjacent existing and proposed development, I am providing no comments on this one. I found the lone mature cottonwood tree on the Google Earth image . . . the site's certainly seen better days . . . kind of sad!*
 - **Response 34:** We acknowledge the EPA's review of the Public Notice and concur with the EPA's assessment as to the low quality of the features and habitat found on the site.
- h. California Healthy Communities Network (letter dated March 14, 2008)
 - i. **Comment 34:** *The size of the project will unnecessarily increase the risk of flooding to surrounding neighborhoods by filling approximately 3 acres of wetlands an important water channel within the watershed area.*

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- **Response 34:** As is discussed above in Response 7, the Project will not result in flooding to surrounding neighborhoods.
- ii. **Comment 35:** *The project will cause a significant degradation of the 72 acre watershed area and represents a quarter of the watershed.*
- **Response 35:** We are unclear what the author means by "significant degradation" of the Project's watershed. As is discussed in Response 6, the Project is required to develop a stormwater control plan which demonstrates that the Project will not result in any degradation of water quality in the area prior to construction. Therefore, we do not believe that the Project will adversely impact the watershed.
- iii. **Comment 36:** *Neither the Applicant or Suisun City conducted an inspection of the drainage system in Lawler Ranch . . . either for the Draft EIR or prior to City Council approval of the Final EIR. The affect of the project on the drainage system in the downstream neighborhood of Lawler Ranch is uncertain at best.*
- **Response 36:** As is required by the City, the applicant is currently evaluating the drainage system downstream of the Project site. Based on this analysis, the applicant will determine the measures necessary to ensure that the system has adequate capacity to receive the Project's stormwater runoff. (See Response 7.)
- iv. **Comment 37:** *The Applicant failed to conduct a water quality analysis for the EIR, although the project will drain directly into Suisun Bay. In the long term, the project, particularly in combination with other planned projects, will contribute to the increased contamination of Suisun Bay.*
- Please see Response 6. 2 2
- v. **Comment 38:** *Outdated or inaccurate flood maps and rainfall records were used in the EIR to calculate affects of the project on drainage and the likelihood of flooding.*
- **Response 38:** Flood mapping data was obtained from the Federal Emergency Management Agency (Flood Insurance Rate Map No. 0606310455B). The mapping indicated that the Project site is not within a 100- or 500-year flood hazard zone. Rainfall data for the City was obtained from the Western Regional Climate Center, a widely-cited source for precipitation data. As described in Response 7, the Project's final

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Stormwater Control Plan will include measures that will result in no net flows from the Project site over the pre-construction level as well as measures that ensure that there is sufficient capacity in the downstream system to accommodate the 25-year and 24-hour storm event.

vi. **Comment 39:** *What is the effectiveness of underground vaults and linear storage facilities in holding and filtering storm water runoff from the project?*

➤ **Response 39:** Underground vaults and linear facilities are underground structures designed to remove pollutants from a wastewater infrastructure based on physical differences between the pollutant and the water. Lighter materials such as oil and buoyant trash will float to the surface and heavier materials will sink. The Fairfield-Suisun Sewer District has approved the use of a variety of vaults. As described in Responses 6 and 7, the applicant will prepare a final Stormwater Control Plan that will include measures (possibly including vaults and linear facilities) that result in no net flows from the Project site over the pre-construction level and will provide sufficient capacity in the downstream system to accommodate the 25-year and 24-hour storm event. The final Stormwater Control Plan will also incorporate measures (possibly including vaults and linear facilities), which meet the requirements of the City's NPDES permit and will ensure that the Project does not result in any degradation of water quality in the area.

vii. **Comment 40:** *What is the nature of the discharge that the project will be making into Suisun Bay, for which it is required to receive a 404 permit from the Army Corps of Engineers?*

➤ **Response 40:** The applicant is not seeking any authorization from the Corps to discharge into the Suisun Bay. Rather, we are seeking authorization to place fill in wetlands located on the Project site. We assume that the California Healthy Communities Network is asking about stormwater discharges, which would ultimately reach Suisun Bay. These discharges will be authorized under the City's Municipal Separate Sewer Stormwater NPDES Permit (MS4 Permit) once the City finds that the Project's stormwater control plan is consistent with the NPDES permit and approves the plan.

viii. **Comment 41:** *We would like to know why the applicant has not provided an alternatives analysis for the project . . . as required by law.*

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- **Response 41:** The applicant is preparing the alternatives analysis. The Corps may issue the Public Notice prior to receiving the alternatives analysis.

- ix. **Comment 42:** *The Project is noncompliant with the Travis Airport Land Use Compatibility Plan. As an encroachment, the Project degrades the standard of low density development which the TALUCP is meant to ensure. . . . The Project violates the maximum density per acre standards of the TALUCP.*

- **Response 42:** Please see response regarding consistency with the Land Use Compatibility Plan under Section (2)(b).

- x. **Comment 43:** *The current Wal-Mart proposed for Walters Rd., Suisun City, includes a 24 hour 200,000 square foot supercenter (with Garden Center) and a 24 hour gas station with car wash and convenience store, and a sit-down fast food restaurant. . . . It has been Wal-Mart's practice to build smaller stores with smaller "footprints", especially in urban areas, where approval of a larger store might be difficult. They also build smaller supercenters in areas of lower population.*

- **Response 43:** Wal-Mart carefully considers the appropriate store size before proposing a project. Furthermore, the EIR urban decay analysis confirms that the proposed store would meet unmet demand and would not cause urban decay. As is described in Section (2)(c) above, the City is the agency with the authority and expertise to make the decision regarding the appropriate scale of development within its jurisdiction.

