

## Letter of Protest

Date \_\_\_\_\_

To: Dr. James R. Tarwater, Superintendent  
1021 Al Tahoe Blvd South  
Lake Tahoe, CA 96150

Re: Lake Tahoe Unified School District mitigation fee protest

This letter is to protest mitigation fees in order to meet the requirements of Government Code 66020<sup>1</sup>, which requires fees to be paid and a letter of protest provided. This letter states the reason for the protest. Since 2000, Lake Tahoe School District has incrementally lost about 2,000 students.

Mitigation fees are based on mitigating impacts from population growth. The CBEDS for the district indicate declining student populations over time. Therefore, impacts from population growth have not happened as projected and the need for new classrooms or modernization is not supported. The mitigation fee is unjustified.

The justification report is critically flawed for the following reasons.

1) The capacity of Lake Tahoe School District is 5,400. The 2014 California Basic Educational Data System (CBEDS) report indicates the enrollment is 3,855. Student populations for kindergarten, middle school, and high school have declined since 2000 and now fall well below capacity levels. This indicates space available for students in the classroom. Therefore, the fees are not justified.

2) Student projections based on new growth (see Exhibit A) do not take into account the decline in student populations each year over the past 14 years (see Exhibit B). The justification study cites metropolitan studies to support a fictitious student yield from homes in EDC.

3) All districts in the county have lost significant numbers of students (see Exhibit B). Most school districts in the county are experiencing decreasing student enrollments, many are around 2003 levels.

4) The purpose for the fee is for building new facilities for mitigating new growth. The district has a trend line of negative student population growth (see Exhibit B). Thus, there is no need for new building facilities since there are no new student populations.

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<sup>1</sup>Government Code 66020 (a) Any party may protest the imposition of any fees, dedications, reservations, or other exactions imposed on a development project, as defined in Section 66000, by a local agency by meeting both of the following requirements:

(1) Tendering any required payment in full or providing satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.

(2) Serving written notice on the governing body of the entity, which notice shall contain all of the following information:

(A) A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest.

(B) A statement informing the governing body of the factual elements of the dispute and the legal theory forming the basis for

Furthermore, according to Education Code 17620<sup>2</sup>, impact fees cannot be used for repairs on existing facilities. Impact fees can only be used for construction or reconstruction of buildings.

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<sup>2</sup>Education Code 17620 (a)(3) For purposes of this section and Section 65995 of the Government Code, "construction or reconstruction of school facilities" does not include any item of expenditure for any of the following:

(A) The regular maintenance or routine repair of school buildings and facilities.

(B) The inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials, except where incidental to school facilities construction or reconstruction for which the expenditure of fees or other consideration collected pursuant to this section is not prohibited.

Please be advised that payment is made in full for the mitigation fee in the amount of \_\_\_\_\_ and is paid under protest. All information contained here is true and to the best know of my knowledge accurate and correct. This document is signed under penalty of perjury.

