

## Letter of Protest

Date \_\_\_\_\_

To: David Swart, Superintendent  
2390 Bass Lake Rd  
Rescue, CA 95672

Re: Rescue Union School District Protest Letter

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.

The student populations of the district indicate that space is available in the classrooms. Mitigation fees are based on mitigating impacts from population growth. The CBEDS for the district indicate declining student populations over time. Therefore, no impacts have been generated from population growth, so the fee is unjustified.

The justification report is critically flawed for the following reasons.

1) The 2008 justification report includes Table D-1 (see Exhibit A), which indicates that the capacity of the K-5 student housing is 3,350 and the capacity of the 6-8 grades is 1,810. The 2013 California Basic Educational Data System (CBEDS) report indicates K-5's enrollment at 2,374 students and grades 6-8 having 1,399 students. Both student populations for kindergarten and middle school have declined since 2006 and now fall well below capacity levels. This indicates space available for students in the classroom. Therefore, the fees are not justified.

2) The Rescue Union 2008 school justification study has been reused due to the school board making a finding, "Whereas nothing has changed...". This negates the five year required update as stated in the Government Code 66001(d)(1)<sup>2</sup>. El Dorado building permits are averaging well below

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<sup>1</sup> 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 the protest.

<sup>2</sup> 66001(d)(1). For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the local agency shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

(A) Identify the purpose to which the fee is to be put.

(B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.

(C) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in paragraph (2) of subdivision (a).

(D) Designate the approximate dates on which the funding referred to in subparagraph (C) is expected to be deposited into the appropriate account or fund.

(2) When findings are required by this subdivision, they shall be made in connection with the public information required by subdivision (b) of Section 66006. The findings required by this subdivision need only be made for moneys in possession of the local agency, and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date. If the findings are not made as required by this subdivision, the local agency shall refund the moneys in the account or fund as provided in subdivision (e).

forecasted levels for the whole county and the population growth for EDC in 2013 was 404 people according to the Department of Finance (June, 2014). Things have changed dramatically over the last 5 years.

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

4) The purpose for the fee is for building new facilities for new growth and maintenance. 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.

Please be advised that payment is made for the fee in the amount of \_\_\_\_\_ and the mitigation fee 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 \_\_\_\_\_

\_\_\_\_\_

APN \_\_\_\_\_

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

# Exhibit A

TABLE D-1

**Rescue Union School District  
Enrollment versus Capacity**

<b>Grade</b>	<b>Enrollment</b>	<b>Capacity</b>	<b>Difference</b>
K-5	2,737	3,350	613
6-8	1,374	1,810	436
<b>Total</b>	<b>4,111</b>	<b>5,160</b>	<b>1,049</b>

Note: Includes Special Day Class enrollment

Source: Rescue Union School District, 2008; Rescue Union School District, Demographic Report 2007-2008, February 2008

# 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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