- xi. **Comment 44:** *The ostensible reason for the Walters Rd Supercenter Project is to capture Suisun City's sales leakage and raise its sales tax revenues. But the Draft EIR economic analysis admits that Suisun has no leakage in gasoline sales. There is also a gas station located directly across the road from the supercenter site. The gas station adds unnecessarily to the large footprint and pollution potential of the Project.*

- **Response 44:** As described in greater detail above in Section (2)(c), the City Council unanimously determined that the Project, including a gas station and car wash, is desirable to the City and appropriate for the Project site. The capture of retail sales leakage was only one of the City's many objectives for the Project. The gas station and car wash meet many of the City's objectives, including increased employment opportunities and increased sales tax revenue.

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- xii. **Comment 45:** *Lawler Ranch's drainage system is in poor condition and it is uncertain as to whether it can handle the additional storm water runoff the Walter Rd Project will generate. The drainage of the watershed is already compromised by upstream development, poor conditions of pipes, sediment, trash and tidal action at storm drain outfall.*
- **Response 45:** As discussed in Response 7, the City has required the applicant to either demonstrate that the downstream system is adequate to accommodate the Project flows or to ensure that the Project does not result in an increase in flows.
- xiii. **Comment 46:** *Suisun City has poorly maintained, clogged drains.*
- **Response 46:** As noted above, the applicant has hired Michael Brandman Associates to conduct additional analysis of the downstream conveyance system, including an analysis of the integrity of the pipes. This information will be utilized in preparing the Project's final Stormwater Control Plan which the City will review and approve prior to Project implementation.
- xiv. **Comment 47:** *The draft EIR also states that incremental increases in sea level will result in a further reduction of drainage capacity and an increased likelihood of flooding. Questions: By how much has sea level risen in the last 20 years? By how much is it likely to rise in the next 30 years? Since Suisun City is situated at or close to sea level, should their planning take into account rising sea levels.*
- **Response 47:** The downstream drainage system outfall discharges into Hill Slough. The outfall is generally submerged and therefore subject to tidal influence, which limits capacity. Because the outfall is currently submerged, rising sea levels should not impact the capacity of the system. As previously noted, the additional hydrology analysis that the applicant has commissioned will determine the extent of the tidal influence on the capacity of the downstream conveyance system.
- xv. **Comment 48:** *Wal-Mart and Suisun City are proposing to mitigate the impact of the storm water runoff from the project by constructing an underground storage vault or "linear facility" to hold and filter storm water runoff. Supposedly this will keep the project's runoff from overwhelming Lawler Ranch's drainage system and adding pollutants. Are underground vaults and linear facilities acceptable under the Basin Plan?*

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- **Response 48:** Underground vaults or storage/treatment facilities are one way of treating stormwater, particularly in areas where there is limited above ground space or in large impervious areas such as parking lots. There is nothing in the Basin Plan of which we are aware that precludes the use of such facilities and such facilities have been found to be effective in many situations. It should be noted that the Project team is currently completing additional hydrologic studies and working on a long term stormwater management plan. As part of the 401 certification process, the applicant will work closely with the RWQCB to ensure that stormwater runoff is adequately treated and controlled and that the proposed measures meet the water quality standards established in the Basin Plan. We recognize that the Corps can only issue a permit following receipt of the RWQCB's water quality certification.
- xvi. **Comment 49:** *What happens to water when it leaves the vault or open channel (linear facility)?*
- **Response 49:** Once the stormwater is cleaned by the separator, the stormwater is discharged into the City's storm drain infrastructure.
- xvii. **Comment 50:** *What happens if the vault/linear facility is overwhelmed?*
- **Response 50:** The vaults are designed with a bypass feature. In the event that the system is overwhelmed, the bypass is utilized, thus preventing an overload of the on site storm drain infrastructure.
- xviii. **Comment 51:** *How does the infiltration system work and how successful would it be at removing pollutants?*
- **Response 51:** Bioswales (infiltration systems) are landscape elements designed to remove silt and pollution from surface runoff water. They consist of a swaled drainage course with gently sloped sides (less than six percent) and filled with vegetation, compost, and/or riprap. The water's flow path, along with the wide and shallow ditch, are designed to maximize the time water spends in the swale, which aids the trapping of pollutants and silt. The bioswale works by employing several mechanisms: filtration, absorption, adsorption, and metabolism. The filtered water can then percolate into the ground or be discharged into the local stormwater system. Bioswales require little maintenance and are self-cleaning, self-repairing, low-cost systems that, when planted with properly selected plants, are attractive urban amenities.

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- xix. **Comment 52:** *What about pollutants that build up on the vault?*
- **Response 52:** The maintenance cycle typically falls into an annual pattern given normal loadings and sizing. Inspection of the system typically is recommended quarterly for the first year or more to determine the appropriate cycle based upon site characteristics. A "Stormwater Treatment Measures Maintenance Agreement" will be required by the Suisun-Fairfield Sewer District.
- xx. **Comment 53:** *Who will maintain the vault if Wal-Mart leaves site?*
- **Response 53:** If the Project site includes a vault and if Wal-Mart sells the site, maintenance of the vault presumably would fall to the new owner. However, the parties are free to negotiate any deal terms they would like. We would need to speculate to answer this question in more certain terms.
- xxi. **Comment 54:** *Is the filtration/vault/linear facility expensive to maintain?*
- **Response 54:** As required under the City's MS4 NPDES permit, the Project's stormwater management plan will include an assessment regarding the cost of maintenance of the proposed water quality treatment measures and a means for assuring adequate long term funding for these measures.
- xxii. **Comment 55:** *What is the best management practice for handling storm water runoff from this project?*
- **Response 55:** As previously noted, the Project team is currently conducting additional hydrologic analysis and developing a long term stormwater management plan. This plan will identify the best management practices for treating and managing stormwater.
- xxiii. **Comment 56:** *If the project will cumulatively contribute to contamination in Suisun Bay, does it violate CWA Section 303(d) which requires "new and redevelopment projects that discharge directly (not mixed with runoff from other developed sites) to water bodies listed as impaired by a pollutant(s) pursuant to CWA Section 303(d), to ensure that post-project runoff does not exceed pre-project levels for pollutants"? (Draft EIR, Hydrology and Water Quality, pg. 4.7-10.)*
- **Response 56:** The Project will not violate CWA Section 303(d). The Project requires a Section 401 water quality certification from the