Signed \_\_\_\_\_

Date \_\_\_\_\_

Address of project \_\_\_\_\_

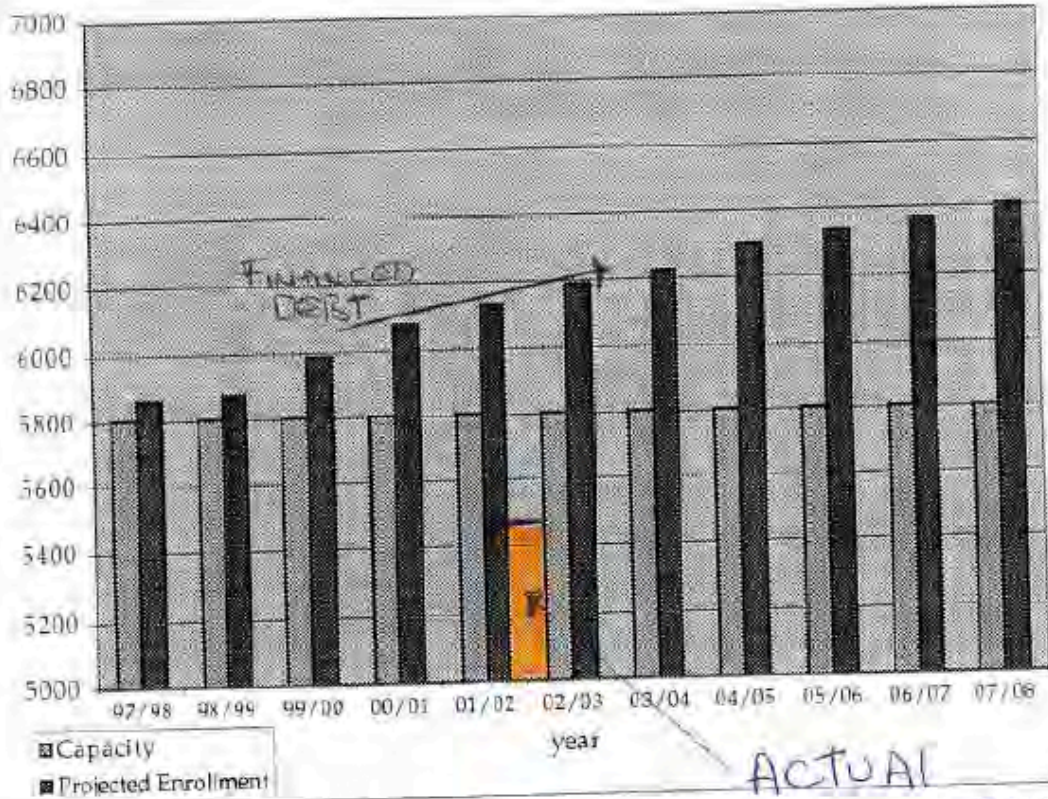
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APN \_\_\_\_\_

Check Number \_\_\_\_\_

# Exhibit A

GRAPH 3  
PROJECTED 10 YEAR ENROLLMENT vs. CAPACITY  
1997/98 through 2007/08



ACTUAL

SOURCE EDC - CBEDs

# Exhibit B

El Dorado County Public School Enrollment Retrospect														
District	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
Black Oak Mine Unified	2,002	2,012	2,022	2,016	1,943	1,979	1,922	1,847	1,745	1,644	1,636	1,569	1,422	1,362
Buckeye Union Elementary	3,967	4,100	4,213	4,279	4,527	4,623	5,053	5,101	5,100	5,075	5,073	4,997	5,099	5,085
Camino Union Elementary	575	592	555	521	507	492	446	450	438	426	449	473	513	544
El Dorado County Office Of Edu	717	773	753	708	899	927	1,039	1,059	1,036	1,054	1,089	1,052	980	962
El Dorado Union High	6,427	6,612	6,858	6,981	7,248	7,411	7,344	7,280	7,262	7,061	6,966	6,908	6,873	6,847
Gold Oak Union Elementary	759	756	756	727	747	716	695	692	633	589	550	493	445	464
Gold Trail Union Elementary	660	645	645	610	553	539	549	552	552	542	541	543	568	601
Indian Diggings Elementary	36	38	36	40	40	39	34	31	26	23	18	22	18	18
Lake Tahoe Unified	5,712	5,489	5,238	5,083	4,771	4,520	4,291	4,182	4,076	3,965	3,878	3,858	3,793	3,855
Latrobe	175	192	203	196	215	210	202	197	181	178	171	170	150	130
Mother Lode Union Elementary	1,638	1,663	1,611	1,629	1,574	1,550	1,477	1,450	1,386	1,343	1,225	1,196	1,142	1,105
Pioneer Union Elementary	591	589	556	554	539	492	450	440	428	403	397	342	312	330
Placerville Union Elementary	1,307	1,345	1,304	1,290	1,294	1,210	1,181	1,140	1,166	1,211	1,258	1,278	1,268	1,259
Pollock Pines Elementary	1,001	935	851	804	799	797	780	769	745	721	699	704	694	712
Rescue Union Elementary	3,218	3,346	3,529	3,624	3,695	3,811	3,936	4,089	4,108	4,116	4,065	3,993	3,899	3,773
Sbc - Aspire Public Schools								364	436	1,104	1,696	1,871	1,972	
Sbc - Pacific Technology										130	249	297	283	176
Silver Fork Elementary	10	17	17	10	17	16	18	19	18	16	12	14	10	14
<b>Total</b>	<b>28,795</b>	<b>29,104</b>	<b>29,147</b>	<b>29,072</b>	<b>29,368</b>	<b>29,332</b>	<b>29,417</b>	<b>29,662</b>	<b>29,336</b>	<b>29,601</b>	<b>29,972</b>	<b>29,780</b>	<b>29,441</b>	<b>27,237</b>

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