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RWQCB, which the RWQCB cannot issue unless the applicant demonstrates that it will not violate Section 303(d), or any other water quality regulation.

xxiv. **Comment 57:** *Will the project, as proposed, significantly contribute to the contaminants that are currently listed as exceeding safe levels in Suisun Bay, Wetlands, and Slough? What percentage of contaminants is it likely to add toward the Total Maximum Daily Load allowed for Hill and Suisun Slough? Hill Slough is about to be listed for the contaminant mercury. Would the project contribute significant amounts of mercury to Hill Slough?*

➤ **Response 57:** The Project will discharge runoff into the Lawler Ranch trunk line, which discharges into Suisun Bay. Suisun Bay is listed in Section 303(d) as an impaired water body for chlordane, DDT, dieldrin, dioxin compounds, exotic species, furan compounds, mercury, nickel, PCBs, and selenium. The RWQCB has not established a Total Maximum Daily Load for any contaminants for this water body. The Project will need to prove to the RWQCB, as part of the Section 401 water quality certification, that it will not violate Section 303(d) or any other water quality standards. Also as noted above, the applicant has commissioned an additional hydrology analysis, which will consider whether the Project would contribute to the contaminants listed above and will identify the measures necessary to prevent such contamination.

➤ The Project is not expected to contribute significant amounts of mercury. Mercury most commonly occurs in devices such as thermometers, gauges, batteries, fluorescent and other lamps, switches, relays, sensors, and thermostats. Mercury pollution typically occurs when these devices are damaged and mercury leaks into downstream water ways. The Project would not involve the production of equipment that contains mercury, nor would it provide any collection or storage facilities for bulk quantities of such equipment on site. Therefore, we do not expect that the Project would be a source of mercury pollution. ✓

xxv. **Comment 58:** *If the Project includes a drycleaners, how will it affect the quality of the project's water emissions?*

➤ **Response 58:** The Project does not propose a dry cleaners.

xxvi. **Comment 59:** *The project also includes a gas station and car wash. Would it be less polluting without these components?*

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➤ **Response 59:** The answer to this question depends on the type of use that would replace the proposed gas station and car wash. This would require speculation. As noted above, the applicant is preparing an additional hydrology analysis that will look at the impacts of the Project, including the gas station and car wash, on water quality and will recommend how to mitigate these impacts. Again, the RWQCB cannot issue the requested Section 401 water quality certification unless the applicant demonstrates that the Project, including the gas station and car wash, will not violate water quality standards. Further, the City will review the proposed stormwater management plan to ensure consistency with the City's MS4 Permit.

xxvii. **Comment 60:** *What provision has been made to prevent gardening products stored outdoors at the Garden Center from contaminating storm water runoff? Will garden center products be stored uncovered out of doors?*

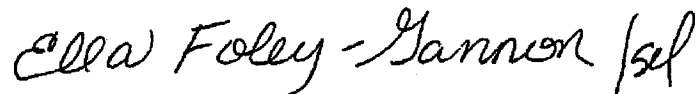
➤ **Response 60:** The additional hydrology analysis will consider outdoor storage and garden center uses, which are components of the Project. Further, as required by its MS4 Permit, the City will need to ensure that products stored outdoors do not contaminate stormwater runoff.

xxviii. **Comment 61:** *Suisun City has numerous alternatives for retail placement and project size in order to reach their goal of capturing sales leakage and increasing sales tax revenue.*

➤ **Response 61:** Please see response regarding the need for the Project under Section (2)(c).

Thank you for the opportunity to provide responses to these comments. Please let us know if we can provide further information.

Sincerely,



Ella Foley-Gannon

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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Enclosures

cc: Elizabeth Dyer, United States Army Corps of Engineers
Suzanne Bragdon, Suisun City Manager
John McNellis, McNellis Partners
George Bacso, Wal-Mart
Carr Thomson, Wal-Mart
Todd Anderson, RAK
Jason Brandman, MBA
Phelicia Thompson, Olberding Environmental

Notes for public comments at October 8, 2008 monthly meeting of the San Francisco Bay Regional Water Quality Control Board.

Subject: Proposed 20.8 acres Walters Road West Project Wal-Mart Super Center development in Suisun City adjacent to protected Suisun Marsh (Wood Slough) tidal waters.

By: Wayne I. Monger, 1409 Tillman Street, Suisun City, CA 94585 707-426-5510 wmonger@comcast.net

Good Morning. My name is Wayne Monger. I have been a resident of Suisun City for 15 ½ years, living just 100 yards away from the protected tidal waters of the Wood Slough section of the Suisun Marsh. I earned a degree in Geology from the University of California, Berkeley and worked as a field geologist for over 13 years before moving onto supervising rail commuter operations here in the Bay Area.

I wish to talk to this board about the ongoing discussions for permits to the City of Suisun City for the proposed Walters Road West Project on 20.8 acres on the eastern boundary of Suisun City at the intersection of State Highway 12 and Walters Road. This proposed project includes a 227,000 square foot Wal-mart Super Center/Warehouse, a stand alone food service building, a large vehicle fueling station and paved parking for 1,000 vehicles. I understand that the City of Suisun City and Wal-mart have recently attempted to gain the approval for this project as originally designed from this Regional Water Quality Board. As I live approximately 300 yards downstream from this proposed retail development, I continue to have serious concerns with their lack of exact details and plans for onsite stormwater retention and treatment. During the Environmental Impact Review process last year, I noted that the project applicant favored avoidance of stormwater flow control or pollution runoff control.

First, this project ^{plan} continues to heavily rely upon on-site infiltration and shallow drainage wells to capture and redirect stormwater away from the existing 42-inch primary stormwater drainage pipe that runs past this proposed project site, through my neighborhood then discharges into Wood Slough. This violates Provision C.3.i.iv of order No. R2-2003-0034 from the California Regional Water Quality Control Board to the Fairfield-Suisun Sewer District that states "The vertical distance from the base of any infiltration device to the seasonal high groundwater mark shall be at least 10 feet". During the geotechnical investigation for this proposed project at the end of a long, dry summer in October 2006, groundwater levels were discovered to be between 5.8 and 7.1 feet below ground level. As my neighbors and I have discovered after years of living in this immediate area, the ground water level from December through May rises to and remains at around 3 feet below ground level. On-site infiltration of stormwater endangers existing underground pipelines and planned buildings due to the highly expansive nature of the soils that makes up this site. Our nearby homes constantly shift and move due to the soils and high water table directly underfoot.

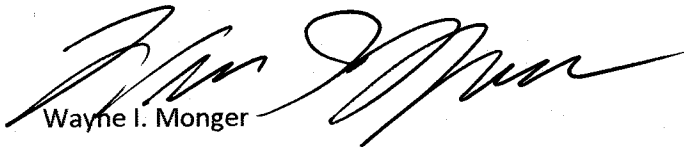
Second, this proposed project does not contain plans for stormwater and pollution separation retention basins of the appropriate volume to handle the runoff from 20.8 acres of pavement and buildings into nearby Wood Slough during a high rainfall event. The project applicant and the City of Suisun City have discounted any flooding and pollution danger and said there is no need for such a

facility, as the consultant estimated that a rainfall event of 4.5 inches happens only once every 100 years. In my 15 years living at the east end of Suisun City, I have personally recorded two 24-hour rainfall events in excess of 5 inches, resulting in associated heavy flooding. The primary access street into my neighborhood, which the 42-inch stormwater drainage pipe runs underneath, has had 3 separate 24 hour flooding events with standing water of 6 inches when high tides in Wood Slough and high outflow volumes of stormwater have occurred at the same time. Because the 20.8 acres of the Walters Road West Project site had remained undeveloped (with vernal pools) during these events, stormwater runoff from this site did not contribute to these street flooding events. If this project is approved without appropriate stormwater retention basins, future flooding of all surrounding neighborhoods and damage to the Suisun Marsh waterways will increase in severity. There have been 6 winter seasons during the past 15 years that adjacent lands have flooded up to a depth of 5 feet. As an example of the severity of flooding I have seen in the past 15 years near my neighborhood, in the 1999-2000 winter season, State Highway 12 was overtopped by flood waters just 700 yards east of the Walters Road West Project site.

I have learned that recently this board's request for a smaller, smarter retail development plan which does not destroy the creek on this site was rejected outright by Wal-mart and the City of Suisun City. Their logic was that a smaller facility would "not properly serve the needs of the citizens of Suisun City". This is wrong! The Save Our Suisun citizens group gathered over 2,200 signatures from registered voters to recall the city council members who voted for this supersized project that will be extremely damaging to our city, to our neighborhoods and to the fragile environment of Suisun Marsh. Please do not be misled by the reported "need" for such a giant retail project just 3 1/2 miles from an identical one. This is a "Trojan Horse", as it is going to become a primary Wal-mart redistribution warehouse facility, camouflaged by a retail front on it. This site is very strategic for them and they need this facility to be maximum size. It is about equidistant from the Wal-mart central warehouses in Red Bluff and Porterville, is about 1 hour east of the Port of Oakland, about 1 hour west from the giant rail intermodal container facilities at Lathrop and Stockton and is on State Highway 12, which has become the primary truck route for merchandise going into the North Bay counties. If this board considers permits for this project, please make it comply fully as a warehouse facility under Industrial Section P of the EPA's National Pollutant Discharge Elimination System.

Finally, just within the past 3 weeks, Public Works crews from the City of Suisun City and at the direction of Wal-mart, tore out and destroyed the rich riparian habitat of the creek that runs across the Walters Road West Project property. This act alone shows the arrogance that the City of Suisun City and a giant out-of-state corporation has toward our governing boards and the protection of the fragile Suisun Marsh.

Thanks you for your time.


Wayne I. Monger



California Healthy Communities Network

P.O. Box 1353 • Martinez • California • 94553 • info@calhcn.org

March 12, 2008

John Muller, Chair
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

**SUBJECT: Proposed Wal-Mart Supercenter at Walters Road, Suisun City,
Solano County, CA; State Clearinghouse Number 2006072026**

Dear Chairman Muller:

California Healthy Communities Network, a project of the non-profit Tides Center, has been working with the Suisun Citizens League, a group of Suisun City residents opposing the proposed Wal-Mart Supercenter located at Walters Road and Highway 12, for the past eight months. Our staff has participated in both the Draft and Final EIR process and has participated in public meetings related to this big box project.

We have continuing concerns about inadequacies in the adopted Final EIR, especially as they relate to Water Quality Certification under Section 401 of the Clean Water Act. We have attached to this cover letter our comments and questions related to the Walters Road Development Project referenced above.

We believe that the current proposed Wal-Mart Supercenter project does not comply with requirements of the Clean Water Act and that this project is far too large in scope for the 20-acre Walters Road site.

We would request to be notified in advance of any hearings related to the Wal-Mart Supercenter project and would further request that we be given at least thirty (30) days to have our staff and consulting experts review information provided by the project's proponents to the Board.

Thank you for considering our requests.

Sincerely,

A handwritten signature in black ink that reads "Phil Tucker".

Phil Tucker
Project Director
(707) 479-6000
ptucker@calhcn.org

Enc.

- Calculated Damages: 28 dead, \$1.841 billion economic losses.

1997 New Year's Flood

Significant rainfall fell throughout central and northern California from December 26, 1996 through January 3, 1997, with the heaviest and warmest rains on New Year's Eve/Day. Snow levels were above 10,000 feet. Several towns were inundated. Three-hundred square miles were flooded, including the Yosemite Valley, which flooded for the first time since 1861-62. For weeks after the rains stopped rivers continued to flow out of their banks and major roads remained impassable due to flood damage and mudslides. Along I-80...rainfall recorded for the event totaled 3.71 inches at Sacramento...9.57 inches at Auburn...and 29.73 inches at Blue Canyon. Forty-eight counties were disaster-declared, including all 46 counties in northern California.

Long-term Strategic Impact: Led to improved methods for large-scale evacuations.

- Calculated damages: 8 dead, \$1.8 billion economic losses including 23,000 homes and 2,000 businesses damaged or destroyed.

Another link showing heavy rainfall in winter:

<http://www.wrcc.dri.edu/enso/uspsmaps.html>

Poor Quality of Drainage and Drainage System in Lawler Ranch (project outfall)

The Project's storm water runoff will drain into Lawler Ranch's drainage system.

"A reconnaissance of the storm drain outfall revealed that the structure is deteriorating ... The existing outfall was observed to be cracking, and a sinkhole is forming above a portion of the trunk line... In addition, storm drain clogging from sediment, trash, and other organic debris was observed within numerous drainage facilities upstream of the project site; therefore, it is reasonable to infer that similar conditions may be present in downstream conveyance facilities. As a result, the capacity and overall performance of the downstream stormwater conveyance system are uncertain." (Draft EIR, Hydrology and Water Quality, pg 4.7-2)

"Hill Slough is under tidal influence.... Because of the tidal influence, the 52-inch outfall is generally submerged and only exposed during low tide. This tidal influence creates a backwater effect within the local drainage system and decreases the hydraulic head in up-gradient areas." (Draft EIR, Hydrologic Study, pg 14)

"Normal tidal action has likely resulted in saltwater and bay sediments partially filling the trunk line upstream an undetermined distance.... As a result, outfall capacity and overall performance of the storm drain system in the area may be substantially reduced from its original design, potentially creating conditions that could lead to localized flooding during normal (e.g. 2-year interval storm events)." (Draft EIR, Hydrologic Study, pg 14)

"The Federal "Emergency Management Agency (FEMA) Flood Insurance Rate Map for the City of Suisun California, Solano County (FEMA 2007) indicates that the outfall location is within a special shoreline flood hazard area and is the only area mapped as being inundated by the 100-year flood." (Draft EIR, Hydrologic Study, pg 14)

Poorly maintained, clogged drains

"Storm drain clogging from sediment, trash, and other organic debris was observed within numerous drainage facilities including the rectangular culvert that bisects Peterson Road and discharges onto the Project site." (Draft EIR, Hydrologic Study, pg 14)

"The Army Corps of Engineers notified Suisun City it was no longer eligible for Federal Emergency Management Agency funds in the event of severe flooding. Some of the city's storm canals were so clogged with trees and brambles, storm runoff could back up when water flows were high, the city learned." ("Suisun City Creeks, Canals Cleared to Reduce Risk of Winter Flooding", by Carol Bogart, Fairfield Daily Republic, December 29, 2007)

Incremental increases in long-term sea level will result in a further reduction of drainage capacity and an increased likelihood of flooding. (Draft EIR, Hydrologic Study, pg 25)

Questions: *By how much has sea level risen in the last 20 years? By how much is it likely to rise in the next 30 years?*

No inspection of Lawler Ranch's drainage system was made either for the EIR, or prior to the project's unanimous approval by Suisun City Council. Does the lack of drainage in spection constitute a violation of CEQA or environmental law?

Storm Water Management Plans

Wal-Mart and Suisun City are proposing to mitigate the impact of the storm water runoff from the project by constructing an underground storage vault or "linear facility" to hold and filter storm water runoff so that it will not overwhelm Lawler Ranch's drainage system, or add pollutants to Suisun Bay waters. (Final EIR, Mitigation Monitoring and Reporting Program, pg 17)

Questions: *Is this acceptable practice under State or Bay Area law? What happens to the water after it has gathered in the vault or open channel?*

What happens if the vault or channel is overwhelmed with rainwater?

How does the filtration system work, and how successful is it in removing toxins and debris from the storm water runoff?

If an underground vault is built, what happens to pollutants that build up within the vault, encased in layers of sludge like material?

What happens to storm water runoff systems that need maintenance if Wal-Mart closes its store? Who pays to maintain the system?

Is it expensive to maintain?

If a smaller project were built, say half the size of the currently proposed project, would the undeveloped area of the site be able to absorb the storm water run off from the developed half of the project?

What is the best management practice for handling storm water runoff from a project?

Water Quality

"No water quality data was acquired as part of this Study, and therefore, no site-specific data is available to characterize surface water quality for the Project area." (Draft EIR, Hydrologic Study, pg 28)

Why wasn't a water quality study performed as part of the EIR?

The EIR makes completely contradictory statements concerning the effectiveness of the Storm Water Pollution Prevention Plans for the project.

For instance, Suisun City acknowledges that the Wal-Mart Supercenter Project, when combined with other projects, is likely to lead to an increased impairment of water quality in Suisun Bay –

"From a cumulative perspective, however, the City acknowledges that, because of uncertainties inevitably associated with stormwater runoff, there is a danger that runoff from the project in conjunction with other existing and proposed development projects within the cumulative project area may contribute to existing impairments within the Hill Slough and Suisun Bay... For this reason, the City concludes that the project could have a cumulatively considerable effect on the water quality of Hill Slough and Suisun Bay." (Draft EIR, Other CEQA Considerations, pg 6-12)

Yet in the preceding paragraph it states that "compliance with these requirements [storm water pollution prevention plans or SWPPs] will ensure that potentially significant hydrology and water quality impacts are sufficiently mitigated at the project level. With implementation of these mitigation measures, impacts to water quality and hydrology would not be cumulatively considerable." (Draft EIR, Other CEQA Considerations, pg 6-12) (underline added)

"Target pollutants for this Project included pathogens, heavy metals, nutrients, pesticides, organic compounds, suspended solids and sediment, trash and debris, oxygen demanding substances, and oil and grease." (Draft EIR, Hydrologic Study, pg 32)

Questions: *Will the project significantly contribute to the contaminants that currently listed as exceeding safe levels in Suisun Bay, Wetlands and Slough?*

What percentage of contaminants is it likely to add toward the Total Maximum Daily Load allowed for Hill and Suisun Slough? (Draft EIR Hydrology and Water Quality, pg 4.7-9)

Hill Slough is about to be listed for the contaminant mercury. (Draft EIR, Hydrology and Water Quality, pg 4.7-8) Would the project contribute significant amounts of mercury to Hill Slough?

If the project includes a drycleaners, how will that affect the quality of the project's water emissions?

The project also includes a gas station and car wash. Would it be significantly less polluting without these components?

Garden Center is potential source of storm water contamination

No mention was made in the EIR of the affect of the Garden Center on water quality and storm water runoff. Wal-Mart typically stores garden supplies such as soils that are treated with herbicides and pesticides out of doors.

It is a common practice for Wal-Mart to create outside storage areas for sale of bulk garden supplies in areas originally designated for parking. Examples of this practice can be observed at the Dixon, CA, supercenter and the new American Canyon supercenter in American Canyon, CA. There is no roof provided on the cyclone fenced enclosure provided to secure these items at the American Canyon store and no enclosure on the pallets of gardening materials at the Dixon store.

Questions: *What provision has been made to prevent gardening products stored outdoors at the Garden Center from contaminating storm water runoff? Will garden products be stored uncovered out of doors?*

Reports of Wal-Mart water contamination lawsuit settlements

- In 2005, Wal-Mart reached a \$1.15 million settlement with the State of Connecticut for allowing improperly stored pesticides and other pollutants to pollute streams. This was the largest such settlement in state history. [Hartford Courant, 8/16/05]
- In May 2004, Wal-Mart agreed to pay the largest settlement for stormwater violations in EPA history. The United States sued Wal-mart for violating the Clean Water Act in 9 states, calling for penalties of over \$3.1 million and changes to Wal-Mart's building practices. [U.S. Environmental Protection Agency, May 12, 2004, U.S. v. Wal-Mart Stores Inc., 2004 WL 2370700]
- In 2004, Wal-Mart was fined \$765,000 for violating Florida's petroleum storage tank laws at its automobile service centers. Wal-Mart failed to register its fuel tanks, failed to install devices that prevent overflow, did not perform monthly monitoring, lacked current technologies, and blocked state inspectors. [Associated Press, 11/18/04]
- In Georgia, Wal-Mart was fined about \$150,000 in 2004 for water contamination. [Atlanta Journal-Constitution, 2/10/05]

**Comments and Questions for the California Regional Water Quality
Control Board Hearing, Wednesday, March 12, 2008**

Regarding: Wal-Mart Supercenter at Walters Rd, Suisun City, Solano County
State Clearinghouse Number 2006072026

Alternative Analysis Ommited:

We understand from reading the Water Board's letters to Suisun City and to the Army Corps of Engineers, that Wal-Mart has made no "alternatives analysis", or provided other project designs that would preserve on-site wetlands and a critical water channel.

We would like to emphasize that it has been Wal-Mart's practice to build smaller stores with smaller footprints especially in urban areas in order to get their projects approved.

Profitability of a smaller format :

1. Wal-Mart operates stores as small as 20,000 sq ft (called Neighborhood Markets) and as large as 250,000 sq ft (Wal-Mart supercenter in Mexico City).
2. "The store only has to be profitable at levels marginally acceptable to Wal-Mart, not as profitable as the average existing store." (Final EIR for Walters Rd West Supercenter Project, Master Response on Urban Decay, pg 2-18)
3. "Stuck with a parcel of land that was too small for a conventional supercenter and too large for a Neighborhood Market, Wal-Mart got creative and developed a hybrid concept that addresses the shortcoming of both formats".

"If the latest experiment from Wal-Mart is successful, it also could help the retailer crack the code of opponents who object to supercenters on the grounds that they create excessive traffic, crime and noise. A smaller store theoretically would be more palatable to communities that have such concerns about a Wal-Mart store.

That was the case several years ago in Plano, Texas where Wal-Mart opened a supercenter that could be considered the predecessor to its urban prototype in Tampa. The Plano location was about 114,000 square feet...

Wal-Mart operates a variant of the supercenter known as the 109 – reflective of its typical size of 109,000 sq ft. That concept was developed for use in small markets, such as Knoxville, Iowa, and Wachula, Fla. where the determining factor in a store's size is the lack of residents, rather than the availability of real estate."

(From "New 'small' supercenter could be format for the future – New Prototype – Wal-Mart", by Mike Troy, Drug Store News, Jan 19, 2004, <http://findarticles.com>)

4. "Aaron Rios, a California spokesman for Wal-Mart, said the store [a Modesto supercenter] will be 105,000 square feet, slightly smaller than a supercenter that Wal-Mart opened in Sanger last year in what was formerly a Kmart...." Rios said the supercenter will complement, not replace, an existing Wal-Mart store in Modesto on Plaza Parkway."

(From "Modesto Wal-Mart Supercenter to open next year", by Modesto Bee Staff, February 23, 2008, www.modbee.com)

5. Wal-Mart has been approved to build a supercenter in Fairfield, approximately 3.5 miles from the Walters Rd supercenter site in Suisun City. This decision follows the new urban Wal-Mart rollout pattern first observed in Oklahoma City, Oklahoma, observed by DSR Marketing Systems, Inc. in their report to retail grocers "Wal-Mart's Impacts on the American Supermarket Industry", Feb. 10, 2004. Wal-Mart's marketing strategy included all existing store formats (Neighborhood Markets, Discount Stores, Sam's Club Wholesale Stores and Supercenters). Wal-Mart opened 17 new stores between July 1998 and December 2003 forcing the closure of thirty-one (31) supermarkets, including ten (10) chain supermarkets and twenty-one (21) independents. By reducing competition through saturation marketing that includes the cannibalization of its own store sales in the same Metro Market Area, Wal-Mart was able to increase its grocery sales market share from 13 percent to 42 percent over the five (5) year period. Wal-Mart currently enjoys more than a 50 percent share of the grocery sales in Oklahoma City.

The conclusion drawn from observation of the mixed format store use and saturation marketing concept now employed by Wal-Mart in California, indicates that Wal-Mart could certainly reduce its store size and footprint and still have successful cumulative store sales in the Fairfield-Suisun Metro Market area where the proposed Walters Road Wal-Mart Supercenter is located.

Questions: *What are Wal-Mart's projected sales for the Suisun and Fairfield Supercenters in the first and fifth years of operation? What would be the projected sales of a single Wal-Mart supercenter located in the Fairfield-Suisun Metro Market Area in the first and fifth years of operation?*

The Gas Station component of the Supercenter Project is unnecessary

The ostensible reason for the Walters Rd Supercenter Project is to capture Suisun City's sales leakage and raise its sales tax revenues. But the Draft EIR economic analysis admits that Suisun has no leakage in gasoline sales. (Draft EIR, Urban Decay, pg 4.12-33) The city has an adequate number of gas stations. There is also a gas station located directly across the road from the supercenter site. The Supercenter project does not need to include a gas station.

The gas station component adds unnecessarily to the footprint of the project and to its pollution potential.

Much of the objection to the Walters Rd Supercenter project stems from its overwhelming size and 24 hour planned operations that will undermine the quiet, safety and aesthetics of the surrounding neighborhoods of Quail Glen, Lawler Ranch and Peterson Ranch. The project is completely out of scale with the surrounding neighborhoods and will generate an estimated additional 77,000 new car trips per week on dangerous State Route 12.

Question: *Has Wal-Mart and Robert Karn Associates made any effort to redesign the project? If not, will they be redesigning the project?*

Destruction of Watershed Integrity and Risk of Flooding to the Downstream Neighborhood of Lawler Ranch

"The 20.8 acre Project site represents over a fourth of the +/- 72 acre drainage area and, with the exception of the Hill Slough shoreline and adjacent Caltrans property, is the only undeveloped lot. In addition, the Project site contains one of the two linear drainage channels within the Project drainage area."

(Draft EIR, Hydrologic Study, p 10) (underline added)

"The project area drains directly into Hill Slough, which drains to the south and west into Suisun Slough." (Draft EIR, p 4.7-1)

The project site is the last unpaved, undeveloped area of the watershed. It covers a fourth of the watershed area. To minimize pollution delivery into Suisun Bay wetlands, and protect the Lawler Ranch neighborhood from increased risk of flooding, it should be developed with as small a commercial footprint as possible. It should not be paved over nor should the water channel be filled in.

"Local creeks within the project area include Ledgewood Creek, Laurel Creek, and McCoy Creek. Laurel and McCoy creeks are most significant to the City because of their proximity to urban areas and history of flooding, which has been aggravated by upstream urban runoff." (Draft EIR, Hydrology and Water Quality Chapter, p 4.7-5)

Outdated Flood Maps Were Used in the Environmental Impact Report

The Environmental Impact Report uses a U.S. Geological Survey Map which predates the development of most of the neighborhoods surrounding the supercenter project site. The EIR uses FEMA Flood Insurance Rate Map which dates from 1974, revised in 1976. These were years predating most of the current suburban build out. (Draft EIR, Hydrology and Water Quality, pg 4.7-5)

The 10-year, 24-hour estimated maximum precipitation amount is calculated to be 3.0 inches. The 100-year, 24-hour maximum precipitation amount is calculated at 4.5 inches for the project area. The source for the data was the Western Regional Climate Center, year 1973. (Draft EIR, Hydrologic Study, pg 8)

Questions: *Weren't the 1970's a drought decade for Northern California? Wouldn't it have been more accurate to use current 10 and 100 year, 24-hour estimates for the study?*

Furthermore, the same website, the Western Regional Climate Center, has extensive links to more recent records of serious storms and flooding in the Bay Area, including 1995 and 1997.

Western Regional Climate Center
Historical Climate Information
<http://www.wrcc.dri.edu/CLIMATEDATA.html>

<http://nimbo.wrh.noaa.gov/pqr/paststorms/california10.php#1995%20Winter%20Storms>
1995 Winter Storms

Significant and extended heavy rain and wind. Flooding in coastal regions was particularly notable. The Salinas River exceeded its previous measured record crest by more than four feet...which was within a foot or two of the reputed crest of the legendary 1862 flood. The Monterey Peninsula was effectively cut off from the "mainland". The Napa River set a new peak record and the Russian and Pajaro Rivers approached their record peaks. Extensive flooding from small streams particularly in Placer County suburbs.

March 8, 2008

John Muller, Chair
and Members of the
San Francisco Bay Regional
Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Chairman Muller:

I am a resident of Suisun City, California, and I would like to request the San Francisco Bay Regional Water Quality Board include me in all notifications of hearings or matters coming before the Board related to the Walters Road-Highway 12 Wal-Mart Supercenter development project located in Suisun City.

I believe that the proposed Suisun City Walters Road-Highway 12 Wal-Mart Supercenter development project will have a number of adverse impacts on our community including impacts that fall under the jurisdiction of the Board.

I would further request that opponents of this project be given a minimum of thirty (30) days to review and prepare a response to items submitted by Project proponents to the Board for your information, review or action.

Thank you.

Halle's Albo
609 Kinglet ST
Suisun CA 94585
holea15@COMCAST.NET

March 8, 2008

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Water Quality Control Board
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Thank you.

Lisa R. Laforet - Favilla
Lisa R. Laforet - Favilla
603 Kinglet Street
Suisun City, CA 94585
(707) 422-2935

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Thank you.

Stephanie Stokes

1407 Shasta St.

Suisun City, CA

94585-3029

March 8, 2008

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Thank you.

MINA GUERRER O
205 SACRAMENTO ST #3
SUISUN, CA - 94585

March 8, 2008

John Muller, Chair
and Members of the
San Francisco Bay Regional
Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

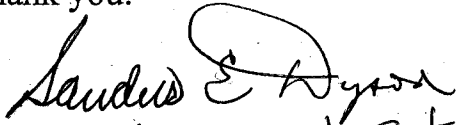
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313 ARLINGTON CT
SUISUN CITY CA 94585

March 8, 2008

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1515 Clay Street, Suite 1400
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Thank you.


David Harrison
517 Wood Duck Dr.
Suisun, CA 94585
(707) 429-9417

March 8, 2008

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Thank you.

Sincerely,

*Cristina Padua-Hughes
1488 Whitby Way
Suisun City, CA 94585*

March 8, 2008

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and Members of the
San Francisco Bay Regional
Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

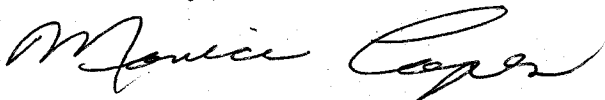
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Thank you.

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

March 8, 2008

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San Francisco Bay Regional
Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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Thank you.

Marie Lee
309 STAMPER Cir
Suisun City, CA
94585

March 8, 2008

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and Members of the
San Francisco Bay Regional
Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Chairman Muller:

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Thank you.

Deliciae Moran
1460 Monitor Ave
Suisun City, CA 94585-3201

March 8, 2008

John Muller, Chair
and Members of the
San Francisco Bay Regional
Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

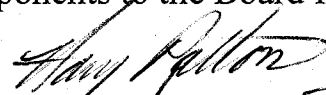
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HARRY PATTON

717 CABISTRANG DR.

SUISUN CITY, CA. 94585-3035

(707) 421-9459

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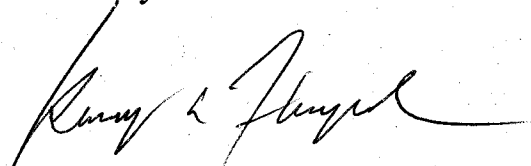
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1394 Lawler ranch PKWY
Suisun CA 94588
422 - 8213

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Oakland, CA 94612

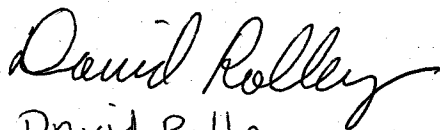
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DAVID ROLLEY
612 PLACER LANE
SUISUN CITY, CA 94585

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Reiko Sato 629 Klamath Dr
Hiroshi Sato SUISUN, CA 94585

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Anna Moscarello

205 Pheasant Dr
Suisun City Ca 94585
707 2905583

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*Elizabeth L. Lintner 510 Fortuna Drive Suisun CA 94585
(707) 428-3832*

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Sorja Gates 1710 Altus Lane (707)428-3482
Suisun City CA 94585

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Robert J. Failla
603 KINGLET ST
SUISUN CITY, CALIF.
94585
707-422-2935